



Canada Mortgage and Housing Corporation (CMHC)

Final Report

Review of CMHC's On-Reserve Non Profit Housing Program (Section 95)

KPMG LLP

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Executive Summary

The review of Canada Mortgage and Housing Corporation's (CMHC's) On-Reserve Non-Profit Housing program (Section 95) was carried out over the period March through November, 2016. The review covered the operations of the program from 2004-05 through 2015-16, with some analysis going back to the beginning of the "new" program in 1997-98.

The main study methods were:

- The review and analysis of relevant documents and data sources;
- Interviews with representatives of CMHC and Indigenous and Northern Affairs Canada (INAC);
- Case studies of the regional office delivery processes in the four Section 95 regions; and
- Interviews with representatives of 33 First Nations (FNs) that participate in the Section 95 program.

The overall finding of the review is that the Section 95 program is addressing a clear need for First Nations on-reserve rental housing, and the program is generally being delivered well.

- An average of 1,122 Section 95 units per year have been funded over the 12 year study period.
- The processes used to determine the eligibility of FN's, the allocation of Section 95 units, and subsidy amounts are working smoothly, although many FN's do not have a good understanding of these latter two processes.
- The processes for finalizing loan agreements and financing construction are well understood by the relevant First Nations personnel (e.g., Housing Managers) and are working well. However, the timelines for construction are very tight in most cases.
- The advice and assistance provided to First Nations is both needed and greatly appreciated. This includes the important role of CMHC's front facing staff in their many interactions with the First Nations, the conduct of physical condition reviews, and the capacity development services provided by CMHC.
- The maintenance of Section 95 units, which is the responsibility of the First Nations, would be rated as "fair" overall (i.e., between "poor" and "good") based on estimated costs of repairs and CMHC Consultant assessments.

However, a key finding was that many First Nations struggle to meet the monthly costs associated with Section 95 units, particularly the costs of repairs and maintenance and contributions to the reserve funds. The various revenue sources available to First Nations to cover these costs – the Section 95 subsidy, rents that are charged to Section 95 tenants, and Band funds – do not cover these costs for most First Nations. This creates challenges regarding the sustainability of Section 95 housing in the medium to long-term.



Based on the study findings, six recommendations are put forward for the consideration of management:

- (1) CMHC should examine policy and operating requirements to determine if there are ways to increase the medium to longer-term sustainability of Section 95 housing projects.
- (2) CMHC should strengthen the reserve fund requirements by gradually replacing the current activity-based performance requirements for the reserve funds, with outcome-based requirements that would be monitored and enforced.
- (3) CMHC should pursue and enhance its efforts to provide assistance to First Nations communities in addressing their housing management challenges.
- (4) CMHC should increase (a) the effectiveness and (b) the transparency of decisions for allocating Section 95 units.
- (5) CMHC should work to improve the coordination with INAC regarding the delivery of on-reserve housing services.
- (6) CMHC should assess the relevance of the current objective and expected outcomes for the Section 95 program to ensure that they clearly address the need for sufficient, adequate, and suitable on-reserve rental housing.



1 Introduction

Canada Mortgage and Housing Corporation's (CMHC's) On-Reserve Non-Profit Housing program (Section 95) assists First Nations in the construction, purchase and rehabilitation, and administration of suitable, adequate and affordable rental housing on-reserve. This document is the final report of the Review of CMHC's Section 95 program. This Review has been designed to report on federal funding and outcomes of the Section 95 Program. A complete description of the program is contained in Appendix A. The report provides a summary of the data collection and analysis carried out during the period from March through November, 2016. The study period for the Review was 2004-05 through 2015-16, with emphasis on the past five years; all findings presented in this report relate to that period, unless otherwise noted.

The Section 95 program provides funding to subsidize the financing and operating costs of rental housing for low income First Nations members living on reserve.¹ In consultation with staff from CMHC's First Nations Housing and Housing Needs Policy Directorates, the following program objective was agreed on for the purpose of this review as representing the most important outcome the program is designed to accomplish:

Provision of social housing: To enable First Nations to increase their stock of on-reserve rental housing that is available and suitable and adequate for low-income First Nations members.

For the purpose of this Review it was agreed that the following are important intended outcomes of the program, but they are not classified as program objectives, because they are largely outside of the control of the program:

- Maintenance of social housing stock: To enable the stock of Section 95 housing to be maintained for the term of the operating agreements (which may be up to 25 years)².
- Capacity development: To support the development and enhancement of First Nations' expertise in housing delivery and management (including capacity for housing design and construction, tenant selection, collection and/or allocation of funds to cover the costs associated with Section 95 housing, maintaining and repairing Section 95 units, financial management, and so on).

Annual program expenditures for Section 95 amounted to \$123.5 million in 2014/2015 (\$105.3 million in subsidies and \$18.2 million in administration).

¹ The First Nations are responsible for determining low-income client eligibility and selecting clients.

² This is intended to be achieved by the on-going subsidy payments combined with the assistance in housing portfolio management provided by the program – cyclical client visits, cyclical physical condition reviews, advice regarding maintenance, advice regarding financial management, and other assistance. However, the achievement of this outcome is largely within the control of the First Nations.



2 Study Methodology

The main study methods were:

Review of documents and data sources. A large number of documents related to the Section 95 program and First Nations on-reserve housing were reviewed. Also, many data sources were analyzed, the main ones being:

Data on the number and distribution of Section 95 units funded since 2004;

- Data from the 2011 National Housing Survey on adequacy and suitability of on-reserve housing;
- Data from Physical Condition Reviews (PCRs) conducted in 2015 (sample size = 292) and associated Account Summary Forms; and
- Data from Plans to Improve Operations (PTIOs) and associated Assessment Reports (sample size = 157).

Interviews of CMHC officials and INAC officials. These interviews (sometimes several interviews with the same person) mainly related to program structural issues (e.g., requirements and guidelines), as well as program delivery procedures.

Case studies of regional office delivery processes. Since much of the Section 95 program delivery takes place in the regions, the study team had extensive interactions with the Regional Office Managers and their staff, including: a set of conference calls at the beginning of the review; follow-up calls throughout the ensuing months; and a set of site visits to each of the regional offices to discuss details of the program delivery process with CMHC regional operations staff and Section 95 Consultants (some of whom participated by teleconference). The interview guides used in these site visits are contained in Appendix B.

Interviews of First Nations representatives. Telephone interviews were conducted with representatives of First Nations to discuss their experience with the Section 95 program. The overall sample for these interviews consisted of 64 FNs, most of whom were suggested by the Regional Managers, who were given approximate numbers for the sample in their region and the following guidelines:

- All FNs in the sample should have had a reasonable amount of experience with the program;
- The sample should contain a geographical mix of FNs – some urban, some rural, and some remote; and
- The sample should be mixed by income status of FNs – i.e., not all wealthy FNs and not all low income FNs.



The study team attempted to contact all 64 of these FNs, but some of them were not available or did not agree to participate in the interview. 33 of the FNs were interviewed. The breakdown of interviewees follows:

First Nation Participants by Region

	Participants
AB	3
ATLC	4
BC	7
MAN	1
ON	10
SASK	3
YK	1
Quebec	4
Grand Total	33

First Nation Participants by Geography

	Participants
Remote	4
Rural	16
Urban	13
Grand Total	33

Two qualifications should be kept in mind when reviewing the data from the FN interviews:

- (1) This set of responses is not representative of the distribution of Section 95 units that have been funded during the study period, even though the sample frame of FNs was roughly in line with the regional levels of FN participation in the program. Most noteworthy is the underrepresentation of the Prairie region – 21% of the interview responses, but almost half of the Section 95 units. Ontario and BC are overrepresented by about the same percentages – about double the number of interviewees as their Section 95 units.
- (2) All but one First Nation that was interviewed has been participating in the Section 95 program for 10 years or more (one for seven years), and a majority of the actual interviewees have been involved for long periods of time (e.g., incumbent Housing Manager for more than three years). This limitation is noted in the report where it is relevant to the interpretation of the data.



3 Program Relevance

3.1 Question 3.1: Is there a continued need for the program – i.e., to what extent does the program continue to address a demonstrable need and be responsive to the needs of First Nations?

Findings

- (1) There is a major need for First Nations on-reserve housing in Canada.
- (2) Review of literature clearly demonstrates that to date overall federal government funding programs have not been able to meet First Nations housing needs on reserve.

Supporting evidence

As noted in section 1.0, the objective of the Section 95 program is “To enable First Nations to increase their stock of on-reserve rental housing that is suitable and adequate for low-income First Nations members.” Question 3.1 asks whether there is a continued need for First Nations to be able to do this. Most of the literature on this topic deals with the need for FN housing generally, not specifically the rental housing needs of low-income FN members. However, it is assumed that the rental housing needs among low-income FN members are at least as great as the overall housing needs in these communities.

This need has been extensively documented, as demonstrated through the following recent examples:

Housing on First Nations Reserves: Challenges and Successes, Interim Report of the Standing Senate Committee on Aboriginal Peoples, February, 2015.

- Concluded that: “There was unanimous agreement among witnesses, including departmental officials, that there is a significant housing shortage in First Nation communities, and that the existing stock of housing in many communities is in deplorable condition. It is not an exaggeration to suggest that, in many First Nation communities, the housing situation is in a state of crisis.”³
- The report quotes estimates of the housing shortage as ranging from 35,000 housing units (INAC) to 85,000 units Assembly of First Nations (AFN).⁴

³ Housing on First Nations Reserves: Challenges and Successes, Interim Report of the Standing Senate Committee on Aboriginal Peoples, February, 2015, page 3.

⁴ A 2014 report by the AFN for Quebec and Labrador estimates the housing shortage in Quebec and Labrador alone at over 9,000 units.



- The report concludes that federal funding has been inadequate to address First Nations housing needs and that either the federal government will have to significantly increase funding to address the housing shortage, or alternative means of financing will need to be found.⁵
- The final report of the Senate Committee⁶ recommends the allocation of sufficient funding to the Section 95 program, which implies significantly increased funding.

The Situation of Indigenous People in Canada, United Nations Human Rights Council, May, 2014

- Concluded that: “The housing situation in Inuit and First Nations communities has reached a crisis level...” and
- “Overall, investments have not kept pace with the demand for new housing or the need for major renovations to existing units.”⁷

Aboriginal Demographics from the 2011 National Housing Survey, Statistics Canada and AANDC (now INAC), 2011

- Concluded that: “Despite substantial federal investments, the housing shortfall on reserves has worsened in the past several years. Further, because the Aboriginal population is growing substantially faster than the rest of the Canadian population, the need for more housing will likely continue to grow.”⁸

June Status Report of the Auditor General of Canada, Chapter 4 – Programs for First Nations on Reserve, 2011⁹

- Concluded that federal investments (by INAC and CMHC) have not kept pace with either the demand for new on-reserve housing or the need for major renovations to existing units.

Focus on Aboriginal Housing, Canadian Housing Observer, 2005

- Concluded that INAC and CMHC housing programs have not “prevented a rising shortfall of dwellings, estimated at between 20,000 and 35,000 units [in 2005], which is increasing by 2,200 units a year.”

⁵ *Op cit.*, Interim Senate Report, pages 28-29.

⁶ On Reserve Housing and Infrastructure: Recommendations for Change, Standing Senate Committee on Aboriginal Peoples, June 2015, page 19.

⁷ The Situation of Indigenous People in Canada, UN Human Rights Council, May, 2014, page 7.

⁸ Aboriginal Demographics from the 2011 National Housing Survey, Statistics Canada and AANDC (now INAC), 2011

⁹ June Status Report of the Auditor General of Canada, Chapter 4 – Programs for First Nations on Reserve, 2011, page 20.



Research Highlight – Housing Conditions of On-Reserve Aboriginal Households, March, 2016

- This report found that, according to 2011 National Housing Survey data, 50% of on-reserve households are living in units that are either not adequate (require major repairs), or are not suitable (overcrowded, according to national standards), or both. This percentage has remained relatively constant since 1996.¹⁰

As indicated in the summary of the last document, First Nations housing needs do not just relate to the number of dwellings, but also to the condition of the dwellings. To elaborate:

- The 2010 Report on the Equality Rights of Aboriginal People reported that, as of 2006, 23% of Aboriginal Households lived in dwellings in need of major repairs compared with 7% for non-Aboriginal households.¹¹ However, the situation of on-reserve households was worse – as of 2006, 42% lived in dwellings in need of major repairs.¹²
- Overcrowding is also a major problem – as of 2011, 21% of on-reserve Aboriginal households lived in overcrowded dwellings, compared with 6% for the population as a whole.¹³

In the First Nations interviews the interviewees were asked: roughly what proportion of their First Nation members are in need of satisfactory social housing, both on-reserve members and off-reserve members wanting to move back to the community. The estimated need for both on and off reserve members ranges between 10% and 25% of the total FN membership.

3.2 **Question 3.2: Is the Section 95 program aligned with federal government priorities and with CMHC priorities?**

Findings

- (1) The Section 95 program is aligned with federal government priorities.
- (2) The Section 95 program is aligned with CMHC priorities.

Supporting evidence

Alignment with federal government priorities

As noted under Question 3.1, both the 2015 Senate report and the 2011 OAG report recommended additional federal funding for First Nations housing. These reports alone indicate a high level of federal government support for programs designed to increase the stock of First Nations housing.

The 2016 Federal Budget strongly signals the federal government's priority to improve housing availability and housing conditions for First Nations people living on-reserve.

¹⁰ Research Highlight – Housing Conditions of On-Reserve Aboriginal Households, March, 2016, pages 1 and 15.

¹¹ Report on Equality Rights of Aboriginal People, Canadian Human Rights Commission, 2010, Chapter 5.

¹² *Op. Cit.*, Research Highlight, page 15.

¹³ *Ibid*, page 12.



“First Nations peoples living on reserve are more likely to experience poor housing conditions and overcrowding than the general population. To address urgent housing needs on reserve, Budget 2016 proposes to provide \$554.3 million over two years beginning in 2016–17. The proposed investments are a first step. The Government will be working with First Nations communities over the coming year to develop an effective long-term approach to supporting the construction and maintenance of an adequate supply of housing on reserve as part of a broader National Housing Framework.”

Alignment with CMHC priorities

CMHC documents and senior CMHC officials have consistently stated the Corporation's support for on-reserve First Nations Housing. For example:

The 2016 CMHC Research Highlight paper referenced above states: We work in partnership with First Nation communities, through our housing programs and capacity development initiatives, to help them attain their housing goals and improve their overall living conditions...We work with First Nations communities to support their efforts to take charge of their housing, build new and improve existing housing, and further develop capacity to manage and maintain all aspects of their housing portfolio.”¹⁴

In November, 2013, the CMHC Vice-President for Regional Operations and Assisted Housing, stated in testimony before the Standing Senate Committee on Aboriginal Peoples: “A central part of CMHC's mandate is to support affordable housing for low income Canadians – including Aboriginal people.”¹⁵

CMHC's 2016-20 Corporate Plan states: “On-reserve housing is an area that requires significant focus... We will continue to work with our First Nation clients to help them improve housing conditions in their communities. Current approaches to housing for First Nations will not keep up with the increasing demand. As such, developing new and innovative ways to meet housing needs will be an ongoing priority over the planning period. This will include a review of CMHC's on-reserve housing programs to assess outcomes and their effectiveness in meeting federal government objectives and continuing to identify opportunities to maximize the use and impact of federal funding.”

The Corporate Plan enunciates the following intended outcomes for the Corporation over the 2016-20 period:

Immediate outcome

Federal investments and other CMHC activities help to provide access to affordable, suitable and adequate housing, including on reserve.

Longer-term outcome

The rate of housing need off reserve and the rate of households living below standards on reserve do not increase.

¹⁴ *Op cit.*, [Research Highlight](#), page 5

¹⁵ Testimony before the Standing Senate Committee on Aboriginal Peoples, November 26, 2013.



4 The Effects of Program Operations during the Application and Construction Phase on the Achievement of Intended Outcomes

4.1 Question 4.1: Is there clarity of information regarding the eligibility, allocation, and application processes?

Findings

- (1) There is a fair to good understanding by First Nation participants of the eligibility and application processes, and a fair understanding of the processes for making decisions regarding allocations and subsidy amounts.¹⁶
- (2) Experienced Housing Managers find the time to complete the application (with the assistance of their CMHC Consultant) as reasonable. However, this is less likely to be the case for those new to the process.

Supporting evidence

As shown below, most processes regarding the Section 95 housing subsidy allocations were fairly clear and understandable to First Nation participants based on the results of our interviews. All processes received a rating of “fair” or above. Two processes, namely how allocation decisions are made and how Section 95 subsidies are determined, received the lowest ratings, as well as the highest percentage of respondents who rated the clarity and ease of understanding of the process as either poor or very poor. Approximately 40% of First Nation interviewees who provided an elaboration on these ratings “just did not know” what the process is.

Process	Average Rating	% of Respondents who Answered “Poor” or “Very Poor”
Eligibility for allocations	3.6	19
What to do to be considered for allocations	3.7	19
How allocation decisions are made	3.1	43
The full application process	3.7	21
How Section 95 subsidies are determined	3.3	27

Rating scale: 1=very poor, 2=poor, 3=fair, 4=good, 5=very good

¹⁶ See also section 4.2 regarding the level of understanding of how decisions are made.



The opinions of the CMHC consultants regarding the clarity of these processes is consistent with the FN responses:

- In general, there is a good understanding of the allocation process.
- Regarding the application process:
 - The level of understanding varies widely among communities.
 - In general, the understanding of the application process is fair-good among Housing Managers, but limited by the Chief and Council (who have many other responsibilities).

The FNs responded as follows regarding the process of completing the application (commonly called the form 301A):

If you are allocated one or more units, how much of your time is required to complete the full application?

The majority of First Nations interviewed (63%) identified the time required to complete the full application for Section 95 units as reasonable and manageable. The most common range of timeframe identified was between one and two days. This one-to-two day timeframe was caveated with comments that this efficiency is only achieved following a number of years' experience in completing the forms. First Nations interviewees noted that those new to the process would not be able to complete the required application forms in this period. Those that identified the requirements as being "too much" indicated there was too much paperwork that could take upwards of 80 hours to complete.

Does CMHC provide assistance with the application process?

The majority of First Nation interviewees (88%) indicated that CMHC does provide assistance with the application process. CMHC staff were noted to be available by phone and email as well as spending time on site to assist with application completion and calculations. First Nation interviewees greatly valued the access to CMHC staff for advice and assistance.

4.2 Question 4.2: How effective are the processes at the regional level for the allocation of Section 95 subsidies (consideration of housing needs, criteria used for allocations, and processes for determining subsidy amounts)?

Findings

- (1) The housing needs of FNs are considered to at least a limited extent in all provinces.
- (2) The allocation process is generally accepted as fair, but it is not well understood by many FNs.
- (3) Most FNs do not understand how the subsidy amounts are determined.
- (4) There is a lack of understanding among FNs regarding what the operating cost benchmark is intended to cover.
- (5) Rents are charged by most FNs in all regions, except for the Atlantic region.¹⁷

¹⁷ Note that "rents are charged" is not the same as "rents are collected."



Supporting evidence

The following table, which illustrates the regional allocation processes, shows that:

- Regional allocation processes are broadly similar, but vary based on regional conditions and historical practices;
- The housing needs of FNs are considered to at least a limited extent in all provinces (i.e., population size as a minimum), and explicitly considered by needs analyses in two provinces; and
- FNs are involved in the decision process in Saskatchewan, Manitoba, Ontario, and Quebec.

FNs are not involved in the annual decisions in B.C., Alberta, or the Atlantic region; however, in both Alberta and the Atlantic region, FN organizations were involved several years ago in discussions regarding the annual allocation process.

Province/Region	Eligibility Criteria and Allocation Process	Allocation Decision Criteria	FN Involvement in the Annual Decision Process
British Columbia	Eligibility criteria include prior program performance. Allocations to FNs are made by the regional office.	Priorities include the fair distribution of available units, including preference to recent non-participants.	No
Alberta and Yukon	Eligibility criteria include prior program performance and arrangements for insurance and Ministerial Loan Guarantee (MLG). Allocations to FNs are made by the provincial office.	Priorities are determined by a housing needs analysis based on the degree of overcrowding.	No
Saskatchewan	Eligibility criteria include prior program performance. Provincial office allocates units to Tribal Councils, which then allocate units to FNs.	Different Tribal Councils have different allocation criteria, which include consideration of FN populations in some cases.	Yes – Consultation with Federation of Sovereign Indigenous Nations (FSIN) and allocations by Tribal Councils.
Manitoba	Same as Saskatchewan.	Same as Saskatchewan.	Yes – Allocations by Tribal Councils.

Province/Region	Eligibility Criteria and Allocation Process	Allocation Decision Criteria	FN Involvement in the Annual Decision Process
Ontario	Eligibility criteria include prior program performance. Allocations to FNs are made by an Allocation Working Group (CMHC, INAC, and FNs).	Allocations of available units are based on a published scoring system, including how well FNs have managed past allocations.	Yes – the Allocation Working Group.
Quebec	Eligibility criteria include prior program performance plus MLG eligibility. Allocations to FNs are made by the provincial office (see further descriptions in the next two columns).	Except for treaty FNs, allocations are based on a formula developed by the Allocation Committee (CMHC, INAC, Assembly of First Nations of Quebec and Labrador (AFNQL)). This is based on FN housing needs (determined by populations and welfare assistance rates).	Yes – the Allocation Committee has developed the allocation formula and reviews allocation decisions.
Atlantic	Eligibility criteria include prior program performance plus MLG eligibility. Allocations to FNs are made by the regional office.	Units are allocated one per community. Leftover funds are allocated based on FN populations.	No

As noted under question 4.1, FN respondents indicated they had a “fair” degree of understanding, on average, regarding the allocation process. However, when FNs were asked if they believe the allocation process is fair, about 30% had no opinion, as they did not know how the allocation process worked.



For those First Nation interviewees who did provide a rating regarding the fairness of the allocation process, the average was 2.7, reaching close to “somewhat fair.” Common themes from those who identified the process as being fair were:

- They understand that CMHC has a limited budget.
- Requirements related to a First Nation’s accountability and capacity are reasonable.
- Larger allocations to larger First Nations recognize greater needs.

Common themes from those First Nations who identified the process as less than somewhat fair included:

- Proportional allocations based on the total number of First Nations in a province are not meeting needs.
- Funding requirements preclude some First Nations who are not in a position to contribute Band funding.
- All First Nations are treated the same way, but capacity levels differ.
- Off-reserve members are not considered in the criteria for allocations.
- Income thresholds preclude some community members in need from occupying a Section 95 unit.

There are some indications in the data that First Nations in remote locations feel the allocation process is less fair than other geographies, and First Nations in BC view the process as being less fair than in other provinces/territories; but the numbers of survey responses is too small to enable these statements to be statistically valid.

The following table, which illustrates the regional subsidy determination process, shows that

- All regions/provinces use essentially the same process to establish the operating cost benchmark:
 - It is initially determined for planning and discussion purposes by the regional office based on analyses of prior years’ financial statements for similar units and geographies; and
 - It is reviewed with the FN and finalized through joint discussions. (The extent of these discussions varies by region.)
- The methods for determining the minimum revenue contribution (MRC) vary considerably by region, but essentially amount to agreeing on the rents that are charged or should be charged (except for the Atlantic region).
- Rents are charged in most FN communities in all regions/provinces except for the Atlantic region. (Note, however, that this does not necessarily imply that rents are being collected.)



Province/Region	Method for Determining the Operating Cost Benchmark	Method for Determining the Minimum Revenue Contribution
British Columbia	Determined by the regional office based on analysis of prior years' financial statements for similar units. There is generally no FN involvement.	The MRC is (1) initially based on working backwards from the subsidy amount available, the loan payments, and the operating benchmark, and (2) adjusted based on what FNs say they can afford to pay. Most FNs collect rent.
Alberta and Yukon	Initial estimates are based on the regional review of historical cost data. Any issues are identified and reviewed with the FN before this parameter is finalized.	The MRC is set equal to the amount of shelter allowance payments from INAC for the occupants of the unit. Some adjustments are made based on discussions with FNs. Rents are charged.
Saskatchewan	Same as Alberta	Same as Alberta
Manitoba	Same as Alberta	Same as Alberta
Ontario	The Ontario region conducts a detailed annual review of five years of operating costs for communities, based on their reported audited costs. Recommendations for inflationary adjustments are based on this review. The resulting benchmarks are used for planning purposes and as a guide for discussions with FNs.	The Ontario region calculates initial estimates of MRCs using the costing model and also conducts a review of past FN housing charges. There are then discussions with FNs to determine if higher rents can be charged based on community income profiles. Most FNs charge rents.
Quebec	Same as Alberta	The MRC is set at what the FNs say they can afford to pay. Most FNs charge rent.
Atlantic	Same as Alberta	The MRC is set at what FNs say they can afford to pay, but the regional office asks FNs to use the MRC formula outlined in the program guidelines as a starting point. Rents are not charged.



As noted under question 4.1, FN respondents indicated they had a “fair” degree of understanding, on average, regarding how the amounts of Section 95 subsidies are determined. However, when asked in a subsequent question if they had any comments on how the subsidy amounts are determined, more than 50% of them could not comment, indicating they were unfamiliar with the formula, could not recall how the formula worked, or that their requirements for affordable housing were so great that they participated regardless of what the subsidy amounts are, so did not pay attention to the calculations.

Of those First Nations who did provide comments on how Section 95 subsidy amounts are determined, 68% of First Nations provided feedback that was negative in nature while 38% provided positive responses.

The largest concerns raised in relation to the Section 95 subsidy amounts were in two areas: 1) the subsidy amounts do not fairly consider geographical restrictions (e.g., long distances from nearest construction supply for both labour and materials) – which would affect the maximum unit price and, therefore, the loan amount; and, 2) no adjustments for inflation over the entire term of the mortgage agreement, which indicates a lack of understanding of what the operating cost benchmark is intended to cover. This is discussed further below.

Operating Cost Benchmarks

The program expectations regarding operating cost benchmarks are outlined in section 1.3.4 of the Program Guidelines. After describing the items that are expected to be included in operating cost benchmarks, the Guidelines state that: “It is anticipated that actual operating costs will be lower than the benchmarks in the earlier years, thereby generating operating surpluses. Such surpluses, appropriated to an Operating Reserve fund, will be required to fund the losses in later years when inflation occurs and/or actual costs exceed the operating cost benchmark. Operating shortfalls, in excess of available Operating Reserve funds [in later years], may need to be addressed through increases to occupancy charges or First Nation funds.”¹⁸

To elaborate, for a given Section 95 project (i.e., a set of units allocated in a given year):

- The operating cost benchmark is expected to be greater than actual operating costs (including required Reserve Fund contributions) in the early years of the project, and, as a result, it will generate a surplus.
- This surplus is supposed to be saved up by the FN in an Operating Reserve account, so that it can be used to cover inflation and the increased costs of maintenance and minor repairs of the units in later years.
- If the balance of the Operating Reserve account has not increased over the years to the point where it is sufficient to cover these costs for older units, then the FN’s contribution for these units will have to be greater than the MRC in later years.

¹⁸ Program Guidelines, pages 8-9.



In the FN interviews the respondents did not appear to be aware of this. According to the Consultants, many of their clients do not have a good understanding of the operating benchmarks and MRCs, or their role in determining the amount of the subsidy.

4.3 **Question 4.3: Are the guidelines and documents required to begin construction (e.g., the loan agreement, and the operating agreement) reasonable and understood by all parties?**

Findings

- (1) Overall, experienced First Nations find the operating agreement and the loan agreement to be clear and understandable.
- (2) However, interviews with representatives of regional operations and Consultants identified that, in general, they do not believe the Chief and Council have a good understanding of these documents.

Supporting evidence

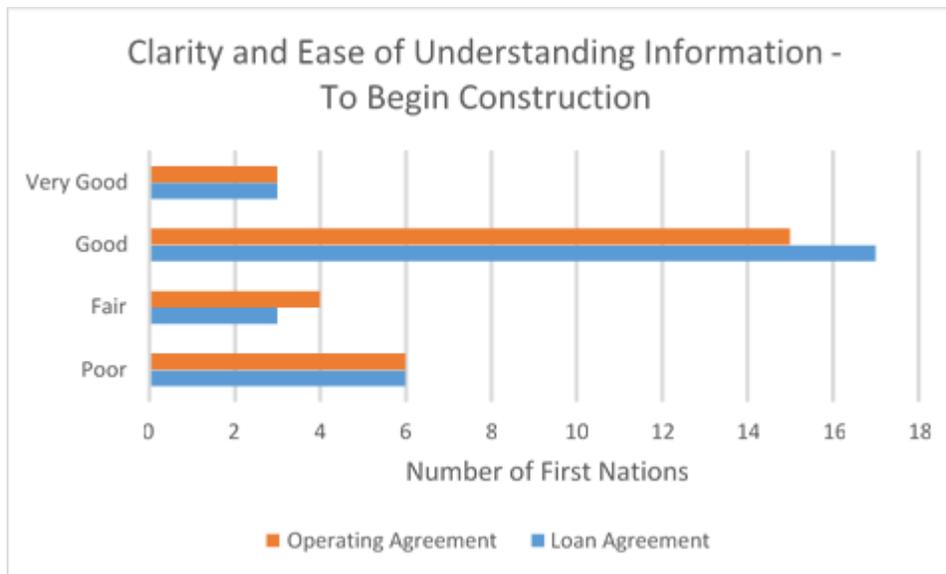
Maximum unit price

The maximum unit price (MUP) for the construction of new units is set by CMHC and determines the maximum loan amount that will be subsidized. The sufficiency of the MUP was not a specific study issue, but the FNs were asked about this. FN interviewees were split in their responses when identifying the sufficiency of the MUP. One third of the respondents said that the amount was sufficient, and one third said it was not enough. The remainder of the interviewees said the amounts were somewhat sufficient, but tight, or did not provide a rating. There was no significant trend observable in the data to indicate the MUP was a predominant issue based on region or geography; however, those First Nations that indicated the MUP was not sufficient were mainly from Ontario, and were urban communities.

	% of respondents	n
Yes	37%	11
OK but tight	27%	8
No	37%	11

As reported above, one of the main issues was that some FNs did not feel that proximity to available construction resources (materials and labour) was taken into consideration.

Loan agreement and operating agreement



Overall, First Nation interviewees find these documents be clear and understandable, rating these on average as “good” as shown in the chart below.

There are no clear differences in ratings among geographies (remote, rural, urban) nor among regions – although BC rated the lowest with an average closer to “fair.” Those First Nation interviewees rating the clarity and ease of understanding the loan and operating agreements as less than good identified the volume of information and the legal nature of the terminology as being issues – particularly when presenting these documents to the Chief and Council for approval.

The opinions of regional operations staff and Consultants interviewed were consistent with the views of the FNs:

- The level of understanding of the loan agreement and the operating agreement among Housing Managers is fair-good, depending on the amount of Consultant interaction and training that has occurred. A number of people commented that it would be helpful if these documents could be simplified.
- The regional operations staff and Consultants believe that, in general, the Chief and Council do not have a good understanding of these documents. It was noted that understanding these documents is believed to be more important than understanding the allocation and application processes since these documents bind the First Nations to major financial commitments over long periods of time.

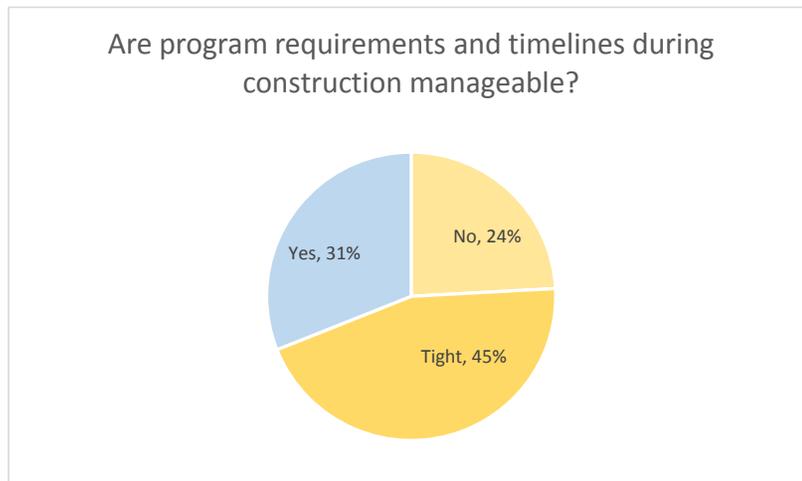
4.4 Question 4.4: Do the methods for financing construction costs enable construction to be carried out in a timely way that is consistent with the commitment letter and the loan agreement?

Findings

- (1) Most FNs find the timelines for construction difficult to manage, or, at a minimum, very tight. This was attributed by FNs to the long timeline between the submission of their applications and the final commitments.
- (2) Financing of construction does not appear to be a problem among experienced FNs who are in a position to finance some of the costs.
- (3) FNs that are not in this position are not aware that advances during construction may be available from CMHC in some cases.

Supporting evidence

There were few First Nation interviewees who said that program requirements and timelines during construction were manageable. The majority of First Nation interviewees (69%) noted that timelines were not manageable at all or were tight.¹⁹



The major issue identified by First Nations interviewees was the length of the full application process, from expression of interest through to final commitments. The final notification of approvals delivered by CMHC was said to often occur in the late summer, leading to the tendering process being undertaken in the fall. This places First Nations in a difficult position to construct during the winter months. Winter construction was seen as a problem triggering higher costs and potentially lower quality work.

¹⁹ This was an open-ended question, and the interviewer then sorted the responses into “yes,” “no,” “tight,” or no response.



Three quarters of FN interviewees said their experience in financing the cost of constructing Section 95 units was positive. The major reason for this appears to be the financial position of the FN's of those respondents – all FN interviewees who noted having a positive experience were able to support the financing of construction using their own equity, band funds, or own-self revenue and not depend on the release of funds from CMHC.

Those First Nation interviewees who said that they did not have a positive experience with financing identified issues around:

- Limited access to funds to carry contractor payments until CMHC releases funding.
- Difficulties obtaining approvals from Chief and Council to use the First Nation's equity.
- Long delays in completing CMHC inspections, which are required to be carried out at critical construction stages²⁰ and, in turn, affect the timely release of funds from CMHC.
 - Toward the end of the study, we learned that, at least in some cases, CMHC can provide advances during construction, but this does not appear to be well known among the FNs.
 - Regional operations staff and Consultants felt that, in general the system works well, except for the timing issues noted above.

²⁰ See the Program Guidelines, page 13.



5 The Effects of Program Operations during the Administration Phase on the Achievement of Intended Outcomes

5.1 Question 5.1: How many units have been provided during the study period (including their distribution by year, province, dwelling type, size of First Nations)?

Findings

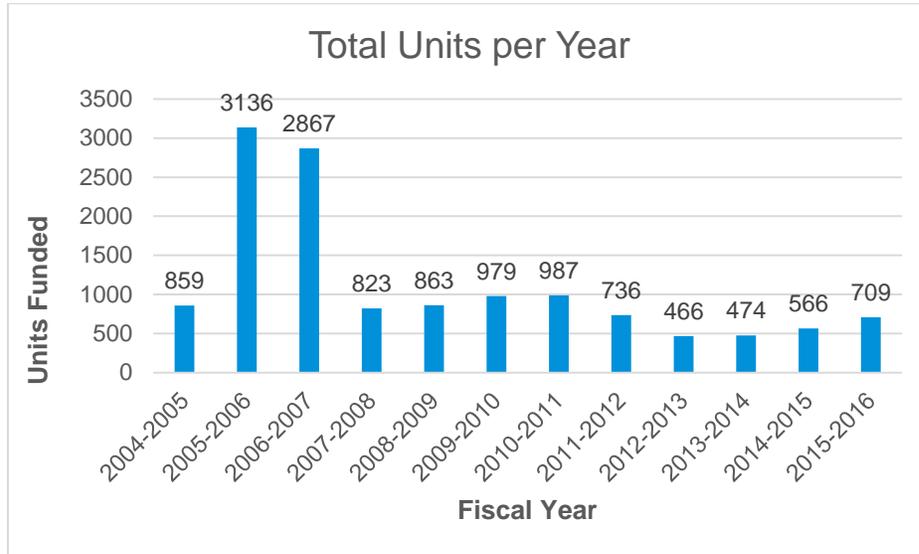
- (1) An average of 1,122 Section 95 units per year have been funded over the 12 year study period, for a total of 13,465 units during this period.
- (2) The percentage of on-reserve households that are living in poor housing conditions and are too poor to be able to move elsewhere is currently the highest in the Prairie provinces.
- (3) Eighty-one percent of Section 95 units funded during the study period have been single family homes.
- (4) In general, FNs with small on-reserve populations have obtained more units per on-reserve FN member than FNs with large on-reserve populations.

Supporting evidence

Number of units funded

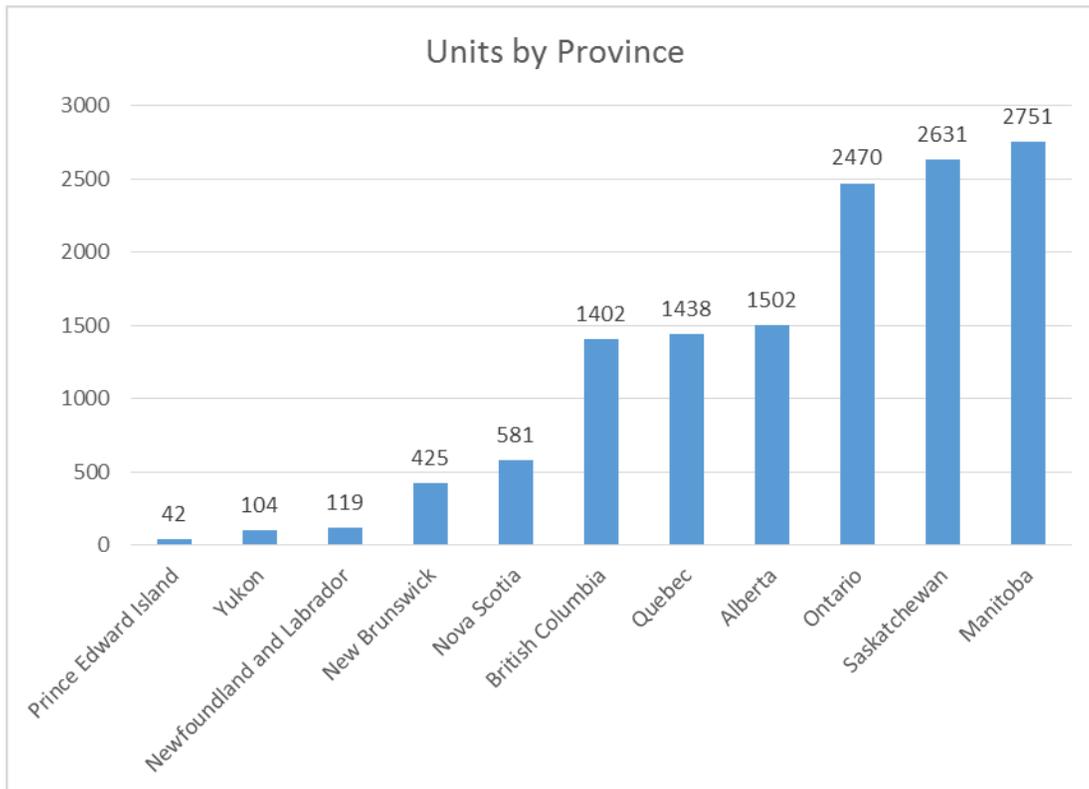
As shown in the bar chart below, 13,465 Section 95 units have been funded over the study period. There was a large increase in 2005-07 due to one-time funding from Treasury Board. There was a dip in units funded over the three years 2012-13 through 2014-15 due to some CMHC technical issues²¹, but the number of units returned to the 2011-12 level in 2015-16.

²¹ Related to the models used to project costs over the life of the program.



Distribution of units by province

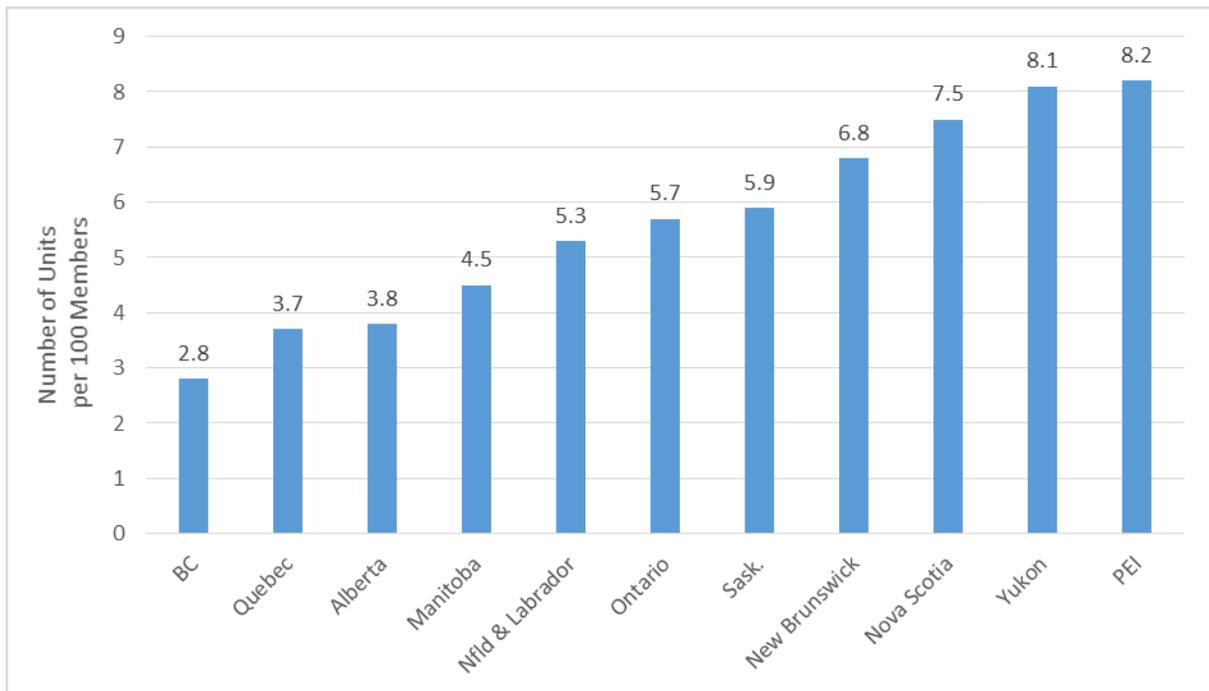
The distribution of units allocated over the study period by province is shown below. The three provinces with the largest numbers of units – Manitoba, Saskatchewan, and Ontario – have the largest, third largest, and fourth largest on-reserve FN populations respectively. BC has the second largest on-reserve population.





Provincial distribution of number of units per 100 on-reserve FN members

As shown below, the number of Section 95 units provided per 100 on-reserve FN members is lowest in BC and highest in PEI. Note that there are various factors that may affect the estimate of units allocated per 100 on-reserve members. Provinces consisting of smaller FN population sizes, such as PEI with 514 on-reserve members, may skew the distribution of unit allocations – as a relatively small number of provincial allocations (such as 42 units in PEI) divided by a small number of on-reserve members can provide for a relatively large distribution number.



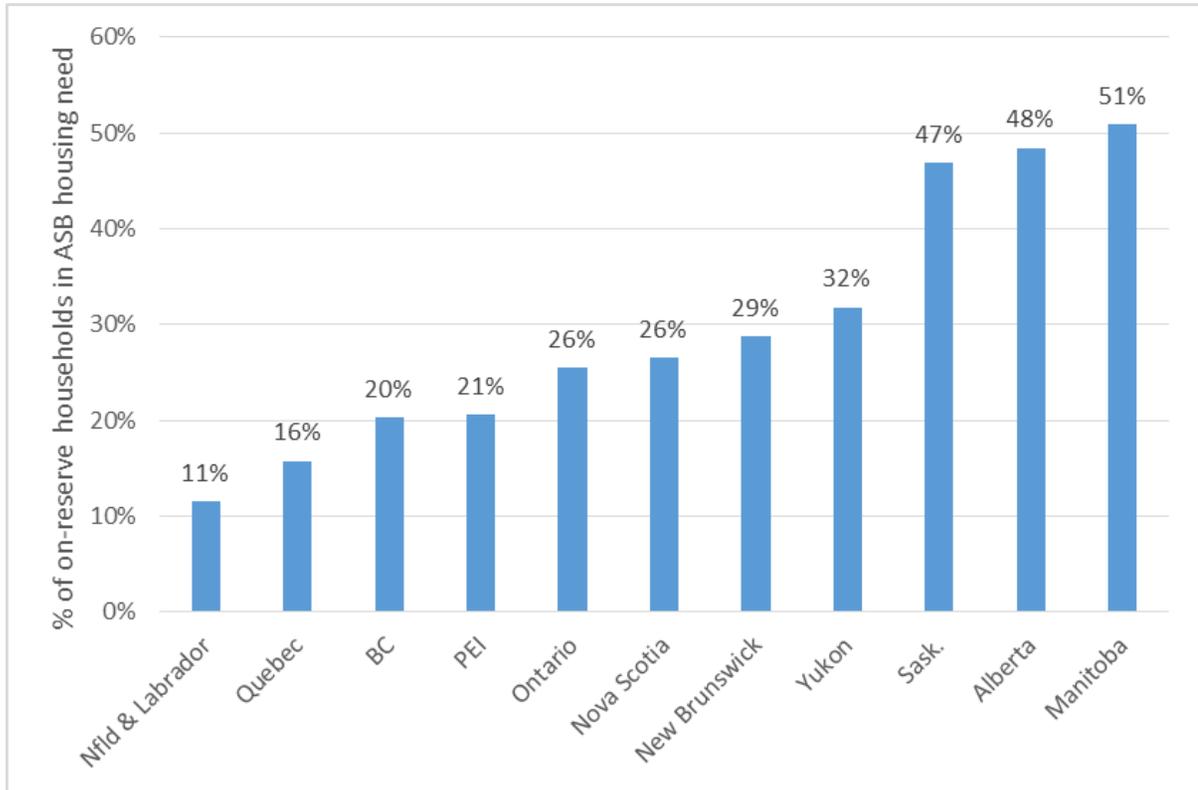
Provincial distribution of ASB housing need

The chart below shows the provincial distribution of the percentage of on-reserve FN households that are living in “ASB housing need,” based on data from a 2016 CMHC research article.²² ASB housing need is a technical term used to refer to households that

- (a) are living in poor housing conditions, and
- (b) are too poor to be able to move elsewhere.²³

²² *Op.cit.*, Research Highlight, March, 2016

²³ To be more precise, (a) is defined as those households that are either living in homes that require major repairs, or are living in homes that are overcrowded according to national standards, or both; (b) is further defined as households that would be required to spend 30 percent or more of their before-tax income to pay the shelter costs of alternative acceptable local housing. (These costs on reserves are estimated as the carrying costs of a newly constructed home, including mortgage payments (principal and interest), taxes, and utilities.)



The chart shows that the greatest ASB housing need at the present time is in the Prairie provinces.

An analysis of the implications that the Section 95 program may have in addressing ASB housing need was beyond the scope of this review. However, the extent of ASB housing need in different provinces is an indicator (among possibly other indicators) of where the need for Section 95 housing is the greatest.

Distribution of units by housing type

Eighty-one percent of Section 95 units funded during the study period have been single family homes. Semi-detached homes, duplexes, row housing, and apartments each make up 3-4% of the total.



The Consultants in CMHC regional offices reported that there have been bad experiences with multi-family housing (especially when more than one unit has a common entrance). FN families want to have their “own home” (which Section 95 units are generally considered to be, even though they are rental units). The Quebec region is currently experimenting with incentives to encourage more multi-family housing.

Housing Type	# of Units	% of Total Units
Single family	10,931	81.2%
Row	592	4.4%
Semi-detached	542	4.0%
Apartment	469	3.5%
Duplex	442	3.3%
Other (6 types)	489	3.6%

Distribution of units by First Nations size

The study team calculated the number of Section 95 units per on-reserve FN member for all FNs in Canada that have participated in the program during the study period and found that, in general, smaller FNs have obtained more units per on-reserve member. Here are the results of two analyses:

- The 39 FNs in the lowest decile of units obtained per on-reserve member (an average of 1 unit for every 111 on-reserve members) are large FNs, with an average on-reserve population of 1,600.
- FNs with on-reserve populations less than 500 have obtained, on average, 1 unit for every 15 on-reserve members, while FNs with on-reserve populations greater than 1,000 have obtained, on average, 1 unit for every 31 on-reserve members.

The regional managers were interviewed to ascertain the reasons smaller FNs have obtained more units per on-reserve FN member. Their responses included:

- In BC there is a limit on the number of units for which a community can apply. This limit is the same for small FNs as for large FNs, so this allocation process would result in small FNs having more Section 95 units per on-reserve member than large FNs.
- Again in BC, in the past several years their selection criteria have included placing the communities that have recently accessed the Section 95 program consistently “on hold.” These communities are usually the larger, more experienced FNs.
- In Quebec the more remote communities tend to have a higher need, and allocations are based to a large extent on FN housing needs in Quebec. On a unit per on-reserve member basis, this would favour smaller FNs.



- Again in Quebec, some of the larger communities are not eligible for MLGs, so the allocations often end up with the smaller communities.
- Two regions advanced the hypothesis that there are fewer economic opportunities for smaller FNs, so they would have less funding available to construct units outside of the Section 95 program.
- In the Atlantic Region, units are allocated on the basis of one unit per community (with “leftover” units allocated based on FN populations). On a unit per on-reserve member basis, this would favour smaller FNs.

5.2 Question 5.2: To what extent have Section 95 units provided suitable housing on reserve?

(“Suitable” means not overcrowded – technically, having enough bedrooms for the size and make-up of the household according to national housing standards)

Findings

Note that suitability is not within the control of the program, since all occupancy decisions are made and managed by the FNs.

- (1) It is estimated that there are approximately 6,000 Section 95 homes that are overcrowded (according to national housing standards), which is 20-25% of all Section 95 homes. This is approximately the same as the percentage of all aboriginal on-reserve homes that are overcrowded (21%)²⁴.
- (2) Although there are no program guidelines regarding numbers of occupants:
 - Almost all FNs have methods to help ensure that Section 95 units are not overcrowded at the time of initial occupancy.
 - A variety of procedures are used by FNs to monitor overcrowding on an on-going basis, but we did not investigate what actions are taken in the event of overcrowding.

Supporting evidence

The calculations below are intended to derive an estimate of the number of Section 95 homes that are overcrowded. The calculations and the definition of “suitability” are based on the March, 2016, article [Research Highlight: Housing Conditions on On-Reserve Aboriginal Households](#) cited earlier, and all references below relate to this article.

²⁴ *Op. cit.*, Research Highlight, Figure 1.



An upper bound for the number of non-suitable (i.e., overcrowded) Section 95 homes can be derived as follows:

- From figures 6 and 7 in the article, it can be concluded that there are a total of 53,635 Band homes on-reserve (“Band homes” = owned by the FN and under FN administration).
- From figure 7, 16% of Band homes are non-suitable = $0.16 \times 53,635 = 8,582$.
- It is reasonable to assume that at least one-quarter of these Band homes are not Section 95 homes, so an upper bound for the number of non-suitable Section 95 homes is $8,582 \times 0.75 = 6,436$.

A lower bound for the number of non-suitable Section 95 homes can be derived as follows:

- First, we need to determine the number of homes on-reserve that would be classified as Section 95 homes. From section 5.1, we know that there have been 13,465 Section 95 homes funded from 2004-05 through 2015-16. A total of 7,409 Section 95 homes were funded from 1997-98 up to 2004-05, and 20,284 were funded prior to 1997-98. We assume that at least one-quarter of the pre-1997-98 homes are still occupied and still owned by the FN – i.e., they would still be classified as Section 95 homes. The number of Section 95 homes is therefore at least $13,465 + 7,409 + (0.25 \times 20,284) = 25,945$.
- As noted in the upper bound argument, 16% of Band homes are non-suitable. The percentage of Section 95 homes that are non-suitable would be higher, because of the lower income levels of the occupants.²⁵ It is reasonable to assume that this percentage is at least one-third higher = $16\% \times 1.33 = 21\%$.
- Then a lower bound of the number of non-suitable Section 95 homes is $25,945 \times 0.21 = 5,448$.

Based on the assumptions above, it can be concluded that the number of non-suitable Section 95 homes is approximately 6,000.

First Nations interviewees were asked about procedures they use to monitor overcrowding, including the procedures they use at the time of initial occupancy. With the exception of a couple of participants, interviewees said that consideration of suitable unit sizes for FN members wanting to occupy Section 95 units is included in their housing application process. Family characteristics are collected at the time of application. In some cases, First Nations use this information for planning purposes when deciding what type of units are required to meet the community’s need.

Regarding procedures used on a continuing basis after the initial occupancy, interviewees reported a mix of methods to monitor the appropriateness of the unit size for the FN members occupying it. There is no consistency regarding the methods used across communities. Interviewees provided a number of examples of methods they use to monitor overcrowding:

- Rental agreements are renewed every year, and part of the renewal process is identifying the number of occupants in the unit.

²⁵ Lower family incomes are correlated with ASB housing – see page 3.



- Housing inspections, whether conducted by CMHC or the First Nation, help to identify when unit suitability has changed.
- Other community support personnel (e.g., social services, healthcare workers) identify unsuitable situations.
- The community is small enough that the First Nation can easily monitor changes in families.
- The Housing Manager proactively identifies seniors or “empty nesters” that can move to smaller units.

As noted above, we heard from a number of the Consultants that, once units have been allocated to FN members, the members often consider the unit as “theirs,” even though it is a rental unit. This can reduce the effectiveness of the FN in dealing with overcrowding.

About two-thirds of the interviewees said that the majority of Section 95 units currently do not have enough bedrooms for the occupants, which, for those FNs, would be a higher percentage of non-suitable units than we have estimated on average overall.

5.3 Question 5.3: How well does the administration phase meet the needs of First Nations communities, especially CMHC’s portfolio management support – capacity development services, client visits, physical conditions reviews, and plans to improve operations (PTIOs)?

Findings

- (1) Administrative requirements and the flow of funds during the administration phase do not pose significant problems.
- (2) On average, First Nations find the assistance provided by CMHC through client visits, physical condition reviews, and plans to improve operations to be helpful. They find capacity development services to be very helpful.
- (3) PTIOs are considered as helpful by only a minority of FNs and are generally not actioned in the absence of follow-up by the Consultants.

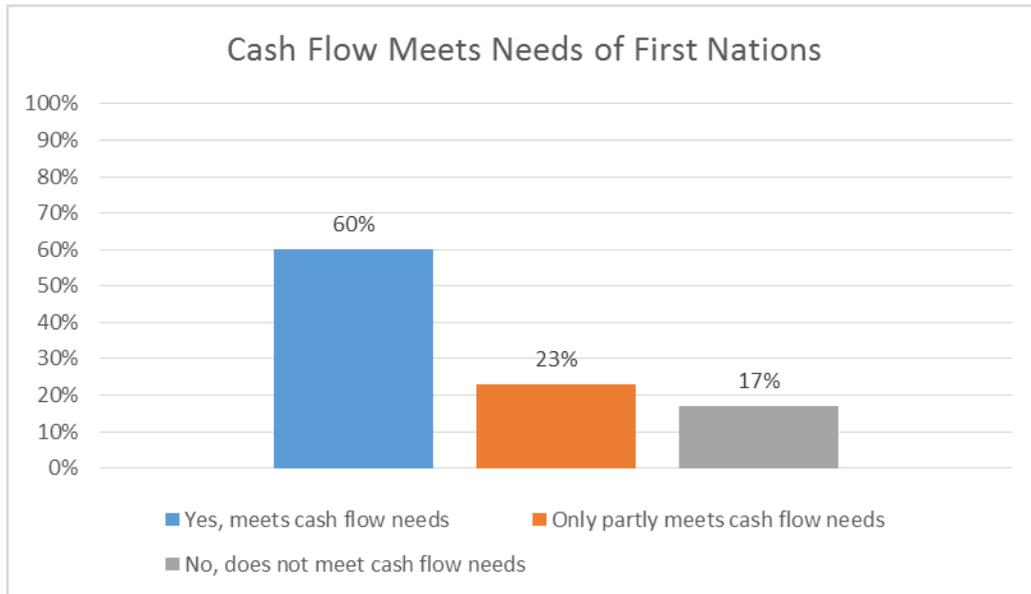
Supporting evidence

Administration

First Nations were first asked about the administrative requirements during this phase. About 90% of the respondents rated these requirements as either good or very good with regard to clarity and manageability. The main administrative requirement is annual audit reporting on Section 95 allocations, and these tasks are typically outsourced to external auditors and managed by the First Nation’s finance department. Since the audit reporting on Section 95 projects is part of the First Nations regular overall auditing schedule, this was not seen to be overly burdensome.



The flow of funds from CMHC during the period of occupancy is meeting cash flow needs of 60% of First Nations interviewees. Further elaboration by these respondents indicated the monthly provision of the subsidy is received regularly and the FN can manage with this frequency.



Where the flow of funds is not meeting needs or only partly meeting needs, the FNs attribute this to insufficient funding, not to timeliness issues.

Portfolio management support

On average, First Nations find the assistance provided by CMHC through client visits, physical condition reviews, plans to improve operations, and capacity development to be somewhat helpful to very helpful. Those First Nations in remote communities rated the assistance as being more helpful than other geographies (however, consideration must be given to the small number of remote community respondents).

The average ratings for each type of assistance, as well as the percentages of respondents who answered either “slightly helpful” or “not at all helpful,” were as follows:

Type of Assistance	Average Rating	% of Respondents who Answered “Slightly” or “Not at all helpful”
Client visits	3.4	21
Physical condition reviews	3.3	33
Plans to improve operations	3.1	40 (only 10 responses were received to this sub-question)
Capacity development	3.9	8



Scale: 1=not at all helpful, 2=slightly, 3= somewhat, 4= very, 5=extremely helpful

Client visits were found by First Nations to be a useful form of feedback, as well as a mechanism to help ensure operations are in alignment with the agreement. Client visits were also noted to be a good form of connecting with CMHC – allowing for direct contact and the communication of on-the-ground experiences.

Regarding the physical condition reviews, a number of First Nations view this as helpful information for planning maintenance activities. They also assist the First Nation with keeping on top of inspection activities, as many FNs don't have full capacity to undertake inspections on a regular basis on their own.

Capacity development was regarded as very helpful by FNs. Many like to take advantage of as much training as they can – for themselves but also other staff, Chief and Council, and the community. The basic home maintenance course was a popular example given by FNs, along with the Section 95 training for Housing Managers.

Plans to Improve Operations are a different story. In spite of a 3.1 average rating (somewhat helpful), PTIOs were not recalled by many FNs. Where a FN did recall receiving these reports, the views were mixed as to whether they were helpful. Some FNs indicated the PTIO helped with planning and maintaining housing standards, but others found the PTIO to be something to be filed away or, in some cases, somewhat threatening.

Summaries of discussions with regional operations staff and Consultants regarding these four types of assistance follow:

Client visits (comments below relate only to formal client visits; the Consultants have many other interactions with their FNs outside of formal client visits)

- These are very useful to the Consultants – good for building relations, developing a more in-depth understanding of client needs and challenges; and enabling follow up interactions to be grounded in observations.
- The protocol is useful as a discussion guide, but the review of financial records is seen as not useful.
- Walk-throughs of Section 95 units are useful, but are sometimes awkward for the Consultants because they raise expectations that CMHC will address maintenance items.
- Client visit reports are generally not acted on by the FNs in the absence of follow-up by the Consultants.

PCRs

- The Consultants use the PCR report for follow-up discussions with the FNs and for populating the PTIO (see below).
- Consultant views regarding the usefulness of PCRs to FNs varied by region.



Capacity development

- This is viewed positively, especially the new system²⁶; recent substantial funding²⁷ for capacity development is very welcomed.

PTIOs

- The Consultants find these useful as a discussion tool for following up with the FNs regarding the identified issues, especially high priority issues (usually financial issues and urgently required maintenance).
- The usefulness of these to the FNs depends on the extent of Consultant follow-up. In the absence of Consultant follow-up these are generally not actioned by the FNs.

5.4 Question 5.4: Are the maintenance activities being carried out that are necessary to achieve the outcome of the provision of adequate social housing throughout the lifecycle of the housing (“adequate” means not requiring major repairs)?

Note: The analyses and charts in this section are based on data contained in the reports from all 292 PCRs conducted in 2015 and the account summary forms for these inspections. The costs of required repairs that were estimated by the inspectors are not formal quotes and may not be based on rigorous cost analysis in some cases.

Findings

- (1) Only about a quarter of FNs have maintenance plans and associated budgeting processes in place, but effective property management practices are in place for about half the FNs.
- (2) Almost half of FNs prepare and implement plans to respond to issues identified in client visits and PCRs.
- (3) The costs of required repairs over the next five years for an average Section 95 unit constructed since 1997 are \$5,040²⁸. This appears to be roughly 50% more than the repair costs of an average Canadian-owned home over a five year period, although it should be noted that the data are not comparable.
- (4) The costs of required repairs for an average older unit (constructed in 1997-2005) are over twice as much as the required repair costs for an average newer unit (constructed in 2006-2014).
- (5) The costs of required repairs for an average unit are the highest in Manitoba and Ontario and the lowest in British Columbia.

²⁶ In the new system the Consultants prepare an annual capacity development plan for each of their FNs. This is submitted to CMHC’s National Office, which allocates the capacity development budget based on Consultant priorities.

²⁷ Increased from \$2M to \$5M per year.

²⁸ This number is actually lower bound of what the actual repair costs would be over the coming five years. It is the average of the required repair costs over the next five years identified in all PCR inspections conducted in 2015. However, it is probably a high lower bound, since it can reasonably be assumed that the PCR inspectors would have identified the majority of the major repairs over the next five years.



Supporting evidence

Maintenance planning and procedures

About half the FN interviewees reported they have maintenance plans in place. Most maintenance plans were done on an annual basis, but some were reported to be done every three years or every five years.

Periodic inspections are undertaken by just over half of the First Nations interviewed, typically when “move out/move in” situations occur, with some having regular seasonal inspections for mechanical systems like heating, cooling, plumbing and ventilation. The other half rely on the periodic inspections undertaken by CMHC. Many First Nation interviewees indicated they do not have the staff to undertake inspections on a regular basis, nor do they have a housing policy in place to support it. The interviewees indicated this makes it difficult to follow-up with tenants.

Most First Nations interviewees (75%) noted that routine repairs are addressed on a reactive basis with only 25% identifying that they reach out to tenants in a proactive manner. The majority of First Nations are relying on tenants to identify issues and call in for service when needed, and in turn the housing department will arrange for repairs. Most are in the situation where prioritization of repair work and maintenance is required, and the primary focus is on items affecting health and safety. The rationale provided by First Nations interviewees for this reactive approach was the lack of available funds to support the operations and maintenance costs of Section 95 units.

The prevailing opinions of regional operations staff and Consultants was that some FNs prepare maintenance plans, but most of them only undertake urgent repairs, except for health and safety issues.

Results from the analysis of Consultant Assessment Forms and PTIOs (nationwide) include:

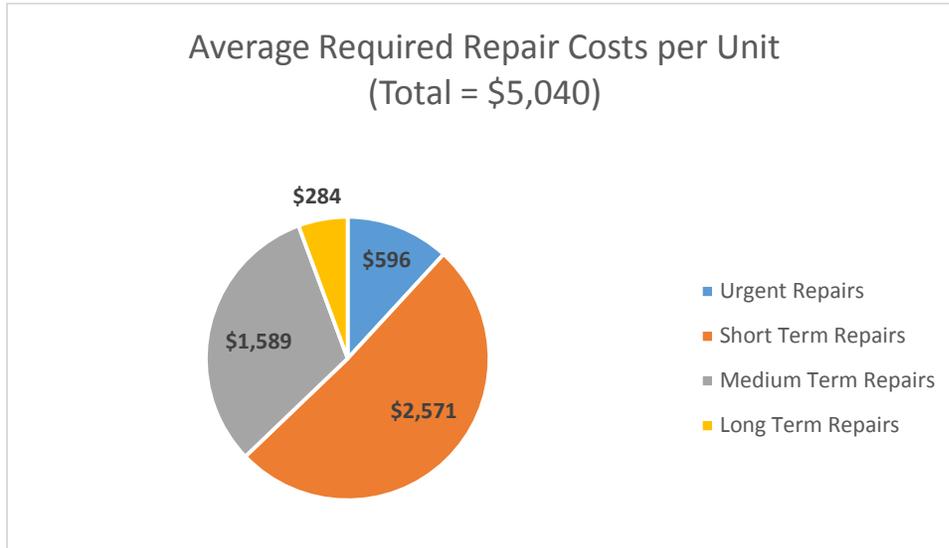
- Only about a quarter of FNs have maintenance plans and associated budgeting processes in place. (Note that this is half the percentage of FNs in our interviews who said they had maintenance plans in place (see above), but it should be kept in mind that the interviews were mainly with experienced Housing Managers, not a representative sample of FNs.)
- Effective property management practices are in place for about half the FNs. Fifty six percent of FNs met expectations with regard to the criterion “Units within the project should be maintained.”
- Almost half of FNs prepare and implement plans to respond to issues identified in client visits and PCRs. In fact, 75% of FNs met expectations with regard to the criterion “Health and safety issues identified through previous PCRs should be addressed.”²⁹

These interview results do not give a complete picture, so the set of all reports of PCRs conducted in 2015 were analyzed for units constructed back to 1997, together with the associated Account Summary Forms prepared by the inspectors. The results are presented below.

²⁹ Note, however, that many health and safety issues just relate to smoke alarms.



(1) The costs of required repairs for an average Section 95 unit constructed since 1997 were estimated by inspectors in 2015 to be \$5,040.



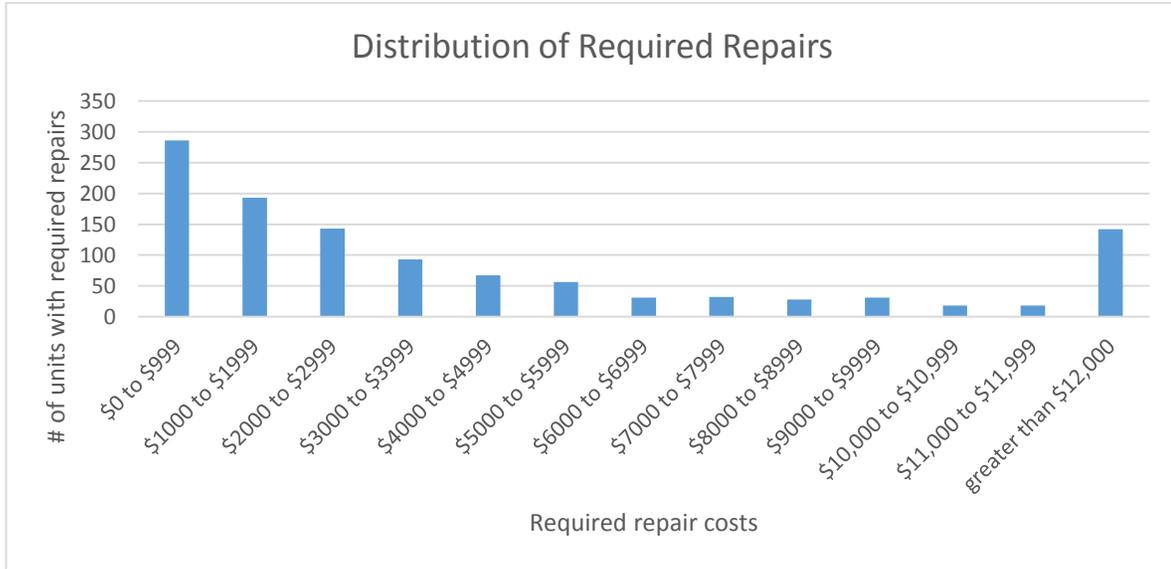
Statistics Canada data were analyzed in order to help interpret this result. First, note that the \$5,040 figure for Section 95 homes is the estimated cost to repair these homes over a 5 year period (see Footnote #29 on page 31). According to Statistics Canada data, the expenditure on repairs by an average Canadian homeowner over the 5 years 2010 through 2014 was \$3,305. The data are not comparable³⁰, but this indicates that the required repair costs of Section 95 homes may be roughly 50% more than the repair costs of an average Canadian-owned home over a 5 year period.³¹ Note that almost two-thirds of the required repairs for Section 95 homes are classified as urgent or short-term.

³⁰ Mainly because of the much wider range of ages of home in the Statistics Canada sample, but also because of different methods used to determine repair costs and different definitions of “repair costs.”

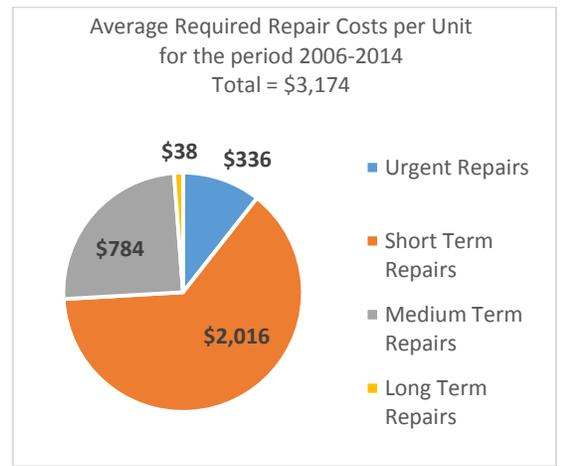
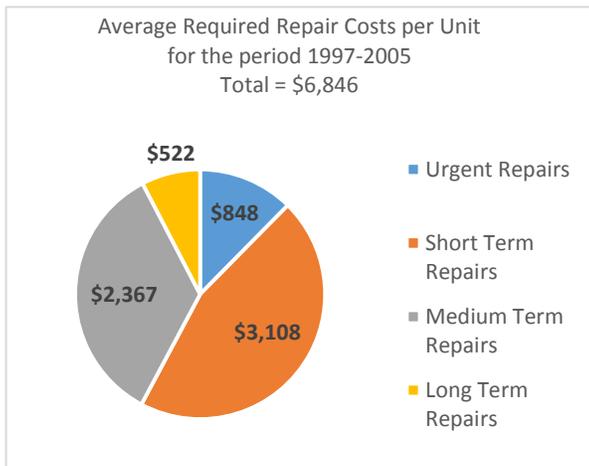
³¹ Although only approximate, this comparison is included to provide some information regarding how the \$5,040 number compares with the required repair costs for average Canadian homeowners, and this appears to be the only information available that can be used for a comparison.



(2) The distribution of estimated required repairs, which is illustrated below, shows that 55% of the units have estimated required repairs less than \$3,000 (and 25% have estimated required repairs less than \$1,000), while 12% of the units have estimated required repairs greater than \$12,000. Based on the chart under item (3) below, it is probably mostly newer units in the former category and mostly older units in the latter category (see following chart).

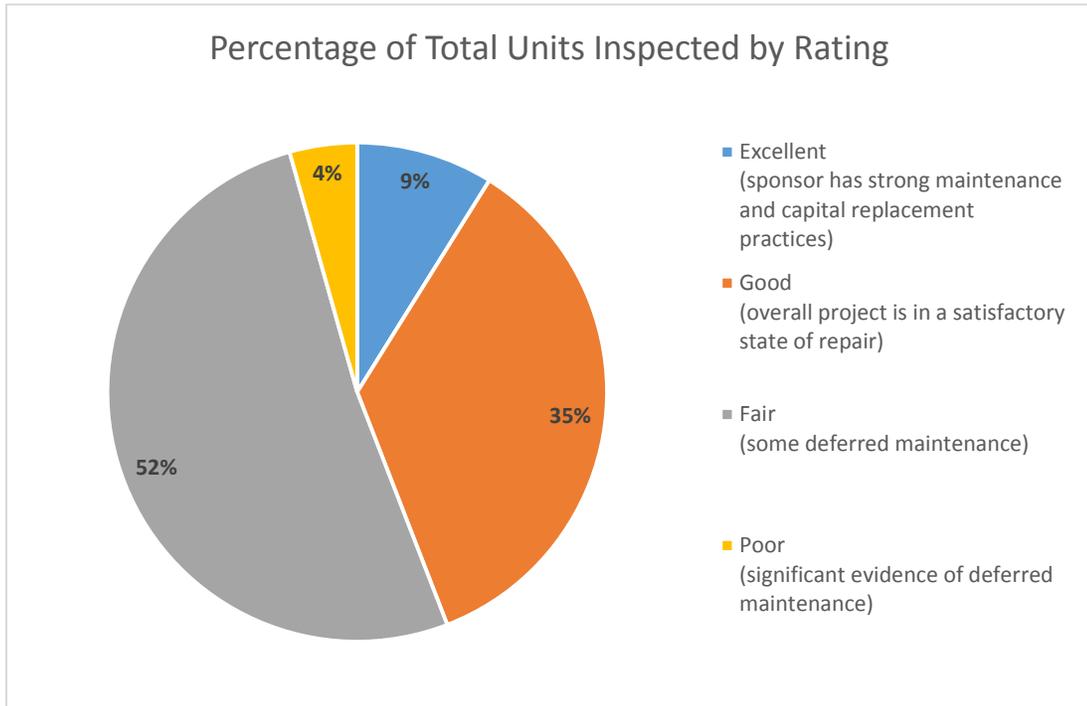


(3) The costs of estimated required repairs for an average older unit (constructed in 1997-2005) are over twice as much as the required repair costs for an average newer unit (constructed in 2006-2014).

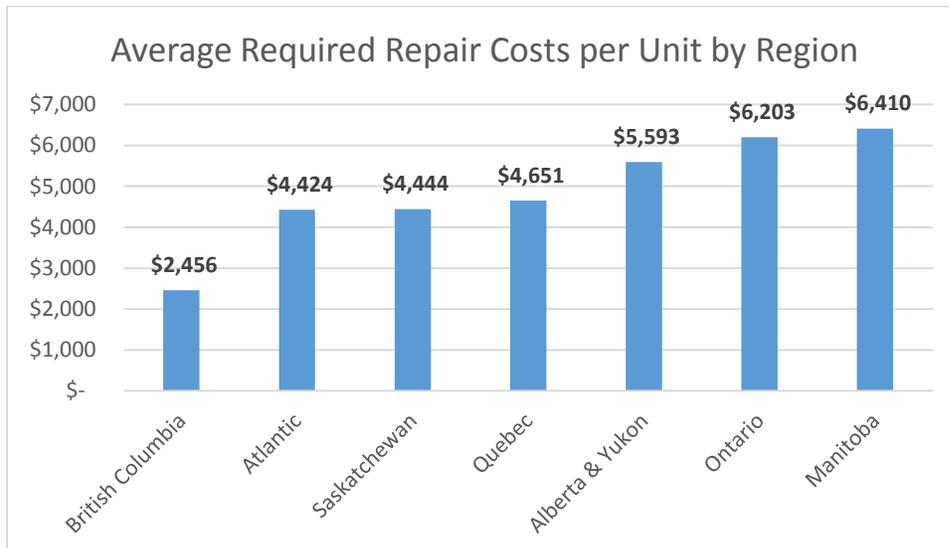




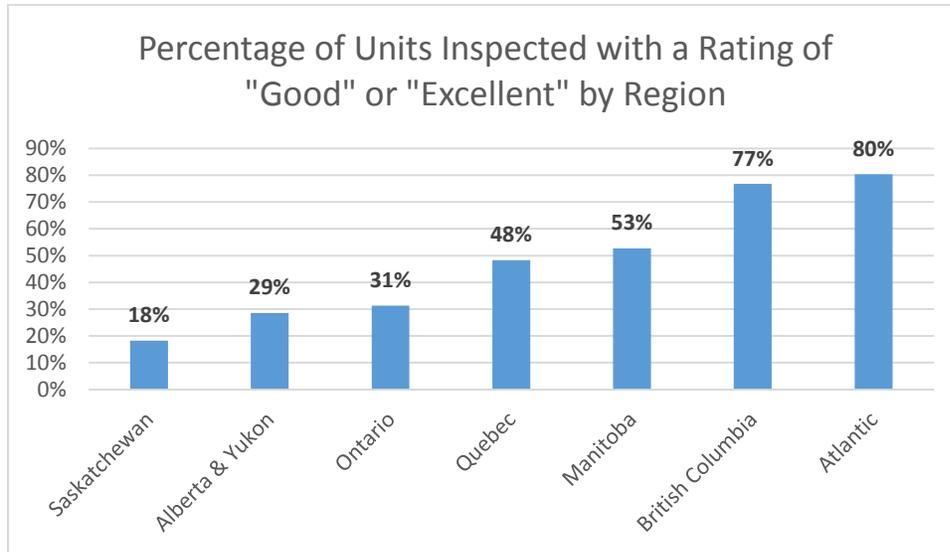
(4) 56% of the units were rated by the inspectors as in fair (52%) or poor (4%) condition, as opposed to 44% rated as being in good or excellent condition.



(5) The average required repair costs per unit estimated by the inspectors vary significantly by region.



(6) The percentage of units rated as “good” or “excellent” by the inspectors also varies significantly by region (see chart (4) above for definitions of “good” and “excellent”). Chart (6) is based on a smaller sample size than chart (5) above (because units are grouped to some extent in this chart); but note that Ontario and Alberta rank low (i.e., the condition of the units is relatively poorer) in both charts (5) and (6).



5.5 Question 5.5: How well are First Nations able to cover the loan payments and operating costs of Section 95 units, and what are the sources of funds used by First Nations to do this?

Findings

- (1) Most FNs use a combination of rents and Band funds to cover the monthly costs associated with Section 95 units. (Monthly costs include the portion of loan payments not covered by the subsidy, repairs and maintenance, contributions to the Operating Reserve Fund, and contributions to the Replacement Reserve Fund).
- (2) Many FNs struggle to meet the monthly costs of repairs and maintenance, which, as shown in section 5.4, are only marginally covered, on average, especially for older units.
- (3) In addition, most FNs do not maintain either the Operating Reserve Fund or the Replacement Reserve Fund very well.
- (4) In summary, the revenue sources that are available to FNs (the Section 95 subsidy, rents, and Band funds) are not covering the monthly costs of Section 95 units. This raises questions regarding the sustainability of Section 95 housing in the medium to longer-term.



Supporting evidence

Data from the FN interviews, the Consultants, and PTIOs

A rent regime is in place for 88% of the First Nation communities interviewed. Even with this high percentage, most FNs need to use additional sources of funds to cover the monthly costs (loan payments and operating costs) associated with each Section 95 unit, as shown below:

FN Sources of Funds to Cover Loan Payments and Operating Costs (in addition to the subsidy)	Percentage of Respondents
Band funds only	25%
Rents (or shelter allowances) only	25%
Rents (or shelter allowances) plus Band funds	50%

In reviewing the following (indented) paragraphs from the FN interview results, readers should keep in mind that the sample of FNs interviewed in this study was made up of long-term participants in the Section 95 program, and their responses may not be representative of FNs as a whole.

With regard to the reserve funds, a large majority (79%) of FN interviewees identified positive benefits to maintaining these funds, and an additional 11% were positive about maintaining the Replacement Reserve Fund only. Note, however, that this response is not the same as saying they fully maintained these funds (see below).

These First Nations interviewees indicated the replacement reserve fund was a good fall-back foundation for having available resources for major capital repairs and maintenance when needed, as well as being good for emergency repairs; and they expressed the opinion that the replacement reserve fund is a necessary component of good housing management.

However, at the same time, many FN interviewees said that requirements to maintain these funds have been an issue for some First Nations, pointing out that some have had to unexpectedly use band funds to keep the minimum contributions up to date.

Another point mentioned by a few FN interviewees was the need for more flexibility when it comes time to accessing the amounts in the reserve and operating funds. The idea expressed was that all Section 95 units are part of the First Nation's housing portfolio, so the FN should be able to use their total operating and reserve funds to support all units at any time, not just the funds associated with a particular phase of units.

With regard to the overall financial implications of participating in the Section 95 program, 63% of the FN interviews said that having to meet the monthly costs associated with Section 95 units does not impede their participation in the program. Many interviewees indicated that the community need for housing is so great that they go through great lengths to be able to meet the program requirements. These First Nation interviewees identified the Band's strong financial circumstance as contributing to their ability to participate and manage the financial requirements.



However, some interviewees said that the financial requirements of program participation can, in fact, have an impact on their community's participation in the program. The reasons mentioned as potentially affecting program participation included:

- Insufficient Band funds to supplement the subsidy and rents;
- Problems collecting rents (i.e., having a large proportion of tenants being in arrears); and
- An aversion to the debt the FN has to carry under the program.

The impressions of the Section 95 Consultants were that many FNs struggle to meet the monthly costs associated with Section 95 units. We have seen in section 5.4 that, although the overall state of maintenance of Section 95 units could be rated as "fair" overall (i.e., between "poor" and "good"), covering the costs of repairs and maintenance can be a challenge for many FNs. For example, our analysis of a large sample of PCR, PTIOs, and Account Summary Reports indicated that:

- Only 56% of FNs met expectations with regard to the criterion "Units within the project should be maintained."
- Two-thirds of the currently required repairs (in dollar terms) are either urgent or short-term (within one year) priority.
- Average required repair costs for units constructed before 2006 are almost \$7,000 per unit.
- 56% of the maintenance practices of FNs were rated by inspectors as demonstrating "some deferred maintenance," and an additional 4% showed "significant evidence of deferred maintenance."

Regarding the reserve funds, in spite of the positive comments regarding the reserve funds expressed by the study interviewees, our analysis, based on a sample of all PTIOs prepared in 2015 (157), indicates that in many cases, these funds are not well maintained:

- The Operating Reserve Fund is fully funded by only 31% of FNs, and the remaining 69% have funded, on average, only 20% of the Operating Reserve requirement.
- The Replacement Reserve Fund is fully funded by only 35% of FNs, and the remaining 65% have funded, on average, only 36% of the Replacement Reserve requirement.

Note that the reserve funds are maintained by project phase, and it is likely that the reserve funds for newer phases are better maintained than the reserve funds for older phases. However, the data are not available to confirm this hypothesis.

Analysis and discussion

Section 95 subsidies almost equal the required loan payments in most cases. (Data analysis carried out by program officials for this study shows that, for the Section 95 units that have been funded since 1996, the subsidies are equal, on average, to 89% of the required loan payments.) The loan payments are, therefore, not a big monthly cost for most FNs, so the significant monthly costs that have to be covered are:



- a) administration
- b) insurance
- c) repairs and maintenance³², and
- d) contributions to the reserve funds (Operating Reserve and Replacement Reserve).

It is likely that items (a) and (b) are fully funded. Results of our interviews and analysis show that, on average, (c) is marginally covered, and (d) is poorly covered; and even this degree of coverage is reported to pose significant strains on the FNs' resources.

There are several factors that could be contributing to these strains, such as difficulties collecting rents.³³ However, the most likely factor is that operating benchmarks are set below the amount that would both:

- cover operating costs (including required Reserve Fund contributions) in the near-term, and, in addition,
- generate a surplus that is able to be saved up and is sufficient for covering operating costs in the longer-term.

In this case, as discussed in section 4.2, FNs are expected to increase their contribution to older projects to an amount greater than the MRC, and this leads to a strain on the FN's resources, or, more commonly according to the data, a situation in which these costs are not well covered.

In these circumstances, Section 95 housing is not likely to be sustainable in the medium to longer-term.

³² The costs of utilities are generally the responsibility of the tenants, but this may not always be the case.

³³ Data on rent collection were not collected in this study.



6 Research Questions Related to Economy and Efficiency

6.1 Question 6.1: How well aligned are the roles and responsibilities of INAC and CMHC with regard to the delivery of on-reserve social housing; and is this an efficient distribution of roles and responsibilities?

Findings

- (1) The program delivery responsibilities of both organizations are mainly carried out at the regional level.
- (2) The main point of interaction between CMHC and INAC is with regard to securing Ministerial Loan Guarantees for FNs that have been allocated Section 95 units.
- (3) The MLG process works smoothly in some regions and not in others. The difference can mainly be attributed to communications shortfalls between CMHC and INAC in the regions for which the process is problematic.
- (4) There are opportunities for increased coordination of complementary services (e.g., capacity development) that may increase efficiencies.

Supporting evidence

As noted in Section 4.2 and in Appendix A, the delivery of the Section 95 program is relatively decentralized – allocation and subsidy determination decisions are made at the regional level, and there are some variations between regions. This is also the case for INAC – i.e., different INAC regions have different practices with regard to on-reserve housing. While there are some interactions between CMHC and INAC at the national level (e.g., regarding policy issues and problem areas), because of the decentralized delivery model within both INAC and CMHC, most of the interactions occur at the regional level.

The main points of interaction at the regional level regarding the current delivery of on-reserve housing are:

- (1) Participation in the allocation and decision process for Section 95 subsidies in some regions (Ontario, Quebec);
- (2) Ensuring that a Ministerial Loan Guarantee is in place for each Section 95 housing project before CMHC's final commitment of funding for that project;
- (3) Exchange of information regarding the delivery by both organizations of similar services (e.g., training); and
- (4) Exchange of information regarding problems that are encountered by FNs with the management of on-reserve housing (e.g., loan arrears).

Of these, interactions regarding MLGs (#2), are the most significant in terms of the time commitment by both organizations. These interactions proceed very smoothly in some regions, but not smoothly in others.



The general process for securing MLGs is as follows:

- (a) INAC evaluates each FN with regard to the MLG eligibility criteria (essentially being in a sound financial position), and then sends a list of eligible FNs to CMHC.
- (b) CMHC makes conditional allocations to FNs that are on this list (based on Section 95 eligibility criteria and regional decision processes, as discussed in section 4.2).
- (c) Before these allocations can be finalized (i.e., before the loan agreement and the operating agreement can be signed), an MLG has to be in place. This requires:
 - that the FN complete and submit to INAC a set of required documents; and
 - that another MLG eligibility assessment be carried out by INAC. (This is because five to six months may have passed since the initial eligibility assessment was carried out, and the financial position of the FN may have materially changed.)
- (d) In some cases, the MLG eligibility status of an FN is rescinded, e.g., because of a loan default.
- (e) In these cases, CMHC has to reallocate the subsidy funds to another FN(s).

There are several variants to this process:

Variant #1 – In one region, CMHC carries out the allocation process up through the point of conditional allocations (e.g., solicitation of expressions of interest; screening FNs according to the regional Section 95 eligibility criteria; conditional allocations to FNs based on the regional allocation process) before INAC is approached regarding MLGs. The FNs that have received Section 95 allocations then approach INAC and proceed through the MLG application and assessment process.

Variant #2 – In one region, if INAC has issued an initial approval to an FN for an MLG in step (a) above, INAC honours that approval up through the total CMHC process and does not carry out another eligibility assessment (although the same set of documents is required to secure the MLG).

Variant #3 – There is considerable variation between regions regarding the extent to which CMHC is involved in working with the FNs and INAC to assist with the preparation of the required MLG documents (step (c)) – ranging from totally hands off in some regions to very heavy involvement in others.

In the regions in which the MLG process does not work smoothly, the key issue at first glance appears to be the fact that INAC can rescind an MLG approval late in the Section 95 process, which can cause problems for CMHC in making reallocations at the “last minute.” However, based on our review of the MLG process across the regions and the results of our interviews, it appears that the main issue lies not with the process, but rather with poor communications and working relationships between CMHC and INAC in some circumstances. The key underlying factors provided by those CMHC offices in which the process does not work well relate to communications, including:

- CMHC is not provided information on the status of MLG applications;
- CMHC is not well informed of MLG requirements, including changes to the requirements;



- Sometimes an MLG is not allowed, but CMHC is not provided with the underlying reasons; and
- Sometimes CMHC is “surprised” by cases in which MLGs are not allowed.

This conclusion is further supported by the fact that two of the provinces in which the process is reported to work well have virtually the same processes as the two provinces in which it is reported to work poorly.

The other noteworthy area of interaction is item #3 – the delivery by both organizations of similar services. Virtually all regional interviewees from both organizations agreed that there “should be” better coordination of service delivery. For example, it doesn’t make sense for CMHC to provide a workshop on required maintenance activities and have INAC present a very similar workshop, to possibly many of the same participants, shortly thereafter. The interviewees in most regions agreed that:

- There has been lots of discussion between the two organizations regarding increased coordination and collaboration; and
- There has been very limited follow-up action.

We note that many evaluations of programs designed to increase coordination between government organizations have demonstrated that this is very difficult to effect, unless there are tangible incentives for both organizations to increase coordination.³⁴ Logically, if there were increased coordination, this would bring about increased efficiencies.

Other efficiencies could be effected, in theory, by consolidating the program delivery responsibilities of the two organizations in areas where that is feasible. An example would be having CMHC Direct Lending guarantee its own loans, thereby possibly reducing the role of MLGs. However, the detailed consideration of these kinds of changes, and this one in particular, are beyond the scope of this study.

As discussed in this report, CMHC provides considerable advice and assistance to FNs with the management of Section 95 housing – for example, client visits to FNs by Consultants to advise and assist them, inspections of the condition of Sections 95 units, and periodic preparation for FNs of PTIOs. INAC does not provide these kinds of services in relation to the INAC On-Reserve Housing Program, the reason, according to one INAC regional official, being that INAC’s policy is to give the responsibility to the FNs for administering their own housing program. Some of the services provided by CMHC are clearly helpful to FNs with their management of housing generally, not just Section 95 housing – for example, advice provided to Housing Managers regarding housing management and maintenance planning. In this sense, CMHC is indirectly supporting the INAC program.

³⁴ See, e.g., the evaluations of the job creation programs of what was then called Canada Manpower and Immigration carried out in the mid-1970s and early-1980s – such as LIP, LEAP, and the Community Employment Strategy.



6.2 Question 6.2: Are there changes to the design and delivery of the program that could either increase its effectiveness or reduce its costs?

The findings and supporting evidence are presented sequentially in this section.

Finding 1

There are opportunities for efficiency gains to be made regarding the use of the Minimum Revenue Contribution for evaluating First Nations' performance.

Supporting evidence

As discussed under question 4.2, the minimum revenue contribution (MRC) is agreed on during the subsidy determination process. The MRC serves a number of purposes:

- (a) It is a tool for discussions between CMHC and the FNs regarding what rents should be charged.³⁵
- (b) It is one of the independent variables that determines the amount of the subsidy payment.³⁶
- (c) It is used as a key measure of the performance of FNs in managing their Section 95 portfolios.

Regarding (a), the Consultants with whom this was discussed felt this function of the MRC is worthwhile. The FNs were not specifically asked about this.

Regarding (b), the findings of this study are that this is not a necessary function of the MRC. As noted in section 5.5, the Section 95 subsidy is approximately equal to the loan payment in the vast majority of cases, so both the MRC and the operating benchmark could theoretically be deleted from the subsidy formula (since they effectively cancel each other out), and the amounts of the subsidies would not be materially affected.³⁷ The possibility of making this change to the subsidy formula is discussed further in section 7.0, where it is noted that the implications of such a major change to the program delivery process should be studied further before it is seriously considered.

Regarding (c), examples of the use of the MRC as a measure of the performance of FNs in managing their Section 95 portfolios are:

- a key eligibility criterion in all regions is whether a FN has been contributing the full MRC; and
- the extent to which the full MRC is being contributed is also used in ongoing measurement of the FNs' performance, for example in the PTIOs.

However, consideration could be given in some cases to replacing this activity measure with an outcome measure, such as the extent to which the FN is fully covering the operating costs of Section 95 units. This could be done initially for FNs that have a strong portfolio management record, and these FNs could be provided with additional capacity development services related to the

³⁵ For most FNs the MRC is set equal to the rents that are charged or that they agree, in consultation with CMHC, should be charged. The main exceptions are FNs in the Atlantic region, which don't charge rents, and a few FNs that agree to top up rent payments with Band funds to yield higher MRCs (and therefore lower unit subsidies that enable them to fund more new units).

³⁶ Along with the amount of the loan payment and the operating benchmark.

³⁷ Subsidies would be set equal to the loan payments.



management of operating expenses. It could be phased in over time for other high performing FNs. The advantages of this change would be:

- It would be consistent with the National Housing Strategy Consultations Report, which recommended that
 - The measurement of government housing programs should be outcome-based, and
 - FNs should have greater control over their own housing.³⁸ (The specific implication of this recommendation in this case being that how FNs spend the rent money they collect should be left up to them, as long as the program objectives are being met.)
- Efficiencies would be gained by eliminating a significant amount of analysis for these FNs, such as the analysis carried out by the FNs' auditors to verify that the amount of money spent on Section 95 units is at least as great as the MRC, the review of financial statements by the Consultants during client visits to check MRC contributions, and similar analyses done in the detailed financial statement reviews carried out by the regional offices.

Finding 2

There is potential to enhance the effectiveness of the reserve fund requirements.

Supporting evidence

Regarding the Replacement Reserve Fund, the requirement to maintain this fund and the monitoring of this requirement are the basis of an activity-based performance measure (the extent to which the Replacement Reserve is fully funded) rather than an outcome-based performance measure, such as the extent to which the FN has funded major capital requirements for Section 95 units. It should also be noted that this requirement does not seem to have a large impact on FNs' behavior – as noted under question 5.5, the study found that the Replacement Reserve is fully funded by only 35% of FNs.

Consideration could be given to gradually replacing this requirement and the associated activity measure with a requirement to plan for and replace worn out capital items when required, together with an associated outcome measure. This could be done initially for FNs that have a strong record of dealing with capital replacements, and these FNs could be provided with additional capacity development services related to planning for and managing capital replacements, such as training regarding how to develop a capital replacement plan. This could be phased in over time for other high performing FNs. The advantages of this change would be:

- Increased consistency of the program with the two key findings of the National Housing Strategy Consultations, as discussed under Finding #1;
- Increased efficiencies resulting from reduced accounting requirements, and
- Increased program effectiveness as a result of increased flexibility in FNs' management of capital replacements (e.g., no restriction for separate, non-movable Replacement Reserve funds for different phases).

³⁸ See National Housing Strategy Consultation Report, [Let's Talk Housing](#), pages 5 and 28.



The supporting evidence for the replacement of the Operating Reserve Fund is similar, except for the immediately preceding bullet.

Finding 3

There is an opportunity to increase the effectiveness of client visits.

Supporting evidence

In the regional office site visits, many of the Consultants commented that their review of financial statements during client visits was not useful and detracted from their more important problem solving and relationship building activities (and also that it cast them in the role of a perceived policeperson). They also explained that, in their opinion, this review duplicates the work of the auditor and the financial statement review done by the regional office.

Program effectiveness could be increased if the client visit protocol were modified so that there is less emphasis on the review of financial statements and the Consultants were able to focus more on assisting with housing management challenges and possible solutions – housing needs³⁹, collection of rents, budgeting for operating costs, dealing with repairs and maintenance, cash flow challenges, and so on.

Finding 4

There is an opportunity for the PTIO process to more effectively contribute towards portfolio management.

Supporting evidence

Many Consultants explained that the PTIOs (and the PCRs) are useful as a basis for discussions with the FNs. However, the PTIO could be simplified to remove the detailed financial questions – e.g., has the FN been contributing the full MRC, is the Operating Fund fully funded, is the Replacement Reserve fully funded — and focus on important operational issues (housing management and maintenance). The answers to the financial questions are known to the FNs and also to CMHC from the financial statement review.

Mailing these forms to the FNs is not useful. If at all possible, they should be presented in person by the Consultants and discussed with the FN as the basis for forming an action plan.

Finding 5

There are opportunities for increased capacity development services to First Nations to contribute towards enhanced program effectiveness.

Supporting evidence

Capacity development services are viewed as very helpful by First Nations. Many FNs want to take advantage of as much training as they can, and the FN interview results indicated that additional training in housing management practices is needed. Note also that the importance of capacity

³⁹ In addition to enabling the Consultants acquire a better understanding of housing needs, this item would be useful for the CMHC regional offices, since more direct information on housing needs would strengthen the allocation process.



development was one of the two main themes of the First Nations sections of the National Housing Strategy Consultation report.⁴⁰

The level of understanding of housing management varies widely among First Nations. Some Housing Managers who have been in place for many years have a good understanding, but others who are new to the program often do not. The latter is also true of people from smaller FNs who are handling housing matters. The Consultants are aware of which people fall into which category, and can develop customized training plans for communities (roadmaps), which is part of the current delivery process for capacity development services.

Results of the Consultant interviews indicated that Chiefs and Councils generally do not have a good understanding of the operations of Section 95, but that is probably not necessary. However, it is felt that they should understand the implications of what they are committing the FN to and how that might affect the community and the FN's finances. Consideration could be given to a "train the trainers" program in which Housing Managers are trained to deliver a basic course in understanding the operating and loan agreements to the Chief and Council.

Finding 6

There are opportunities for enhanced coordination with INAC at the regional level.

Supporting evidence

The importance of coordination between CMHC and INAC in the delivery of housing programs was the other main theme of the National Housing Strategy Consultation report, which goes so far as to suggest a "one window" on government approach.⁴¹

As discussed in section 6.1, the coordination between CMHC and INAC regarding the MLG approval process is very smooth in some regions (e.g., B.C.) and less smooth in others (e.g. Ontario). The main factor affecting whether this coordination is smooth appears to be the amount and quality of the communications between the two organizations.

It's not clear what CMHC could do about this. However, this report would be incomplete if this issue was not flagged.

In addition to the MLG issue, there appear to be a number of other areas in which coordination and collaboration between the two organizations could be improved (e.g., delivery of training).

Other possible opportunities to increase program efficiency or effectiveness

Other possibilities include:

- Provide the annual budgets to the regional offices earlier in the year.
- Improve transparency with regard to the allocation process and the methods used for subsidy determination.

⁴⁰ See National Housing Strategy Consultation Report, Let's Talk Housing, pages 28-30.

⁴¹ *Ibid*, pages 28-30.



- Consider the possibility of multi-year commitments which would give communities more time to organize construction. (INAC regions are moving to five year cycles for capital planning, and perhaps this could be considered for Section 95).
- Increase the flexibility of the MUP determination process and/or the modesty criteria to include allowances for more durable construction materials and practices. Consider a review of MUPs generally in view of changing requirements and associated costs (e.g., environmental assessments).
- Ask CMHC Direct Lending to review the paperwork associated with the loan agreement to see if it can be reduced or simplified – e.g., whether it is necessary to have both an offer to lend document and a loan agreement.
- Develop and implement a comprehensive outcome-based performance measurement system for the Section 95 program.



7 Recommendations

Recommendation 1. CMHC should examine policy and operating requirements to determine if there are ways to increase the medium to longer-term sustainability of Section 95 housing.

Discussion: The review found that

“The revenue sources that are available to FNs (the Section 95 subsidy, rents, and Band funds) are not covering the monthly costs of Section 95 units. (Monthly costs include loan payments, repairs and maintenance, and contributions to the reserve funds.) This raises questions regarding the sustainability of Section 95 housing in the medium to long-term.” [Finding 4, section 5.5]

Related findings are:

- “Many FNs struggle to meet the monthly costs of repairs and maintenance, which ... are only marginally covered on average, especially for older units.” [Finding 2, section 5.5]
- “Most FNs do not maintain either the Operating Reserve Fund or the Replacement Reserve Fund very well.” [Finding 3, section 5.5]

Suggestions: The following possibilities could be explored:

(1) The adequacy of the operating cost benchmarks could be reviewed to determine the extent to which they are sufficient for

- covering operating costs (including required Reserve Fund contributions) in the near-term, and, in addition,
- generating a surplus that is able to be saved up and is sufficient for covering operating costs in the longer-term.

If it is found that operating cost benchmarks are not sufficient for both these purposes, then either the operating cost benchmarks should be increased, or the approximate shortfall should be communicated to the FNs along with the expectation that they will have to make up this shortfall by increasing their contributions to Section 95 units in later years.

(2) The possibility of setting the Section 95 subsidy equal to the FNs’ required loan payments could be studied.

The implications of simplifying the Section 95 subsidy formula in this way were not investigated in detail in this study, and this needs to be done before such a major program change is seriously considered. However, on the face of it, it appears that making this change may have several positive impacts:

- (a) It would increase the current subsidy amounts by an average of 11%, thereby providing more funds to FNs to cover the monthly costs of Section 95 units.⁴²

⁴² The current subsidies are equal, on average, to 89% of the required loan payments (see section 5.5).



- (b) It would greatly increase the understandability of how subsidy amounts are determined. Currently most FNs do not understand how the subsidy amounts are determined [Finding 3, section 4.2], which is not surprising, since formulas containing three independent variables are often difficult to fully grasp.
- (c) Efficiencies may be able to be gained by lowering the costs of FN audits (which currently need to show that the FN has contributed the full minimum revenue contribution to the project), and there would be reduced costs associated with the further analyses of the FN audit results that are currently carried out by CMHC Consultants and other regional office staff.

Recommendation 2: CMHC should strengthen the reserve fund requirements by gradually replacing the current activity-based performance requirements for the reserve funds, with outcome-based requirements that would be monitored and enforced.

Discussion: As noted above, most FNs do not maintain either the Operating Reserve Fund or the Replacement Reserve Fund very well. In particular,

- The Operating Reserve Fund is fully funded by only 31% of FNs, and the remaining 69% have funded, on average, only 20% of the Operating Reserve requirement; and
- The Replacement Reserve Fund is fully funded by only 35% of FNs, and the remaining 65% have funded, on average, only 36% of the Replacement Reserve requirement [see section 5.5].

The Section 95 Reference Manual for FNs states that: “Funding and maintaining these accounts are conditions of the Operating Agreement; therefore, failure to do so will result in suspension of subsidy.”⁴³ Based on the results of this study, this does not appear to be conducted in practice.

Other issues related to the reserve funds are:

- These requirements are the basis for activity-based performance measures (the extent to which the funds are fully funded) rather than outcome-based performance measures, such as the extent to which the FN has funded major capital requirements (to replace the Replacement Reserve measure) or the overall state of maintenance and repairs (to replace the Operating Reserve measure). Performance measurement should be based on the measurement of outcomes, if possible; and, in addition, the National Housing Strategy consultations report recommended that the measurement of government housing programs should be outcome-based.⁴⁴
- Outcome-based measures would be more closely linked to the sustainability of Section 95 housing.
- The current analyses of the extent to which these funds are maintained requires time to be spent by CMHC Consultants and regional staff analyzing FN financial statements, which may not be the most efficient use of resources.

⁴³ Section 95 Reference Manual, CMHC, page 50.

⁴⁴ See Let's Talk Housing, pages 5 and 28.



As described in section 6.2, this recommendation could be phased in over time, starting with FNs that have a strong record in maintenance and meeting major capital requirements.

Recommendation 3: CMHC should pursue and enhance its efforts to provide assistance to First Nations communities in addressing their housing management challenges.

Discussion: The findings of the review regarding CMHC’s portfolio management activities are positive:

“On average, FNs find the assistance provided by CMHC through client visits, physical condition reviews, and plans to improve operations to be helpful. They find capacity development services to be very helpful.” [Finding 2, section 5.3]

Nevertheless, there are opportunities for strengthening these activities.

- The client visit protocol should be modified so that there is less emphasis on the review of financial statements and more focus on assisting with housing management challenges. Although client visits are regarded as helpful by FNs, many CMHC Consultants feel that their review of financial statements during client visits is not useful and detracts from their more important problem solving and relationship building activities. [See section 5.3]
- Capacity development services to FNs should be increased. (This may already be happening as a result of recent budget increases.) Capacity development services are viewed as very helpful by FNs; and additional training for many FNs is needed. One specific opportunity would be for CMHC to institute a “train the trainers” program in which Housing Managers are trained to deliver a basic course in understanding Section 95 agreement documents to Chiefs and Councils.
- The PTIO should be simplified to remove the detailed financial questions and focus on important operational issues (housing management and maintenance). PTIOs are currently considered as helpful by only a minority of FNs, and are generally not actioned in the absence of follow-up by the Consultants [Finding 3, section 5.3]. They would be more helpful if they focused on how to improve operations.

Recommendation 4: CMHC should increase (a) the effectiveness and (b) the transparency of decisions for allocating Section 95 units.

Discussion: (a) (1) Regarding the effectiveness of the process for allocating units within the provinces, the review found that the housing needs of FNs are considered to only a limited degree in some provinces, although the allocation process is generally accepted as fair by FNs [Findings 1 and 2, section 4.2]. (2) The review also found that the three Prairie provinces have the greatest need for on-reserve housing [Finding 2, section 5.1].

Suggestions: (1) There should be greater and more explicit consideration of FN housing needs in the allocation processes within each of the provinces. (2) The process for allocations from National Office to the provinces should be reviewed to ensure it is effectively addressing the provincial needs for on-reserve social housing (see discussion point (2) under (a) above).

Discussion: (b) Regarding transparency, as noted above, the review found that “The allocation process ... is not well understood by many FNs.” [Finding (2), section 4.2]



Suggestion: A written description of the methods and criteria for allocation decisions within the provinces, based on the results of housing needs analyses (see suggestion (1) under (a) above) should be provided to all FNs. This should be done in all CMHC regions, including those in which tribal councils or other FN organizations are involved in the decision process.

Recommendation 5: CMHC should work to improve the coordination with INAC regarding the delivery of on-reserve housing services.

Discussion: The review found that:

“The Mortgage Loan Guarantee process works smoothly in some regions and not in others. The difference can mainly be attributed to communications shortfalls between CMHC and INAC in the regions for which the process is problematic.” [Finding (3), section 6.1]

And

“There are opportunities for increased coordination of complementary services (e.g., capacity development) that may increase efficiencies.” [Finding (4), section 6.1]

Suggestion: Suggestions regarding possible incentives and mechanisms for improved coordination should be obtained from the CMHC Section 95 regional managers. (As noted in section 6.1, evaluations of programs designed to improve coordination between government organizations have demonstrated that this is very difficult to effect unless there are tangible incentives for both organizations to improve coordination.)

Recommendation 6: CMHC should assess the relevance of the current objective and expected outcomes for the Section 95 program to ensure that they clearly address the need for sufficient, adequate, and suitable on-reserve rental housing.

Discussion: As discussed in section 1.0, the current objective of the Section 95 program is primarily output-based – it involves providing housing that is adequate and suitable, but it does not address the sufficiency of the housing for meeting on-reserve rental housing needs. Accordingly, this report provides considerable analysis in section 5.1 of the extent to which the program is meeting its current objective – number of housing units provided, breakdown of units by year and by province, and so on. However, this information is not very useful for policy making.

More useful would be a program objective based on the extent to which the program is meeting the needs of FN people for sufficient (as well as adequate and suitable) on-reserve social housing, together with associated performance measures. It may be difficult to measure this objective, and it would only be possible to meet FN housing needs to a limited degree with the current program budget, but neither of these factors should prevent the adoption of this objective.

We also note that an outcome-based objective such as this would be consistent with CMHC’s longer-term objective for on-reserve housing (see section 3.2).

Suggestion: An outcome-based performance measurement system should be developed that is aligned with this new objective. All three aspects of this objective should be monitored and reported on, including the actions taken by CMHC to address each one, for example:



Aspects of the Objective	Possible Measures	Actions Taken (theoretical here for illustration)
Sufficiency	Number of housing units provided in comparison with rental housing needs from the needs analyses (see recommendation 4)	Pilot study of the possibilities for providing more rental housing through funding more multi-unit dwellings [see Finding 4, section 5.1]
Adequacy	Measured as was done in this study (see section 5.4) – possibly compare estimated 5 year repair costs with average Canadian 5 year repair expenditures.	Review of operating benchmarks regarding their adequacy to provide sufficient funding for repairs and maintenance (see recommendation 1)
Suitability (lack of overcrowding)	Measured as was done in this study (see section 5.2)	Same as sufficiency, since the main cause of overcrowding is the lack of a sufficient number of housing units.



A Description of the Section 95 Program

A.1 Introduction

This appendix provides a description of the Section 95 program. It contains descriptions of the program objective and intended outcomes, the main program activities, and the program logic.

A.2 Program Objective and Intended Outcomes

In consultation with staff from First Nations Housing and Housing Needs Policy, the following program objective was agreed on for the purpose of this review as representing the most important outcome the program is designed to accomplish.

Provision of social housing: To enable First Nations to increase their stock of on-reserve rental housing that is available and suitable and adequate for low-income First Nations members.⁴⁵ [Note that, while this objective specifies that the housing should be “suitable and adequate,” which relates to the appropriate unit size and the condition of the housing, it does not specify the amount of housing that the program should provide, or the extent to which the amount of housing provided through the Section 95 program (and associated government programs⁴⁶) should meet the needs of low income First Nations people living on reserve.]

For the purpose of this review, it was agreed that the following are important intended outcomes of the program, but they are not classified as program objectives, because they are largely outside of the control of the program.

- Maintenance of social housing stock: To enable the stock of rental social housing on-reserve to be maintained for the term of the operating agreements (which may be up to 25 years.) [This is intended to be achieved by the on-going subsidy payments combined with the assistance in housing portfolio management provided by the program – client visits, physical condition reviews, advice regarding maintenance, advice regarding financial management, and so on. However, the achievement of this outcome is largely within the control of the First Nations.]
- Capacity development: To support the development and enhancement of First Nations’ expertise in housing delivery and management (including capacity for housing design and construction, tenant selection, collection and/or allocation of funds to cover the costs associated with Section 95 housing, maintaining necessary restricted accounts, budget management, financial management, and so on). [This is objective #2 in the program guidelines⁴⁷.]

⁴⁵ The First Nations are responsible for determining low-income client eligibility and selecting clients.

⁴⁶ INAC’s Loan Guarantee program and CMHC’s Direct Lending program.

⁴⁷ 1997 *On-Reserve Non-Profit Housing Program*, CMHC, August, 2010.



In addition to the program objective and intended outcomes it is clear from the program documentation that there are two key program design features:

- First Nations control: To facilitate greater First Nations control over social housing on reserve than has been the case in the past, through a shared on-reserve housing delivery model. [This is a modified version of objective #3 in the program guidelines.]
- First Nations accountability: To foster accountability among First Nations by giving them responsibility for the administration of their portfolio.

A.3 Eligibility and Allocation Process

The national Section 95 budget is apportioned to the regions annually by CMHC. CMHC, INAC, and the First Nations Liaison Committees (or other designate committee) in the regions⁴⁸ then determine the eligibility criteria for First Nations, which vary by region but always include the following national criteria:

- Being eligible for a Mortgage Loan Guarantee from INAC (or other acceptable loan security for non-insured financing).
- Being in compliance with any existing Section 95 operating agreements.
- Having a good track record with CMHC programs.

Eligible projects include newly constructed housing, the purchase of existing housing with or without subsequent rehabilitation, or the conversion of an existing building. Projects are required to be “modest.” (See section 4.0 below regarding the maximum unit price.)

The process for allocating Section 95 subsidies varies by region. The general process is as follows:

- (a) The First Nation submits an expression of interest to CMHC.
- (b) If the First Nation is eligible according to established national and regional criteria and the funds are available,⁴⁹ CMHC makes a commitment in principle for a Section 95 subsidy and provides an application package to the First Nation.
- (c) The First Nation develops a project proposal. The proposal contains the detailed cost estimates, operating cost benchmarks, and proposed financing. (To assist in preparing these proposals, First Nations are eligible to receive Proposal Development Funding loans⁵⁰, which are interest free. These loans are recovered by CMHC from the first construction loan payment.)
- (d) The First Nation obtains agreement for financing from the CMHC Direct Lending (DL) program, conditional on obtaining an MLG and a Section 95 subsidy. (First Nations may obtain capital

⁴⁸ BC, Alberta, Yukon, and the Atlantic provinces do not have regional First Nations liaison committees involved in the annual allocation process.

⁴⁹ The determination of the availability of funds is done using CMHC’s Housing Budgetary Forecasting Model.

⁵⁰ The maximum PDF loan for a single project is \$75,000 plus 3% of the NHA lending value in excess of \$500,000, to a maximum PDF loan of \$500,000.



financing from an external lender; however, the subsidy is calculated using the DL interest rate or private lender rate, whichever is lowest.⁵¹⁾

- (e) The First Nation submits a Band Council Resolution and an application for an MLG, along with the associated documentation, to INAC.
- (f) INAC issues a loan guarantee certificate.
- (g) CMHC approves a Section 95 subsidy.
- (h) The loan (mortgage) for the project is finalized.

A.4 Building construction and rehabilitation

All new construction, including new work in existing buildings, is required to be in conformance with the National Building Code of Canada (NBCC), or the building code of the First Nation in cases in which the requirements of the First Nation's building code exceed those of the NBCC.

Housing units should be adequate for the needs of the intended occupants and consistent with modest community housing norms with respect to size, design, facilities, services, and long-term durability.

CMHC, in consultation with the regional liaison committees where these exist, establishes a Maximum Unit Price (MUP) for on-reserve properties. The determination of the MUPs is regional, but changes must be submitted to National Office annually for approval.⁵²

The unit costs of a project may exceed the MUP, but the MUP represents the maximum unit costs of the project that can be covered by the Section 95 subsidy. Specifically, the capital costs associated with the shelter component of a project that are eligible for a Section 95 subsidy are the lesser of

- the actual eligible capital costs⁵³ or
- the sum of the MUPs for the project units.

Similarly, the MUP determines the maximum amount of the loan (mortgage) that can be issued by CMHC's Direct Lending program.

CMHC carries out progress reviews during construction in order to ensure that the units provide adequate security for the insured loan. For new single units, progress reviews are carried out at critical stages as determined by CMHC (at a minimum: pre-backfill inspection (foundation), pre-drywall inspection (framing, rough-in and insulation/vapour barrier), and at completion).

For new multiple units of four or more stories with a footprint of more than 600 square meters, a minimum of one progress review per month, as well as at critical construction stages, is required to be carried out. Where existing units are being considered for acquisition, an inspection is carried out to determine the extent of the repairs or renovations required. For units requiring repairs or

⁵¹ As a matter of practice most Section 95 loans are obtained from the DL program.

⁵² MUPs are reviewed annually and revised as appropriate. The basic methodology for developing MUPs was developed by Marshall and Swift building cost appraisers.

⁵³ Eligible capital costs include construction, or acquisition and rehabilitation, or conversion; on-site servicing; hard furnishings; landscaping; and certain eligible soft costs.



renovation, site reviews are carried out to ensure that the work is completed according to CMHC's Residential Rehabilitation Assistance Program (RRAP) standards.

It is the responsibility of the First Nation, as the authority having jurisdiction, to ensure that units are built to the National Building Code of Canada or other adopted code.

A.5 Subsidy calculation

The formula for determining the Section 95 subsidy is:

$$\text{Project subsidy} = \text{loan payment} + \text{operating cost benchmark} - \text{minimum revenue contribution.}$$

We elaborate on each of these components below.

Loan payment

As noted above, the amount of the loan considered in this formula is based on the eligible capital costs of the project or the maximum unit price (MUP), whichever is less⁵⁴. In calculating this component of the subsidy, CMHC uses the lesser of the five year CMHC Direct Lending rate or the five year private lending rate. First Nations have the option of choosing an amortization period of 15, 20, or 25 years.

Operating cost benchmark

The operating cost benchmark is established prior to the commitment of the project in the project operating agreement. It is project specific and is set for the life of the project, irrespective of any actual cost increases (e.g., increases in utility costs). It is intended that the operating cost benchmark for the project reflect the First Nation's actual operating expenses, including consideration of the number, type, and geographical location of units. The following items are typical of those considered in the establishment of the operating cost benchmark for on-reserve projects:

- Insurance.
- Administration (staff salaries, office operation, bank charges, tenant counseling).
- Maintenance (regular maintenance, janitorial).
- Utilities (heat, hot water).
- Services (garbage, water, sewer, snow removal).
- Accounting and legal.
- Allocation to the replacement reserve fund (see section 6.0).
- Contingency (3% to 5%).

An operating cost benchmark for planning purposes is determined by CMHC based on current and historical data. The process for determining the final operating cost benchmark used in the subsidy formula varies by region. The intent is that actual operating costs will be lower than the benchmark in the earlier years, thereby resulting in operating surpluses, which can be appropriated to the operating reserve fund (see section 6.0) and used to cover operating cost increases in the later years – e.g., due to inflation.

⁵⁴ The actual mortgage payment for the property may be more than this.



Minimum revenue contribution

The purpose of the minimum revenue contribution is to ensure that First Nations make a reasonable contribution toward the overall operating costs of Section 95 projects, while leaving the control of the rental structure for the individual units in the hands of First Nations.

The monthly minimum revenue contribution (MRC) for planning purposes for a three bedroom unit is calculated by the formula:

Monthly MRC = 0.003125 times FIL, where FIL is the annual RRAP forgiveness income limit applicable to the geographic area in which the reserve is located.

The program guidelines spell out this calculation as follows:

- **STEP 1:** Convert the RRAP Forgiveness Income Limit (FIL) applicable to the geographic area in which the reserve is located from the 30% RRAP FIL for a three bedroom unit to a 25% FIL for a three bedroom unit as follows:

$$(30\% \text{ FIL} / 0.30) \times 0.25 = 25\% \text{ FIL for a three bedroom unit}$$

- **STEP 2:** Using the 25% FIL calculate the 60% income level as follows:

$$25\% \text{ FIL} \times 0.60 = 60\% \text{ income level for a three bedroom unit}$$

- **STEP 3:** The monthly MRC for a three bedroom unit is equal to 25% of the 60% income level as follows:

$$(60\% \text{ income level} \times 0.25) / 12 \text{ months} = \text{MRC per month for a three bedroom unit.}$$

This amount is increased or decreased by \$50 per month depending on the number of bedrooms – e.g., if \$328 is the monthly MRC for a three bedroom unit, the monthly MRC for a two bedroom unit is \$328 minus \$50 = \$278.

The process for determining the final MRC used in the subsidy formula varies by region, as described in section 4.2 of the text.

A.6 First Nations management requirements

Operating and loan agreements

The operating agreement is the contract between CMHC and a First Nation for each project, which is signed at the beginning of the project. It specifies:

- The amount of the subsidy and the associated terms and conditions.
- The responsibilities of each party.
- The guidelines for the potential sale of the project.
- The obligation of the First Nation to maintain financial reserves (see below).



In addition to the operating agreement, Section 95 units are also subject to the requirements of a loan agreement, which includes requirements concerning payments to the lender, as well as the consequences of a loan default.

Project management responsibilities

These include:

- Selecting the occupants of Section 95 units.⁵⁵
- Financial management – operation of the accounting system, managing housing-related expenditures, maintaining restricted cash accounts (see below), and preparation of financial statements.
- Maintaining adequate fire insurance.
- Ensuring that dwellings are maintained in good condition.
- Ensuring that the MRC is made.

Replacement reserve fund

The maintenance of a replacement reserve fund is one of the requirements of the operating agreement. This fund is maintained to cover the costs of repairs or replacement of major capital items in the project – major building and property components, project facilities and equipment, etc. The required annual allocation to the replacement reserve is specified in the operating agreement.

Failure to maintain the replacement reserve fund constitutes a condition for suspending the subsidy.

Operating reserve fund

The First Nation is also required to establish an operating reserve fund whereby operating surpluses are appropriated to this fund. The intent of this fund is to ease absorption of deficits resulting from operating costs in excess of the operating cost benchmark or major maintenance/repair costs in future years.

Prior approval from CMHC for the use of these funds is not required. Nevertheless, failure to maintain the operating reserve fund constitutes a condition for suspending the subsidy.

Audited financial statements

The operating agreement also requires that the First Nation submit annual audited financial statements within four months of the fiscal year end. In addition, CMHC requires a statement relating to each project's replacement reserve and operating reserve.

⁵⁵ The client selection criteria are required to be specified in a Band Council Resolution. CMHC requires a ratified copy of the client selection criteria or a copy of a BCR confirming that these criteria have been made known and available to all members of the First Nations community.



A.7 CMHC national office activities

The Section 95 program resides within First Nations Housing, which falls under the Office of the Senior Vice President of Regional Operations and Assisted Housing. First Nations Housing provides overall direction oversight and monitoring of the program, as well as administrative support.

A.8 CMHC regional activities

In addition to management and administrative staff, the CMHC regions have a staff of approximately 40 Consultants, who are responsible for maintaining relationships with First Nations communities, monitoring the status of Section 95 projects, and providing advisory assistance to First Nations as required. The Consultants work out of the CMHC regional and satellite offices, and each Consultant is assigned between eight and 15 communities.

The main activities of the Consultants are client visits and facilitation of capacity development activities.

Client visits

Client visits to all First Nations are carried out at least every three years. The purpose of these visits, in addition to maintaining relationships with the First Nations, are to:

- Monitor compliance with the operating agreement.
- Review books and records related to Section 95 housing.
- Identify problem areas and make recommendations for improvements.
- Provide guidance regarding management processes.
- Obtain first-hand knowledge of the physical appearance and general condition of Section 95 projects, their office set-up, and staff arrangements.

Client visits are conducted more frequently if there are indications that the project may be experiencing financial or management difficulties, or if an action plan to correct problems requires follow-up actions or monitoring.

Physical condition reviews

Physical condition reviews of Section 95 projects are required once every five years on a sampling basis. The purpose of these reviews is to ensure that the housing stock is being maintained in a satisfactory state of repair for the period of the operating agreement. These involve inspections of a sample of units in each project.

Physical inspections are conducted more frequently when there are indications that maintenance is below minimum requirements, or when major repairs or capital works are outstanding.

Results of these reviews are communicated to the First Nations within 30 days from the date of inspection. Health and safety items are highlighted, and an action plan for major repairs initiated where required.



Capacity development

The Consultants work with communities to help identify training that will enable the First Nation to develop useful skills in property management and related areas. This involves the joint development with the First Nation of a comprehensive, tailored capacity development plan (called a “roadmap”). This plan is submitted to CMHC’s National Office, which allocates the capacity development budget based on Consultant priorities. The Consultants then arrange for capacity development providers/experts to work with the community.

A.9 Introduction of best practices

CMHC and INAC have recently introduced a number of best practices intended to help improve housing outcomes, including:

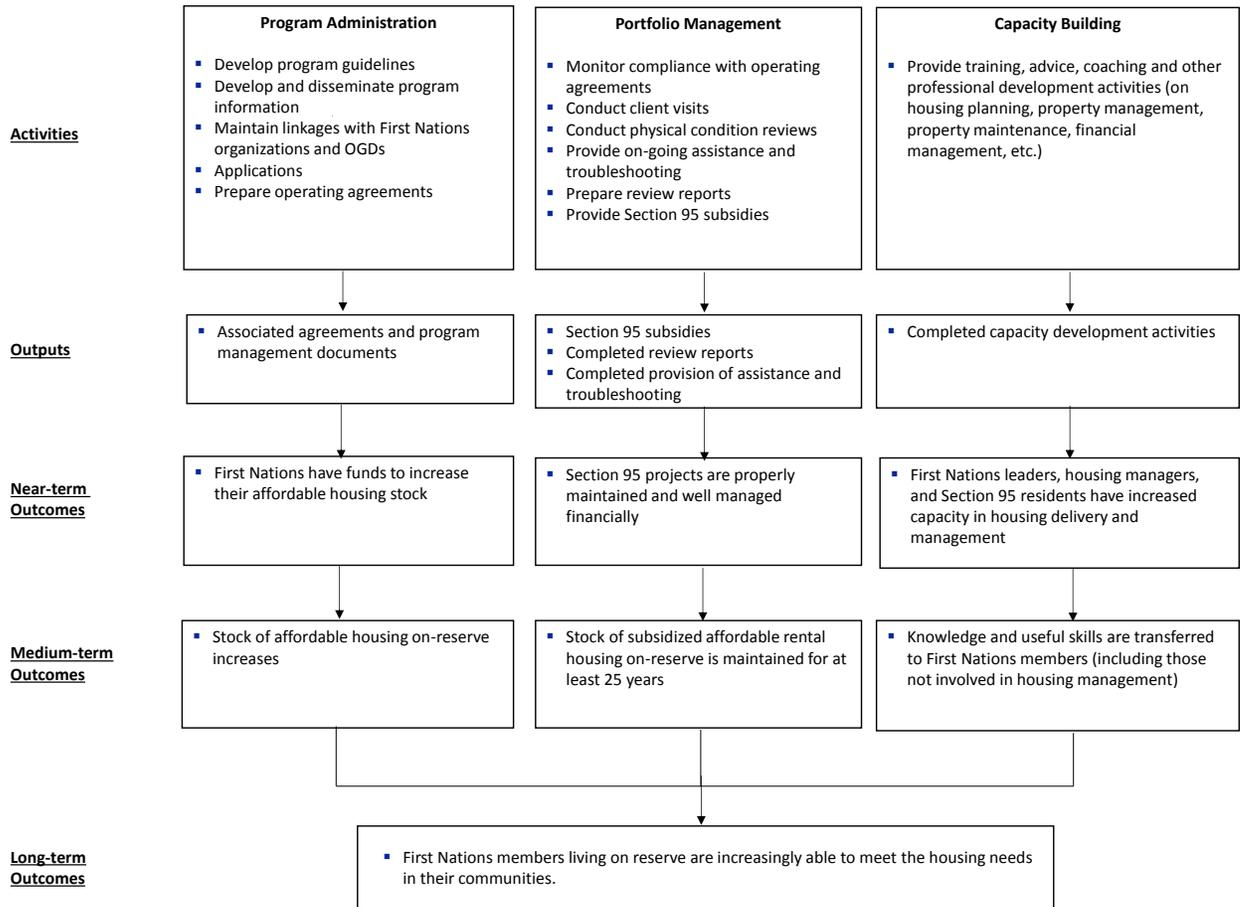
- Improving the process of issuing MLGs (INAC), where used for CMHC-sponsored social housing.
- Sharing detailed information on a number of indicators used to assess risk at the community level (INAC) and at the housing portfolio level (CMHC).
- Improving the coordination of capacity development activities.
- Sharing the following specific information items:
 - Client visit and physical condition review reports (CMHC).
 - Listings of CMHC capacity development activities.
 - CMHC’s First Nation Portfolio Assessment reports.
 - INAC’s annual summary reports on housing and infrastructure assets.
 - General assessment data on First Nations.
 - Information on housing projects approved under INAC’s Special Initiatives Fund.

A.10 Program logic

The diagram below is the “logic model” for the Section 95 program. A logic model is a picture of the activities, outputs, and outcomes that make up the Section 95 program, together with the logical relationships between these (i.e., what is supposed to lead to what).

- “Activities” means the tasks that are carried out by the people who are delivering the program.
- “Outputs” means the goods and services that result from the completion of these activities.
- “Outcomes” means the things that happen or are experienced as a result of the outputs (by people who are not directly involved in carrying out the activities).

Logic models are admittedly simplistic, since they show only the main activities, outputs, and outcomes. However, they are useful in studies of this nature in identifying the most important causal linkages.





A.11 Program resources

As can be seen in the tables below, due to budget increases from budget 2005 and Canada's Economic Action Plan the portfolio increased by 20% from 2004 to 2011, and since then has decreased slightly.

Section 95 portfolio and commitments 2004 – 2014 (number of units – thousands)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Portfolio under administration	24.8	25.0	25.5	26.9	28.7	29.2	29.7	29.7	29.3	28.8	27.8
Section 95 commitments	1.0	1.0	4.4	1.4	1.0	1.1	1.1	0.6	0.6	0.5	0.5

Annual program expenditures increased by 29% over this period with a 29% increase in subsidies and a 34% increase in administration.

Section 95 Expenditures 2004 – 2015 (\$M)

	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13	13/14	14/15
Subsidies	81.9	84.2	80.6	86.3	95.8	101.8	106.6	109.8	108.8	105.6	105.3
Admin.	13.6	14.1	13.8	13.8	14.7	13.7	13.3	15.2	16.7	17.9	18.2
Totals	95.5	98.3	94.4	100.1	110.2	115.5	119.9	125.0	125.5	123.5	123.5



B Main Interview Guides

Section 95 Study – First Nations Interview Guide

August 17, 2016

KPMG is carrying out a study for the Canada Mortgage and Housing Corporation (CMHC) of CMHC’s Non-Profit, On-Reserve Housing program, which is commonly called the “Section 95 Program.” This study is intended to provide information regarding how well the program is meeting the needs of First Nations, what the program has accomplished, and possible program improvements.

As part of this study, it is very important that we obtain information from First Nations regarding their experiences with this program. All of your responses in this interview will be completely confidential. The information on your community name or the name of officials will not be revealed.

1. Please provide us some background on:
 - (a) How long your First Nation has participated in the Section 95 program?
 - (b) The number of Section 95 units on your reserve(s)?
 - (c) The breakdown between Section 95 single family units and units in multi-family dwellings (and how your First Nations decides whether to construct single or multi-family units)?
2. As of today, roughly what portion of your First Nation members are in need of satisfactory social housing?

	0% - 10%	11% - 25%	26% - 40%	>40%
On-reserve members in need (as a % of total First Nation membership)				
Off-reserve members wanting to move back to the community in need (as a % of total First Nation membership)				

3. Regarding the process for providing Section 95 housing subsidy allocations and commitments
 - (a) Does your First Nation have information that is clear and understandable about:

	Please provide a rating on the clarity and ease of understanding the information	Please provide a reason for your rating:
	Very Poor, Poor, Fair, Good, Very Good	
Whether you are eligible for allocations?		
What you need to do to be considered for allocations?		
How allocation decisions are made?		
The full application process (if you are allocated one or more units)?		



How the amounts of Section 95 subsidies are determined?		
---	--	--

(b) Do you believe the allocation process is fair?

Not at all fair		Somewhat Fair		Extremely Fair
1	2	3	4	5

Please provide a reason for your rating:

(c) If you are allocated one or more units,

- How much of your time is required to complete the full application?
- Does CMHC provide assistance with the application process?
- Do you have any comments on how the subsidy amounts are determined?
- Do you have any comments on the requirement to maintain a replacement reserve fund or operating reserve fund for the Section 95 units?

(5.) Regarding the construction of new units:

(a) Is the Maximum Unit Price set by CMHC sufficient for the construction of acceptable housing on your reserve(s)?

(b) Are the documents that are required to begin construction clear and understandable, in particular, the:

	Please provide a rating on the clarity and ease of understanding the information	Please provide a reason for your rating:
	Very Poor, Poor, Fair, Good, Very Good	
Loan Agreement?		
Operating Agreement?		

(c) Are the program requirements and timelines during construction manageable?

(d) What has your experience been in financing the costs of construction?

(6.) Regarding the issue of Section 95 units being suitable in size to accommodate the make-up of First Nation families:

1. What procedures are in place to ensure that Section 95 units have enough bedrooms for the occupants when they are first occupied?
2. What about on a continuing basis after that? What percentage of existing Section 95 units currently have enough bedrooms for the occupants?

(7.) Administration during the period of occupancy:

(a) Are the requirements for the regular submission of administrative documents (for example, financial statements) clear and manageable?

Please rate the clarity of the requirements:



- Very Poor
- Poor
- Fair
- Good
- Very Good

Please provide a reason for your rating:

Please rate the manageability of the requirements:

- Very Poor
- Poor
- Fair
- Good
- Very Good

Please provide a reason for your rating:

3. Does the process for the flow of funds from CMHC during the period of occupancy meet the cash flow needs of your First Nation?

No, does not meet cash flow needs	Only partly meets cash flow needs	Yes, meets cash flow needs

Please provide a reason for your rating:

- (8.) How helpful is the assistance that may be provided by CMHC during the period of occupancy:

	Not at all Helpful	Slightly Helpful	Somewhat Helpful	Very Helpful	Extremely Helpful	Please provide a reason for your rating:
(a) Client visits?						
(b) Physical condition reviews?						
(c) PTIOs?						
(d) Capacity development services?						

Please summarize the capacity development services that have been provided.

- (9.) Regarding maintenance:

- (a) Does your First Nation have a maintenance plan for Section 95 units?
- (b) Does your First Nation carry out periodic inspections of Section 95 units? If yes, at what interval?
- (c) What procedures are in place to carry out repairs when required, including major repairs? Can you describe what has been required recently?

- (10.) Regarding the monthly costs associated with each unit (loan payments and operating costs):

- (a) What sources of funds are used by your First Nation to cover these costs? Do you have a rent regime in place?
- (b) Has the need for your First Nation to make these payments had any effect on your participation in the program?



- (12.) Do you have any suggestions that might improve the effectiveness of the Section 95 program:
- (a) Suggestions regarding the way in which the program is designed (for example, criteria used for making allocations, criteria for construction, requirements during the period of occupancy)?
 - (b) Suggestions regarding how the program is delivered (for example, the type and amount of assistance that is provided by CMHC, how capacity development services are provided)?

THANK YOU FOR YOUR PARTICIPATION!



Review of CMHC's Section 95 Program Interview Guide for CMHC and INAC Officials Regarding the Respective Roles of CMHC and INAC

(1.) We understand that the most significant points of interaction between CMHC and INAC with regard to the CURRENT delivery of on-reserve housing are as follows:

- (a) Exchange of information regarding the housing needs of specific First Nations.
- (b) Participation in the allocation and decision process for Section 95 subsidies in some regions (Ontario, Quebec)
- (c) Ensuring that an MLG is in place for requested Section 95 housing units before CMHC's commitment of funding for those units.
- (d) Exchange of information regarding problems that may be encountered by FNs with the management of on-reserve housing.

Have any significant current areas of interaction been omitted from this list?

(2.) Regarding (c) (MLGs), based on information we have collected from the Section 95 regional offices, it appears that the coordination between CMHC and INAC regarding MLGs works very smoothly in some regions but not in others. The problems in the less smooth cases from CMHC's perspective include:

- Communications – Sometimes CMHC is not aware of INAC's requirements for an MLG (e.g., which reports or documents need to be submitted) or the reasons an FN's application for an MLG is turned down.
- Timing – Sometimes an MLG is not approved within the time required in order for CMHC to finalize the subsidy allocation.
- INAC's commitment to its original decision – Sometimes INAC's decision to approve an MLG may change between the conditional allocation and the subsidy disbursement.

(a) [for both CMHC and INAC] Your views regarding these issues:

- Are these valid observations?
- Any suggestions regarding how these issues might be addressed?

(b) [for INAC] What is your perspective regarding how well the interactions between CMHC and INAC in connection with MLG approvals work? Are there any problems that are not listed above? If so, do you have any suggestions regarding how those might be addressed?

(3.) Please provide your views regarding how well (a), (b), and (d) in Q1 work:

- (a) Exchange of information regarding housing needs
- (b) INAC participation in the Section 95 allocation and decision process
- (d) Exchange of information regarding housing management problems.



Also, regarding any other significant areas of current interaction you noted in Q1.

- (4.) Are there areas in which CMHC and INAC should interact but don't?
- (5.) Both CMHC and INAC provide capacity development services to First Nations:
 - (a) Is the provision of these services coordinated (e.g., to avoid duplication)?
 - (b) Are some of the capacity development services provided by CMHC helpful to FNs in their management of housing that has been provided by INAC's On-Reserve Housing Program?
 - (c) What about vice-versa (i.e., the same question in relation to capacity development services provided by INAC)?
- (6.) CMHC provides considerable advice and assistance to FNs with the management of Section 95 housing – client visits to FNs by Consultants to review and advise regarding housing management issues, inspections of the condition of section 95 units followed by recommendations regarding required repairs, periodic preparation for FNs of “plans to improve operations,” and so on.
 - (a) Does INAC provide similar services FNs with their management of housing provided by its On-Reserve Housing Program? If not, should it?
 - (b) Are the advisory services provided by CMHC helpful to FNs in their management of INAC-provided housing – and vice-versa (i.e., same question in relation to advisory services provided by INAC)?
- (7.) Stepping back to look at the broad picture, what are the pros and cons of having both CMHC and INAC involved in the provision of on-reserve housing:
 - (a) What are the main areas of in which the program of one organization is complemented by the participation of the other organization?
 - (b) Are there currently any areas of unnecessary duplication in the provision of services?
 - (c) Why should CMHC be involved?
 - (d) Why should INAC be involved?
 - (e) Do you recommend any changes to the respective roles of CMHC and INAC?
- (8.) Do you have any other comments regarding this subject?

THANK YOU FOR YOUR PARTICIPATON!



French Version to Follow

Review of the Section 95 Program Topics for the Joint Session of Regional Operations Staff and Consultants

- (1.) Has the regional office – or the regional office together with other organizations (e.g., First Nations organizations) – compiled any information over the past several years on the housing needs of low income First Nations people living on reserve? [If so, could we have copies of that information?]
- (2.) Following these eight questions are two papers – Paper #1, a paper on the Regional Allocation Process and Paper #2, a paper on the Regional Process for Determining the Subsidy Parameters. These have been prepared based on information supplied by the regional offices. Each of these papers has comments specific to your region. I would like to go through these with the group.

Regional Allocation Process

- (a) What regional criteria are used to determine the eligibility of First Nations for Section 95 subsidies?
- (b) Are expressions of interest (preliminary applications) solicited from eligible First Nations?
- (c) If so, what information are First Nations required to submit at this time? [Could we have copies of the communications regarding (b) and (c) to First Nations?]
- (d) Please describe the process used to determine the allocations of Section 95 subsidies? [Refer to the paper and let me know if there are any errors.]
 - Factors used in the decision process?
 - Organizations involved in the decision process?
- (e) What are your views regarding the pros and cons of the current allocation process? [Could we have copies of communications to First Nations regarding how allocations are made?]

Subsidy Determination Process

- (a) How are the operating cost benchmarks determined?
 - [Refer to the paper and let me know if there are any errors]
 - Methodology?
 - Involvement of the First Nations in this process?
- (b) How are the minimum revenue contributions determined?
 - Methodology
 - Involvement of First Nations in this process?
- (c) What are your views regarding the pros and cons of the current processes used to determine the amounts of subsidies?

- (3.) Regarding the procedures over the period from the submission of the full application by First Nations to the completion of construction, for each of the following to what extent is the procedure clear and understood by the First Nations?

[Copies of any relevant documents would be appreciated.]

- (a) Finalization of the subsidy amount
 - (b) Budget allocation letter
 - (c) Commitment letter
 - (d) Loan agreement
 - (e) Operating agreement
 - (f) Commencement of construction
 - (g) Advancement of funds for financing construction (How is this done? Is this able to be done on a timely basis? What is required from First Nations in order for them to receive payments during construction?)
 - (h) Setting the interest adjustment date (What conditions are required to be met by the First Nations before this can occur?)
- (4.) 81% of the Section 95 units provided over the period 2004-05 through 2015-16 were single family dwellings. Why is this the case – i.e., what are the constraints to the provision of more multi-unit units (e.g., apartments, row housing, duplexes, triplexes)?
- (5.) Regarding the flow of funds to First Nations during the administration phase:
- (a) What documents, other than audited annual financial statements, need to be submitted by First Nations during the administration phase?
 - (b) Are these requirements understood by First Nations, and are the submission timelines such that they do not affect the timing of subsidy payments?
 - (c) Do the procedures for the flow of funds to First Nations communities meet the needs of First Nations communities?
- (6.) Regarding the system for providing skills development services:
- (a) Is the current system an effective way to provide these services?
 - (b) What are the pros and cons of the current system in comparison with the previous system?
- (7.) Regarding the roles and responsibilities of CMHC and INAC in delivering on-reserve First Nations housing:
- (a) At the regional level, are the relative roles and responsibilities of CMHC and INAC clear?
 - (b) Are there any gaps in service delivery or any overlaps?
 - (c) Suggestions regarding ways in which the delivery of services by the two organizations might be able to be made more effective or efficient?
- (8.) Suggestions regarding possible changes to the design or delivery of the Section 95 program that could either increase its effectiveness or reduce its costs?



Paper #1 – The Regional Allocation Process

[Variations in the allocation process by region and province are noted in brackets.]

1. Regional planning and budget promulgation

Regional planning begins prior to budget promulgation (at least one year in advance). Using the national costing model, regions estimate how many new units can be built in that year based on a series of assumptions – the regional budget, timing of commitments, average project size and loan values, operating cost benchmarks, minimum revenue contributions, length of amortization, and projected interest adjustment date.

Budget amounts are provided by National Office to each of the four regions, and these amounts are meant to be lifetime dollar allocations – e.g., if a region receives a budget of \$30 million in 2016-17, then this \$30 million will provide subsidy payments for units committed in 2016-17 for the duration of the operating agreements for those units.

2. Regional allocation process

In consultation with INAC, eligible First Nations are determined based on national and regional eligibility criteria, which can include performance on previous Section 95 projects, having a good track record with CMHC programs generally, and being eligible for a Ministerial Loan Guarantee from INAC.

Housing subsidies are allocated from the regional budget to eligible First Nations, through one of the following processes:

- (1) Allocations are made by the regional offices without soliciting requests from First Nations, based on First Nations populations, possibly supplemented by other factors (e.g., a needs analysis).
- (2) Allocations are made by the regional offices following requests/expressions of interest from First Nations. These submissions generally include the number of units requested (the region may have stipulated a maximum number) and basic information such as certification of the availability of land.

In either case, the regions may apply other criteria in making allocations, such as performance on previous Section 95 projects or preference to First Nations that have not recently received allocations. In some cases, First Nations liaison organizations are involved in this step.

Variations by region (see also the matrix at the end of this paper)

BC – Requests, accompanied by basic information, are solicited from First Nations. Allocations are made by the regional office, and no First Nations organizations are involved. Allocations are made directly to the First Nation.

Alberta – Expressions of interest are solicited from First Nations. Allocation decisions are made by the provincial office, based mainly on a needs analysis, in which the main factor is the current degree of overcrowding. Allocations are made directly to the First Nation.

Saskatchewan – Expressions of interest are solicited from First Nations. Allocations are made by the provincial office to tribal councils (based on First Nations populations and indicators of past performance), in consultation with the Federation of Saskatchewan Indian Nations. The tribal councils decide which



members receive an allocation. For those First Nations without a tribal council affiliation, allocations are provided directly to the First Nation.

Manitoba – Expressions of interest are not solicited. Allocations are made by the provincial office to tribal councils (based on First Nations populations); and the tribal councils decide which members receive an allocation. For those First Nations without a tribal council affiliation, allocations are provided directly to the First Nation.

Ontario – Expressions of interest, including information regarding their need, are submitted by Ontario First Nations. These are reviewed against published selection criteria by an Allocation Working Group. This group is made up of representatives from various First Nations and First Nation organizations, INAC, and CMHC. Each application is scored, and decisions are made based on the highest scores and available funding.

Quebec – Expressions of interest are not solicited, but communities are asked to confirm their eligibility for an MLG. Figures on community need are provided by INAC and the Assembly of First Nations for Quebec and Labrador (AFNQL). These figures are then translated into a priority indicator for each community (with adjustments for small communities).

The allocations are made by the provincial office and are then submitted for comments to the tripartite housing committee, which is made up of INAC, the AFNQL, and CMHC. The final decisions are left up to CMHC. (The Crees and the Naskapis Act First Nations automatically get 36% of the yearly Quebec budget, in accordance with federal agreements.)

Atlantic – Expressions of interest are solicited from First Nations. Decisions are made by the regional (Halifax) office, with no First Nations involvement. The first step is to allocate one unit per community. After this, the remaining units are allocated based on population.]

In some regions the allocations made in this step may be based on a range (e.g., 1 to 5 units), to be firmed up following receipt of individual unit budget information and an assessment of the overall regional budget relative to the demand. Normally following this step, First Nations receive a conditional allocation letter from CMHC.

3. Full application process

The full application is completed by each First Nation that has received an allocation, usually with the assistance of their CMHC First Nation Housing Consultant. It includes detailed capital cost estimates; site plans, house drawings, project specifications; and annual revenue and cost projections. In order for these projections to be made, estimates of the subsidy parameters (operating benchmarks and MRCs) must be made. Sometimes this is done with the involvement of the First Nation and sometimes these estimates are made by CMHC, based on the guidelines for these parameters. CMHC reviews the application for completeness and, if required, consults the First Nation for any required changes.

4. Commitments

This step involves discussions between CMHC and each First Nation to finalize the subsidy amount. The final paperwork is then prepared (including the operating agreement and the loan agreement) and signed by both parties, along with supporting documents (e.g., a Band Council Resolution).

5. Funds advanced/ construction commences

Once the project is committed and an MLG is approved by INAC, the First Nation begins construction. (Due to the short construction season in remote communities, some of these communities take the risk of starting construction prior to receiving a firm commitment from CMHC by using bridge financing from their own financial institution.) Loan proceeds are advanced based on work in place, confirmed by a third party review.

6. Setting of Interest Adjustment Date (IAD)

When the project reaches substantial completion, typically when 90% of the loan value has been advanced, the IAD is set. The IAD cannot be set until specific conditions are met, e.g. confirmation of building code compliance and replacement value insurance. One month following the IAD, mortgage and subsidy payments begin.

Summary of variations in regional allocation processes

Region/ Province	Expressions of Interest Obtained from First Nations	Decision Criteria	First Nations Involvement in Decision Process	Allocations Directly to First Nations
BC	Yes, certification of land availability required.	Includes performance on previous Section 95 projects and history of recent allocations	No	Yes
Alberta	Yes	Includes a needs analysis, based on degree of overcrowding	No	Yes
Saskatchewan	Yes	Based on populations and performance on previous Section 95 projects	Yes Consultation with Federation of Sask. Indian Nations	No, to tribal councils
Manitoba	No	Unknown (TBD)	No	No, to tribal councils
Ontario	Yes, information regarding need is required	Published selection criteria (TBD)	Yes Decisions are made by the Allocation Working Group (includes First Nations organizations.)	Yes
Quebec	No, but confirmation of MLG eligibility required	Based on community need, with adjustments for small communities	Yes, decisions reviewed by the tripartite housing committee (includes AFNQL)	Yes (except for treaty FNs)
Atlantic	Yes	One unit per community; leftover \$ allocated based on population	No	Yes

Paper #2 – Regional Process for Determining Subsidy Parameters

In all regions the maximum unit price (MUP) is determined prior to the full application stage by CMHC's Appraisal Department. The MUP varies by type of unit, number of bedrooms, and geographical area. The formula for the MUP is reviewed annually.

The operating cost benchmarks and the minimum revenue contributions are set in the regions, and the processes for determining these parameters are described below. Regarding the MRC, it is noteworthy that no region uses the formula outlined in the *Program Guidelines* (page 25) to set the MRC, although this formula is used in the Atlantic region as a starting point for discussions.⁵⁶

Region	Method for Determining the Operating Cost Benchmark	Method for Determining the Minimum Revenue Contribution
BC	Determined by the regional office based on analysis of prior years' financial statements for similar units. There is no First Nations involvement.	The MRC is set equal to what First Nations communities say they can afford to pay.
Prairies – Alberta (& Yukon)	Each First Nation is responsible for determining what they believe their operating costs will be and indicating this to CMHC. Any issues regarding the operating cost benchmark are identified and reviewed with the First Nation before this parameter is finalized. (In Alberta and Yukon, CMHC reviews the reported expenses for other Section 95 units from the First Nations' most recent financial statements as a starting point for these discussions.)	This is set equal to the amount of shelter allowance payments from INAC for the occupants of each unit.
Prairies - Saskatchewan	Each First Nation is responsible for determining what they believe their operating costs will be and indicating this to CMHC. Any issues regarding the operating cost benchmark are identified and reviewed with the First Nation before this parameter is finalized.	This is set equal to the amount of shelter allowance payments from INAC for the occupants of each unit.
Prairies – Manitoba	Each First Nation is responsible for determining what they believe their operating costs will be and indicating this to CMHC. Any issues regarding the operating cost benchmark are identified and reviewed with the First Nation before this parameter is finalized.	This is set equal to the amount of shelter allowance payments from INAC for the occupants of each unit.

⁵⁶ However, the *Program Guidelines* note that shelter allowance payments from INAC can be used as the MRC (page 8), although these payments are not part of the Section 95 program. This is done in several regions.

Region	Method for Determining the Operating Cost Benchmark	Method for Determining the Minimum Revenue Contribution
Ontario	Ontario conducts a detailed annual review of five years of operating costs for communities based on their reported audited costs. Recommendations for inflationary adjustments are based on this review. These benchmarks are used for planning purposes and as a guide for discussions with First Nations.	Ontario conducts a review of First Nations housing charges. These are used for planning purposes, and there are discussions with First Nations to determine if higher rents can be charged based on community income profiles.
Eastern - Quebec	Each First Nation is responsible for determining what they believe their operating costs will be and indicating this to CMHC. Any issues regarding operating cost benchmarks are identified and reviewed with the First Nation before these are finalized.	The MRC is set at what the First Nations communities way they can afford to pay.
Eastern - Atlantic	Each First Nation is responsible for determining what they believe their operating costs will be and indicating this to CMHC. Any issues regarding operating cost benchmarks are identified and reviewed with the First Nation before these are finalized.	The MRC is set at what the First Nations communities way they can afford to pay. (In the Atlantic region CMHC asks communities to use the MRC benchmark outlined in the program guidelines as a starting point.)



French Version to Follow

Review of the Section 95 Program Topics for the Session Involving Consultants

- (1.) How clear, and how clearly understood, is the information that is provided to First Nations regarding:
 - (a) Eligibility?
 - (b) The allocation process?
 - (c) The way in which the subsidy parameters are determined (operating benchmarks and MRCs)?
 - (d) How these parameters are related to the amount of the subsidy?
- (2.) How much assistance do you provide to the First Nations to help them understand this information?
- (3.) What about the full application:
 - (a) How well are the full application requirements understood by First Nations?
 - (b) In general, what role do you play in assisting First Nations with the completion of the full application?
- (4.) Regarding “suitability” (whether the units are of sufficient size for the number of occupants):
 - (a) In general, are Section 95 units suitable at the time of initial occupancy?
 - (b) To what extent is the suitability of units maintained over the period of the operating agreement – i.e., do they remain suitable, or do they become too crowded?
- (5.) Regarding the following procedures for interactions with First Nations:

Client visits

- Are client visits carried out for each First Nation at least every three years?
- Please describe what typically goes on during a client visit.
- How helpful are the client visits to the First Nations?

Physical condition reviews

- We understand that, with minor variations due to travel logistics, physical condition reviews of units are carried out once every 5 years on a sampling basis – i.e., 20% of the units constructed in 2008 are inspected in 2013, another 20% are inspected in 2018, etc. Is that correct?
- What is the role of the Consultants in the PCR process?
- How helpful are the PCRs to the First Nations?



PTIOs and Assessments

- We understand that, for each First Nation, both the PTIO and the Assessment form are updated after every set of PCRs of their units and after every client visit. Is that correct?
 - How helpful are the PTIOs to the First Nations?
 - How are the Assessments used and how helpful are they in the management of the program?
- (6.) The latter three of the activities mentioned in the previous question (PCRs, PTIOs, and Assessments) explicitly relate in some way to the maintenance of Section 95 units; and we assume that the first activity (client visits) also includes some review activities related to maintenance (e.g., reviews of maintenance plans).
- (a) What procedures are used to follow up on the maintenance-related findings of these activities – i.e., to check on the extent to which recommended maintenance is being carried out, especially urgently required repairs?
 - (b) In general, is recommended maintenance being carried out within a reasonable timeframe? If not, what are the main reasons for this?
 - (c) In general, do the First Nations in your region maintain a replacement reserve fund in accordance with the program guidelines? What sources of funds are used to maintain the replacement reserve fund?
- (7.) Regarding the procedures used for the provision of skills development services to the First Nations:
- (a) Our understanding is that each Consultant prepares an annual plan (a “roadmap”) outlining the capacity development services required by each of their First Nations, the recommended delivery methods, and the estimated costs. Is that correct? Are the communities involved in the preparation of this plan?
 - (b) These plans are then sent to National Office, which decides which of the recommended services are able to be provided in that year based on available resources. How are the relative priorities of different recommended services (e.g., some urgently required, some nice to have but not urgent, etc.?) taken into consideration in this process and balanced against available funding?
 - (c) In your experience how helpful are the skills development services that have been provided? Any suggested changes to this process?
- (8.) Each month First Nations have to make the following payments for each Section 95 unit in their portfolio:
- The operating costs for the unit (utilities, repairs, etc.), and
 - The loan payments for the unit.



Some of these costs are covered by the Section 95 subsidy. The amount that is not covered is called the “minimum revenue contribution” (MRC) by CMHC. For the First Nations in your region:

- (a) To what extent are they able to make these payments?
- (b) What are the most common sources of funds used by First Nations to make these payments – rents charged to occupants, Band funds, shelter allowances, other sources?
- (c) Does the requirement to make these payments have any adverse effects on Band finances? Does it have any adverse effects on the future participation of First Nations in the Section 95 program? If yes to either question, please explain.