



BACKGROUND

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MEMBERTOU

Finding Strength from Within

**How Voluntary Outside Accreditation
Can Advance First Nation Communities**

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Executive Summary

...this paper proposes that the federal government continue financing the First Nations Financial Management Board and the First Nations Finance Authority.

- The Idle No More movement was motivated to a certain degree by opposition to imposed change.
- First Nations have historically opposed imposed solutions. First Nations require a new approach.
- Some of the most successful initiatives that benefit First Nations have been voluntary initiatives, such as the *First Nations Land Management Act* (FNLMA) and Section 83 of the *Indian Act* that allows bands to raise local tax revenues.
- Policy makers often miss that voluntary outside accreditation is one solution for First Nations improvement.
- The first voluntary initiative is certification through the First Nations Financial Management Board (FNFMB). This certification allows bands to borrow funds for important infrastructure projects at preferential rates.
- The second voluntary initiative is certification through the International Standardization for Organization (ISO). Two bands in Canada have made history by receiving certification through ISO 90001. This means they assure outside investors that they have a quality management system in place.
- This study looks at the experience of Membertou First Nation located on Cape Breton Island in Nova Scotia, and Sagamok First Nation, a First Nation located near Sudbury, Ontario. The paper assesses the challenges and potential of ISO certification.
- The last initiative studied is one developed by the Institute on Governance (IOG). The paper by IOG argues for an outside certification system for First Nations housing. In particular, the study argues for a system where First Nations that adopt the certification receive specific benefits for their involvement.
- This paper argues for specific recommendations for each of the systems. For the First Nations Financial Management Board (FNFMB), this paper proposes that the federal government continue financing the First Nations Financial Management Board and the First Nations Finance Authority. It also argues that the federal government should provide a sovereign guarantee (or a federal loan guarantee) to the FNFMB so that it can loan money at even better terms for joining First Nations.
- For ISO certification, the paper proposes a few recommendations. The first is that the federal government ought to finance the cost of outside consultants that First Nations have to bring in to obtain ISO certification. The federal government, through AANDC, should recognize and promote ISO certification to more First Nations.

- Finally, the federal government should promote the publication and wide dissemination of a training manual for First Nations considering ISO certification.
- For the proposals presented by the Institute on Governance (IOG), the federal government should promote an outside accreditation body for First Nations housing. The federal government should also ensure that a First Nations body takes over the responsibility.

“**...the federal government should promote an outside accreditation body for First Nations housing.**”

Introduction

The Idle No More movement was motivated to a certain degree by opposition to solutions imposed by the federal government. In particular, opposition to Bills C-45 and C-38¹, budget implementation bills, and several other bills galvanized the movement. For example, First Nation activists involved with Idle No More opposed Bill S-6, the *First Nations Elections Act*, because it would have allowed the government to impose new election rules on bands without their consent. However, when the government reintroduced this bill in the form of Bill C-9, it was primarily voluntary.

First Nations historically have opposed imposed solutions. The most glaring example, of course, is the government imposition of the *Indian Act* in 1876, which deliberately undermined traditional governance systems already in place. The *Indian Act* attempted to install a municipal-style form of governance that many thought went against traditional consensus-based systems.

The White Paper of 1969 is also a significant example. This Liberal-initiated paper proposed to change the relationship between First Nations and the Canadian state and to move First Nations closer to the mainstream. The introduction of this paper by the Trudeau Liberals created a groundswell of opposition and galvanized the modern indigenous rights movement. Another example is the *First Nations Governance Act*, a legislative initiative introduced by the Chrétien Liberals that sought to reform the *Indian Act*. The initiative sought to improve First Nations' elections, financial management and administration. The Martin Liberals, however, discarded this bill in 2004, and they never reintroduced it.

Observers, however, often miss that some of the most successful First Nations are part of voluntary initiatives. The first is the *First Nations Land Management Act* (FNLMA), a regime where signatory First Nations are able to opt out of the land-management sections of the *Indian Act* and establish their own rules for managing their land and resources. A 2009 KPMG study found

A study by the National Aboriginal Economic Development Board found that bands that have real-property taxation tend to perform better economically than those without.

that First Nations under the *FNLMA* had greater access to economic development opportunities than those that did not participate.²

The second voluntary area is First Nation taxation. Under Section 83 of the *Indian Act*, a band may make bylaws for the taxation of land or interest in land on the reserve. First Nations also have the ability to exercise real property tax powers pursuant to the 2005 *First Nations Fiscal Management Act* (FNFMA).³ Currently, 134 First Nations have bylaws enacted under Section 83 and collect taxes.⁴ A study by the National Aboriginal Economic Development Board⁵ found that bands that have real-property taxation tend to perform better economically than those without.

Commentators also overlook that First Nations with voluntary outside accreditation can succeed. Currently, there are options for First Nations, but the First Nations that avail themselves of these options are few and far between. Some options include the First Nations Financial Management Board (FNFMB), a legislated body that develops financial standards for First Nations and certifies compliance with those standards. The FNFMB is an Aboriginal institution created through the FNFMA.

One of the most underused tools is ISO certification. ISO, developed by the International Organization for Standardization (ISO), offers independent confirmation that an organization or community has a quality management system. To date, two First Nations have received ISO 9001 certification. The accredited communities are Membertou First Nation, located in Cape Breton Island, Nova Scotia, and Sagamok First Nation, located less than 100 km from Sudbury, Ontario. ISO certification is critical, because it demonstrates to outside parties—usually investors and partnering businesses—that the community has standardized its management controls. Despite the importance of this accreditation, only these two out of more than 600 First Nations across Canada have received this status. An additional First Nation in Northern Ontario is investigating obtaining ISO certification.

This paper intends to explain the benefits and challenges involved in outside accreditation and to provide some key policy recommendations on how to expand outside accreditation to other First Nations.

The study presupposes that it is a better investment of time, resources and effort to promote voluntary initiatives, such as ISO certification, to First Nations than to invest in imposed solutions that will ultimately be rejected. Outside certification also helps to counter the perception that First Nations are a very high-risk investment. Businesses continue to make decisions based on perceptions of mismanagement and corruption.

This paper examines accreditation through the FNFMB. It will investigate ISO accreditation and a housing accreditation program for First Nations proposed by the Institute on Governance (IOG).

First Nations Financial Management Board

The FNFMB, established under the *FNFMA*, has a mandate to establish an accreditation system for First Nations that wish to borrow money for financing much-needed infrastructure in their communities. They often use property tax revenue as collateral.

According to Frank Busch, director of information and marketing with the First Nations Finance Authority (FNFA), the FNFMB assesses and develops financial administration under internationally recognized standards established by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). COSO is a joint initiative of five private sector organizations dedicated to providing leadership through the development of frameworks and guidance on enterprise risk management, internal control and fraud deterrence.

The certification that the FNFMB provides to First Nations is for facilitating their borrowing membership in the FNFA and securing a specific loan from the FNFA. The FNFA administers a less expensive and longer-term borrowing option for First Nations that is based on similar borrowing conditions that other governments in Canada face. The FNFMB certification provides confidence to the financial markets and other borrowing members that a member First Nation has a required threshold of responsibility with respect to financial management.

First Nations are at a significant disadvantage vis-à-vis their municipal counterparts. Other municipalities can go to their provincial finance authority and receive a bond at below prime rates. First Nations have no such finance authority. Therefore, the FNFMB was created to level the playing field somewhat. First Nations can now borrow millions of dollars, pay it back over 30 years and pay preferential rates as low as 2.5 per cent.

The majority of First Nations that supported this option are from British Columbia. This is where the bulk of First Nations are raising local revenue (through sales tax, etc). Moreover, First Nations in British Columbia have many urban reserves where revenues are able to be tapped into.

Although a taxation revenue stream is a common form of collateral for borrowing money, it is a myth that this is the only way a First Nation can join. Other revenue streams are acceptable, such as rental income, royalties from mining joint ventures and transfer payments from other levels of government.

Membertou was the recipient of the inaugural FNFA loan and used it to refinance its existing bank loans.⁶ The First Nation is now saving \$144,000 every month on what it paid for other loans. According to Mary Beth Doucette, Membertou's manager of quality management and ISO compliance, 80 per cent of what is required by FNFA, the Membertou First Nation already had through its ISO certification.⁷

Other First Nations have also obtained financing through this option.

The Tzeachten First Nation, located in Chilliwack, British Columbia, has finished construction of the first public facility financed by the FNFA.⁸ Tzeachten received third-party validation through the FNFMB. This multi-purpose building was backed by own-source revenue, self-financed by the band and not funded by taxpayers.

ISO Certification: A tale of two First Nations

The ISO is a worldwide federation that works to ensure consistency and quality in companies around the world. Specifically, it promotes the development of standardization to facilitate the international exchange of goods and services. The ISO 9000 family sets out the requirements of a quality management system.⁹ In practice, ISO certification involves the standardization of all processes and procedures. ISO certification also necessitates a regular external audit of management processes.¹⁰ The designation necessitates an extensive organizational cultural transformation.¹¹

Membertou is one of several Mi'kmaw communities located in Cape Breton Island in Nova Scotia. The community of Membertou is home to more than 900 residents. In 1926, the reserve was moved to its present location within the city of Sydney, Nova Scotia. This was the earliest First Nation relocation in Canadian history under the federal *Indian Act*.

In 2002, the community of Membertou became the first Aboriginal government in the world to become ISO certified.¹² Before that, Membertou experienced financial problems. According to Dan Christmas, a senior policy advisor for Membertou, financial management was a significant concern pre-ISO.¹³ The community posted an annual deficit, and it experienced failed business ventures. Cash flow was also a problem. Christmas said, "We struggled to make social assistance payments back then." After bringing in some experienced Community members from other organizations, the community got its financial house in order and reduced the deficit to zero.

In 2001, the year before Membertou received the ISO designation, it opened Membertou Corporate Division and its corporate office in Halifax.

When asked to break down Membertou's success, Christmas said that it was "fifty per cent ISO certification, 25 per cent through media, [which he attributed to a strong communications department], and 25 per cent due to quality of staff."

After being advised by Business Development Canada and getting its finances in order, the community embarked on the process of securing ISO certification. The first thing needed was an review of every policy and procedure of the First Nation's government. Christmas described it as "Hell. It's painful and very difficult. They ask a million questions and do draft after draft. It's very frustrating."

Christmas said the process was especially difficult, because "First Nations are very verbal and orally based." All the policies and procedures were based in memory, whereas ISO is all about documenting policies and procedures in written form. Therefore, Christmas recommends that First Nations seeking ISO certification be conscious of this. "ISO is not for everybody," he said. "Before embracing it, you have to commit to it." He said, "The First Nation would have to get accustomed to giving up discretionary authority in decision-making and be willing to follow set policies." "Program and service managers and directors have to buy into it, because they will have implemented these policies. There are managers who dig in their heels and resist change, said Christmas.

“To me, it’s all about reputation and credibility building of the name and brand. This is why we feel media exposure is essential.” Over the last five years, he said, the community has leveraged the ISO certification to promote the Membertou brand.

The benefits of receiving ISO certification were almost instantaneous. Shortly after Membertou gained certification, the chief received a call from Lockheed Martin about a proposed business venture. In its procurement process, Lockheed Martin only dealt with ISO-compliant companies. Once Membertou obtained certification, big business began to court the community, Christmas said. The ISO also contributed to success in the community’s employment base. He said, “We employed 50 employees in the 1990s, now we employ more than 500.”

The community has tripled its population and its land base. As a corporate entity, Membertou operates more than 10 businesses¹⁴ in almost as many industries, and it expanded to areas such as gaming, fishing, entertainment, retail, food and beverage, and insurance.¹⁵ Mary Beth Doucette said Membertou has become a net employer in the region. In 2004, the Membertou Trade and Convention Centre opened its doors. The 47,000-square-foot, \$7.2-million meeting and convention facility is the largest in Nova Scotia outside of Halifax and provides meeting, banquet, conference, trade show, wedding and concert services.¹⁶ The Membertou Gaming Commission (MGC), established in 2002, employs more than 50 people and houses five gaming pavilions and head offices. Profits from the MGC assist in the creation of new business and capital investments, while also providing annual dividends to all band members. In 2010, the community opened the Membertou Business Centre, a 33,000-square-foot mall that provides land and facilities for long-term lease.

The Membertou Entertainment Centre, opened in 2007, is a 33,000-square-foot building with bingo games and VLT machines. The Membertou Market opened in 2001 and features a gas bar and food-retailing businesses. More recently, in July 2012, the community opened its Membertou Heritage Park, a cultural heritage interpretive centre. In June 2012, the Hampton Inn and Suites opened. This deluxe hotel was built through a partnership with Membertou First Nation, which has 20 per cent ownership.

Membertou currently generates 86 per cent of its revenue through its community businesses, business investments and partnerships. The independence of Membertou is unique compared with most other First Nations where overreliance on outside transfers is the norm.

In 2007, Sagamok First Nation became the second First Nation to obtain ISO certification. Located west of Sudbury, Ontario, the community has more than 2,000 members, with more than 50 per cent of them living on the reserve.

After recognizing the need for change, Sagamok underwent a series of organizational reviews and management assessments to identify the strengths and weaknesses of its management practices. The Sagamok chief and council decided to pursue a quality management system that would support a transition to a stronger government and a stronger community.

While Sagamok started its quality management system in 2004, it did not decide on ISO registration until 2007. The Sagamok First Nation made the decision in January of that year and completed the registration in June.

According to Laura Owl, former director of operations for Sagamok, there are important benefits associated with ISO registration. At the community level, this certification standard proves to clients, in this case the community members, that Sagamok is providing a high level of service.

In addition, according to Owl, having a standardized framework acts as a catalyst for much of the growth seen in the community.

The other main benefit, she said, is that Sagamok is better able to deal with private companies, such as mining firms. One of the requirements of mining firms is that they deal with parties that are certified by a quality management system.

Another benefit, according to Owl, is in dealing with government and funding agencies. In having certification, the First Nation is providing an assurance that it has a system in place.

In order to assess their readiness for registration, Owl said, they began to measure practices. In particular, they measured work plans to ensure that objectives were being achieved. If they were not, the First Nation found out why people deviated from the plans. The First Nation administration also looked at the plans to determine if they were in line with community needs. The administration also reviewed logbooks on a monthly basis to determine when and where departments were not following processes and then made the necessary changes.

The key finding of Sagamok's administration was that whatever it regularly measured tended to improve. Most importantly, it created a system of accountability, transparency, representation and responsibility to the community.

Due to the ongoing development within the community, the First Nation is able to access new funding. It is currently developing partnerships and working with companies such as Vale, CLASP and KGHMI. It has also entered into agreements with Becker Engineering, ANMAR, My Smart Simulations, Glencore Xstrata and the GW Group.

The First Nation has acquired a nearby hunting and fishing resort. In 2012, Sagamok signed an impact and benefits agreement with Vale to develop Vale's Totten Mine. This mine has generated jobs in mining, construction and janitorial work.

According to Alan Ozawanimke, Sagamok's chief executive officer, the community has been able to take advantage of its ISO certification due to its proximity to the mines in Sudbury.¹⁷ "That does create a certain degree of comfort for them with the ISO designation ... we have quality management policies and procedures in place. In particular, we are audited on an annual basis through the ISO process," he said.

The greatest challenge for Sagamok, according to Michelle Toulouse, the official responsible for ISO certification, has been in introducing the concept of ISO certification to the community and the staff. "You need community buy-in for this process to work," she said. The Sagamok First Nation held community sessions to explain ISO certification.

The other challenge was the high upfront costs. Training staff and hiring internal auditors, she said, can be costly. One or two employees from each department had to go through training that could require travel. Employees also need to understand that being corrected for not conforming to the system is not a personal attack but simply a way to improve the system. Sagamok utilizes this method to streamline procedures and ensure standardization on the reserve.

Aboriginal Affairs already heavily audits First Nations, said Ozawanimke, so auditing through ISO adds to that reporting burden. A potential danger, he said, is that the First Nation will become bogged down in its own processes, but once the processes are learned, they just become second nature.

The new ISO process has improved policies on Sagamok, as they are now automated and more accessible to all band members. In the Sagamok First Nation, for example, when a community member requested a repair on a rental unit, request was submitted and approvals were made. The person could then track the request's progress, as most requests ultimately became work orders.

Establishing the written organizational culture was a transition for Sagamok. Toulouse mentioned the roads department as one example. People had been working on roads for more than 20 years, and they knew what maintenance would be required, but it continues to be a challenge to extract that information and put it into a procedure manual or a binder because of the fact they are not accustomed to writing anything down. Toulouse indicated that it was a challenge to find records from the pre-ISO period as well, but that is no longer the case, given the establishment of clear processes.

Toulouse specified that Sagamok is working with SAI Global (the company that handles their ISO certification) to produce a manual for First Nations that are seeking ISO certification. This would be essential, she said, because ISO certification is mainly intended for manufacturing operations. This manual would translate the terms into those applicable to a First Nation community.

Other accreditation ideas

In October 2008, the Institute on Governance (IOG), an Ottawa-based public interest institution, released a paper titled *How to Improve First Nations Housing*.¹⁸ The paper, by John Graham and Gail Motsi, examined the potential of outside accreditation as a major vehicle for improving First Nations' housing. The deplorable condition of First Nations' housing was brought to public attention in 2011 with the media spotlight on the Northern Ontario community of Attawapiskat. This IOG paper concluded that adequate housing was a governance problem on most First Nations and required tremendous political will. To overcome this problem, First Nations need to treat housing like a business.

Drawing upon parallels with the European Union's enlargement strategy, the authors concluded that an accreditation for First Nations' housing could have a similar effect. Former Eastern bloc countries were brought into the European Union through profound economic and governance change. Graham and Motsi mention that accreditation is becoming a common instrument in many areas of public administration, including health. For example, many hospitals go through an accreditation process under the auspices of Accreditation Canada. In the private sector, said Graham and Motsi, the Canadian Chemical Producers' Association (now the Chemistry Industry Association of Canada) introduced Responsible Care in the 1980s, which is seeking to enlarge to include more members. Responsible Care is a global voluntary initiative where signatory chemical companies agree to improve in the areas of environmental protection, occupational health and safety, plant safety, and other areas.¹⁹ Every three years, a team visits each company to see that it is meeting the standards of Responsible Care.²⁰

The authors recommend that First Nations develop an accreditation system similar to ISO's but suited to a First Nations' housing context. The standards would represent good practices and

would cover housing governance, policy, practice, processes and structures.

A credible third party could initially help develop the standards, but a national First Nations' organization should eventually take over management of the new accreditation system. Accreditation, they write, would have to be obtained annually. If a band slips, it would lose access to certain monetary and non-monetary benefits.

The authors state the following benefits:

- 1) tying access to new funding programs to accreditation,
- 2) dramatically reducing the reporting burdens for accredited First Nations,
- 3) increasing the flexibility of housing funding,
- 4) encouraging third parties such as financial institutions to provide benefits, e.g., easier access to credit or lower interest rates, and,
- 5) encourage construction companies to provide benefits, e.g., better financing terms.²¹

The authors also state that if successfully applied to housing, such a system could be expanded to encompass other areas of capital infrastructure such as water and waste water treatment, schools, administration buildings, roads and bridges.

However, they also caution that a housing accreditation system may not be appropriate for all First Nations, such as those under considerable distress.

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Policy Recommendations

The government can help First Nations that want certification through the FNFMB.

- 1) The government can assure it is financially supporting the FNFA and the FNFMB. First Nations value having other First Nations explain systems to them. This type of dialogue is preferable, as having government bureaucrats explain the process does not work. First Nations would think that this is just another scheme to eliminate status and communally held reserve lands. These accredited First Nations' organizations are doing a good job travelling to remote communities to explain accreditation. This means that the government must maintain its budget and perhaps increase it for these organizations.
- 2) The federal government should promote certification through FNFMB amongst more First Nations. The government should set a target for a certain number of bands that are FNFMB certified by a certain date.

For certification through ISO, it is recommended that the government, through Aboriginal Affairs and Northern Development Canada, enact the following steps:

- 1) Provide funding to First Nations and First Nations' organizations to hire quality assurance consultants and advisors to assist with ISO certification.
- 2) Encourage and promote ISO certification as an accepted and recognized management tool.
- 3) Disseminate an ISO manual specifically intended for First Nations. As stated above, SAI Global is working with Sagamok to create such a manual. The federal government can help facilitate this process by allowing more First Nations to access the manual once it is published.

For the other ideas, particularly the one pertaining to First Nations' housing, the recommendations are as follows:

- 1) The federal government should promote an outside accreditation agency for First Nations' housing.
- 2) The federal government should promote the eventual establishment of an independent First Nation housing accreditation body.

Conclusion

Over a long term, First Nations have legitimately resisted imposed solutions to their problems. From the *Indian Act* to the recent budgetary measures that were opposed during Idle No More, it seems that anything imposed is doomed to fail. By investigating alternative voluntary measures, First Nations can forge a better path. Not only are voluntary measures more likely to be supported, but the evidence points to them being more beneficial and sustainable for First Nations. Some examples include the *First Nations Land Management Act*, where bands can administer their own on-reserve land and resources. Another example is the property taxation provisions of the *Indian Act*. All these measures are voluntary and have been shown to be empirically better for bands in terms of revenue sources and job growth.

This study examined alternative voluntary measures that can be explored. All the measures are voluntary third-party accreditation systems that bands have the option to support. The first is the FNFMB, a third-party system that allows bands to take advantage of financing at preferential rates as low as 2.5 per cent. This allows them to borrow funds to support building much-needed infrastructure at rates comparable to those of municipalities.

The other system is ISO certification, which allows bands to adopt a voluntary quality management system. To date, only two First Nations in Canada have ISO certification; however, others are exploring their choices in this regard. Although challenges are associated with accreditation through ISO, the evidence points to tangible benefits for First Nations.

Lastly, this study considers a third-party housing accreditation idea proposed by the IOG in 2008. Housing remains one of the most fundamental problems on any First Nations' reserve, and a housing accreditation program could go a long way toward ensuring quality housing.

This paper also examined various ways that the federal government could help promote these voluntary initiatives so that more First Nations can fully take advantage of them.

One hopes that the federal government will engage in more partnerships with First Nations to find new voluntary ways to move forward. One also hopes that the First Nations that are ready to explore the options of accreditation will consider this study. Clearly, the age of imposed solutions is over, and the time for voluntary solutions has begun.

Endnotes

1. Idle No More was also opposed to a series of legislation proposed by the Conservatives, including Bills C-45, C-27, C-428, S-6, S-8, S-207 and S-212. Bill C-45 and C-38, the two budget implementation bills, amended more than 70 pieces of legislation. Among the problematic aspects for First Nations, according to Idle No More activists, was a reduction in federal environmental reviews on federally regulated waterways, changes to the definition of an Aboriginal fishery and a reduction in protections for fish habitats. They also objected to amendments to the *Indian Act* that related to leasing of reserve property.
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13. Interview with Dan Christmas and Mary Beth Doucette, Membertou, August 1 and 2, 2013.
14. "Membertou Always Wanted to Succeed," p. 20.
15. Ibid.
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March 2012

Reinterpreting Indian Control of Indian Education

By Joseph Quesnel

<https://www.fcpp.org/posts/media-release-reinterpreting-indian-control-of-indian-education-accelerating-indigenous-educational-achievement-through-choice>

September 2012

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<https://www.fcpp.org/posts/media-release-freshwater-fish-monopoly-is-impoverishing-aboriginal-fishers-communities-need-freedom-to-market-their-fish>