**7th National Land Claims Agreements Coalition Conference**

**Monitoring the federal government's implementation of its commitments to Indigenous people**

I'm very happy to be here today.

As part of my preparation for today, I took the Land Claims Agreements Coalition's online course on modern treaties. One of the things I learned from it is that the Land Claims Agreements Coalition was formed around four principles. And one of those principles stood out for me.

It said that "an independent implementation and review body that would review whether modern treaties are adhering to their objectives should be established."

I think I can provide a little bit of insight on the concept of independent review to assess whether objectives are met. That's one of the businesses that we in the Office of the Auditor General of Canada are in.

So I'll draw from our experience and from some of our audits to give you my perspective on three things: independence, assessment of results, and governance.

First of all, I need to say that I'm an auditor, and I don't intend any of my remarks today to indicate that I think I'm some kind of expert on things that are important to Indigenous people or on modern treaties—because I'm not.

Now, let's look at the first part of the principle that I mentioned—independent review, or simply, independence.

Independence is an easy concept to put on paper, but it isn't always easy to do in practice.

The role of the Auditor General is an independent role.

The *Auditor General Act* gives me the independence I need to do my job.

For example, I report to Parliament. I don't report to any Minister or the Prime Minister. Also, we do all our own hiring—no other organization can transfer people into our Office.

I have a 10-year mandate and can't be reappointed at the end of it. An Auditor General can only be removed from the position for cause by the Governor in Council on address of the Senate and the House of Commons.

Also, we get to make the decisions ourselves about which government programs we'll audit. The *Auditor General Act* gives us the right to access all the information we consider necessary to fulfill our responsibilities. So, autonomy, a defined term, and access to information are the components of the legislative base that should mean that we can—and must—do our work in an independent, objective, and non-partisan way.

But even with our independence enshrined in legislation, we have to rigorously defend it because there are still ways for a government to encroach on it.

For example, our budget goes through the regular budget process just like any department, so it's the people we audit who decide how much budget we'll get. In addition to having control over our budget, a government could also restrict what information we get to see.

Even though our Act says we get access to whatever information we consider necessary to fulfill our responsibilities, there's been a long-standing agreement that we don't need to see recommendations to Cabinet or deliberations of Cabinet. But that can sometimes cause problems. We issued a report in the spring on our audit of fossil fuel subsidies in which we reported that the Department of Finance Canada refused to give us access to certain information.

That was a clear indication to us that the definition of recommendations to Cabinet is being broadly interpreted to—in some cases—not let us see analysis done by civil servants.

A government could also affect our independence by not appointing someone to the position of Auditor General on a full-time basis. As I said, I have a 10-year mandate, but the province of Quebec went about three years with an interim auditor general before it finally appointed one with a proper fixed term.

Currently at the federal level, there are a number of agents of Parliament—who have independent roles similar to mine—who are in their positions on an interim basis or are still in the role even though the original term of their appointment has expired.

So independence is an easy concept to put on paper, but that doesn't mean that it will exist in practice.

We're fortunate to be able to function independently, but as I said, the potential risks to an independent body include insufficient funding, restricted access to information, and vacancies in key positions. So any independent oversight approach should be aware of those risks and how they will be managed.

Sometimes a government process rather than a position or organization is intended to be independent.

For example, in our 2016 audit of Indigenous and Northern Affairs Canada's Justice at Last program—which was brought in in 2007 as a new approach to settle First Nations specific claims—we identified that one of the program's pillars was impartiality and fairness, and another one was better access to mediation. So those are really concepts of independence that the Department tried to embed in the program.

But because most of the independence measures were built into the process—a process that was managed by the Department, which was also one of the negotiating parties—the Department eventually used the three levers I just mentioned—controlling money, information, and appointments—to contain the process, and that created obstacles to resolving specific claims.

For example, on controlling money, we found that the Department reduced its funding to First Nations to research their specific claims by 40 percent between 2014 and 2015.

On controlling information, we found that the Department stopped sharing its own reports on the history of specific claims with First Nations.

And on appointments, in our spring 2016 audit of Governor in Council appointments, we found that an analysis—which was confirmed by the Department of Justice Canada—indicated that the Specific Claims Tribunal Canada needed the equivalent of four full-time members but had, at that time, only two. That meant that the Tribunal couldn't confirm hearing dates.

As for those mediation services I mentioned, when Indigenous and Northern Affairs Canada established a mediation process for specific claims, it did so within the Department, something that the Assembly of First Nations told the Department didn't meet the principles of neutrality

and independence that one would expect from mediation. The mediation service was therefore only used once.

So Justice at Last is an example of a process that was built on the principle of impartiality and fairness, but which couldn't make that independence work in practice.

All of that means that to put independence into practice, whether at an organizational level or embedded in a process, takes a lot of thought and work.

What, then, about the second part of the principle I mentioned—to ensure that objectives are adhered to and results are achieved?

That's something that an independent oversight body can assess, but it's also just a good business practice that all parties to an agreement should do.

In 2015, we released an audit report on implementing the Labrador Inuit Land Claims Agreement.

That agreement was signed in 2005 by the Labrador Inuit and the governments of Canada and Newfoundland and Labrador.

It was a comprehensive land claims agreement that settled Indigenous title and ownership of lands and resources, and set out the future relationships and obligations of the three signatories.

The agreement was also supported by a five-year Fiscal Financing Agreement, which provided financial support to the Nunatsiavut Government.

Now, I'm sure there are some of you here today who know much more than I do about the Labrador Inuit Land Claims Agreement, but I'll tell you what we reported in the audit report.

As part of that audit, we looked at how the federal government monitored its obligations under modern treaties.

The first thing we noted was that Indigenous and Northern Affairs Canada acknowledged the importance of monitoring its obligations.

It said that the effective implementation of any land claims agreement is an ongoing, iterative process characterized by regular monitoring, feedback, and corrective action.

And it developed an information technology system to track its obligations and monitor its implementation of land claims and self-government agreements.

The system was intended to allow all departments and agencies involved in land claims agreements to track the progress and status of their implementation of obligations.

The goal was to strengthen accountability and reduce the risk of not implementing obligations.

But we found that, although the system was launched in 2010, the obligations in the system were still being validated for accuracy, consistency, and completeness in 2015, and no deadline had been set to complete the validation.

The Department struggled with the sheer number of obligations, which at that time stood at about 3,900 for all land claims and self-government agreements.

Also, there were some internal disagreements over the nature of some of the obligations and who was responsible to implement them.

Something else we noted was that the system included information only on the status of obligations in land claims and self-government agreements. It didn't include the status of commitments in side agreements, such as the Labrador Inuit Park Impacts and Benefits Agreement for the Torngat Mountains National Park Reserve of Canada.

In the course of our audit on the Labrador Inuit Land Claims Agreement, we found that the federal government had, in fact, implemented some of its obligations.

For example, Parks Canada acted on its commitments under the Labrador Inuit Park Impacts and Benefits Agreement, and that resulted in economic benefits and employment for the Labrador Inuit.

We also found that the Fiscal Financing Agreement provided financial support to the Nunatsiavut Government, which was important to its ability to fulfill its responsibilities.

However, we found that Fisheries and Oceans Canada and the Nunatsiavut Government had different interpretations of Fisheries and Oceans Canada's obligations under the agreement.

And the disagreement surfaced soon after the signing of the Labrador Inuit Land Claims Agreement and had been going on for almost 10 years.

We said that, in our opinion, the disagreement created uncertainty about the Nunatsiavut Government's access to the northern shrimp fishery and made it hard for the parties to work together to increase Inuit participation in shrimp fishing. Also, the disagreement created uncertainty about communal fish harvesting.

But it wasn't the disagreements themselves that concerned us; there will always be different interpretations. What really concerned us was the dispute resolution mechanisms in the Labrador Inuit Land Claims Agreement weren't used to resolve the issues.

That might indicate that—just like in the case of the mediation of specific claims cases—there was a lack of confidence that the dispute resolution mechanisms were robust.

So the fishing disagreement is an example of an obligation that the government should have monitored and should have worked to resolve.

As I said, there was also attached to the Labrador Inuit Land Claims Agreement a Fiscal Financing Agreement, which set out the federally funded programs and services for which the Nunatsiavut Government was responsible. Those responsibilities included Inuit health programs and services, and housing construction, renovation, and repairs.

We found that Health Canada provided funding to support the Nunatsiavut Government's health services responsibilities, but the lack of a federal program for Inuit housing affected the Nunatsiavut Government's ability to fulfill the housing responsibilities it received by signing the agreement.

Again, this is something that the federal government should have monitored; in signing such an agreement, the federal government should not expect the other party to take on a responsibility that it knows it can't deliver. The federal government should make sure that the other party has the wherewithal to deliver on its responsibilities.

So, that all shows that it's important for the federal government to monitor the implementation of its obligations. It should make sure

- that it has a full inventory of its obligations,

- that it monitors its specific obligations,
- that it monitors disagreements and uses those disagreements to strengthen the written agreements,
- that dispute resolution mechanisms are trusted and used when appropriate, and
- that it fully understands if its agreement partners can meet the burdens that come with the responsibilities they take on under the agreements.

In July 2015, just after we finished our work on the audit we did of the Labrador Inuit Land Claims Agreement, the Minister of Indigenous and Northern Affairs Canada introduced a "whole-of-government" approach to the implementation of land claims and self-government agreements to manage the full scope of Canada's responsibilities under those agreements.

The new measures included

- a Deputy Ministers' Oversight Committee, to provide ongoing, executive-level oversight and accountability for obligations and the implementation of land claims and self-government agreements;
- a Modern Treaty Implementation Office within the Department, to strengthen coordination and oversight across the federal government; and
- a Cabinet directive outlining roles and responsibilities of federal departments and agencies.

But we haven't been back to see if those measures are in place and working, or what the government has done to improve its oversight of its obligations under modern treaties.

I hope that the examples that I've used from a few of our audits demonstrate that the federal government's ability to put in place impartial and fair—that is to say independent—processes has been spotty at best, and that it still isn't up to the task of monitoring its own performance.

But here I want to also add a caution.

As the Land Claims Agreements Coalition's online course on modern treaties reminds us, the goal of modern treaties is to improve the lives of Indigenous people.

One of the traps of performance measurement is the tendency to measure things—activities—instead of results.

So in monitoring obligations, it's not just enough to decide whether a specific obligation has been implemented; the parties to the modern treaty should also take a step back to see if the overall implementation of the treaties is leading to better lives for Indigenous people.

All of us with some role in the political world—either "small p" political or "capital p" political—can put too much focus on the politics and not enough focus on the people.

So far, I've talked a lot about the weaknesses that the federal government has to rectify in its monitoring of its wide range of programs for Indigenous people. But the federal government isn't the only party involved in these programs.

We don't audit First Nations or other Indigenous organizations, but from the work that we have done, I can say that as more agreements, modern treaties, or nation-to-nation arrangements are put in place, Indigenous governance of its side of the arrangements will be vitally important.

The Institute on Governance prepared a discussion paper called Characteristics of a Nation-to-Nation Relationship, and it quotes Stephen Cornell of the Harvard Project as saying that "at the end of the fight for self-determination there is a prize for the winners: it's called the governance challenge."

In our 2015 report on establishing the First Nations Health Authority in British Columbia, while we said that in establishing the Authority, the parties were able to overcome long-standing obstacles to create the health services delivery organization, we found problems in the Authority's governance framework.

Some of its policies—for example, on conflict of interest, recruitment, personnel security, administrative investigations, financial information and disclosure, and employee relocation—weren't strong enough, and it didn't fully comply with some of its own policies.

A well-designed, implemented, and functioning governance system, with transparency and accountability to Indigenous people, is critical to any Indigenous organization's long-term success.

So, what does this all mean?

Well, to me it means that it's very important to have a way to monitor whether the parties to a modern treaty are able to and are meeting their obligations. Furthermore, the result of the monitoring must be trusted by all parties, and there should be trusted dispute resolution mechanisms in place to deal with cases where there's a disagreement over the success of an obligation. Also, the parties should have a periodic way to step back and look at the big picture to assess whether the implementation of obligations is leading to the achievement of the objectives that were behind the original signing of the modern treaty.

That agreement was signed in 2005 by the Labrador Inuit and the governments of Canada and Newfoundland and Labrador. It was a comprehensive land claims agreement that settled Indigenous title and ownership of lands and resources, and set out the future relationships and obligations of the three signatories.

And it was supported by a five-year Fiscal Financing Agreement, which provided financial support to the Nunatsiavut Government. But even though the Nunatsiavut Government had responsibilities under the agreement for housing, it had only received some funding for housing through the Fiscal Financing Agreement and through other one-time funding sources.

The lack of a federal program for Inuit housing south of the 60th parallel limited the Nunatsiavut Government's ability to fulfill the housing responsibilities it received by signing the Fiscal Financing Agreement.

Both service delivery and appropriate accountability would be enhanced if there was certainty of funding.

But there were also other problems with the specific claims process that, as I mentioned, created barriers that got in the way of negotiations.

For example, we found that, without input from First Nations, Indigenous and Northern Affairs Canada developed a separate process to settle small-value claims. This meant that

- the Department determined by itself whether a claim should be classified as a small-value claim;

- the Department determined by itself that a negotiation plan wouldn't be jointly prepared for small-value claims, so the process didn't require discussion and agreement from First Nations on a claim's terms of negotiation;

- the Department determined the compensation offer by itself;

- the Department determined by itself that studies to help determine claim value could be undertaken only in exceptional circumstances;

- the Department didn't provide First Nations with the information the Department used to arrive at an offer; and

- the Department's letter of offer to compensate First Nations claimants for small-value claims didn't invite discussion or negotiation about compensation—the offers were therefore considered to be take-it-or-leave-it offers.

We are also the auditor general for each of the three territories.

While the provinces have their own auditors general who report to their provincial legislatures, the territories do not. So we are the auditor general for each of the territories.

We complete financial statement audits of the territorial governments and their Crown corporations, and we try to do at least one performance audit in each territory each year that deals with the delivery of programs by the territorial governments.

We report those performance audits directly to the territorial legislatures.

Some of our audits of federal programs should be of particular interest for Indigenous people.

Most recently, in May, we reported on civil aviation infrastructure in the north, a program of Transport Canada.

In 2016, we reported on the First Nations specific claims process at Indigenous and Northern Affairs Canada and on how Correctional Service Canada prepares Indigenous offenders for release.

In 2015, we reported on the establishment of the First Nations Health Authority in British Columbia, on the implementation of the Labrador Inuit Land Claims Agreement, and on access to health services for remote First Nations communities.

In 2014, we reported on the Nutrition North Canada program delivered by the then department of Aboriginal Affairs and Northern Development Canada and on the First Nations Policing Program at Public Safety Canada.

As I said, for me, the story of our audits of federal Indigenous programs is a story of frustration.

I feel that the pace of improvement by federal departments is so slow as to be almost imperceptible. I feel that our work, while thorough, appreciated, and insightful, hasn't caused any political imperative to speed up the pace of change for the sake of the people affected by those programs.

And that's particularly discouraging for me because in many cases, we've found program results that range from "not good" to "dismal."

I'll begin my story of the eight factors that need to be in place to make federal programs for Indigenous people work with a message that was attached to an audit that was issued in 2011 before I arrived at the Office.

It was a message that summed up 10 years of audits of federal programs for Indigenous people that were done under the watch of my predecessor, Sheila Fraser.

That 2011 message identified four structural impediments that we said severely limited the delivery of public services to First Nations communities and hindered improvements in living conditions on reserves.

And those four structural impediments are referred to in the Institute on Governance's discussion paper called Characteristics of a Nation-to-Nation Relationship.

The four impediments were

- no clarity about the level of service the federal government would provide to First Nations,
- an insufficient legislative base,

- uncertain funding, and
- insufficient local organizations to support service delivery.

Well, it's 2017, and based on the work we have done subsequent to that 2011 report, the four impediments we identified are still there.

And while I will explain to you each of the four structural impediments as we saw them in 2011, I'm going to do it by drawing on them as I explain the eight factors that need to be in place to make federal programs for Indigenous people work.

Remember that my perspective on this issue is as an auditor who audits program delivery.

I believe the eight factors that need to be in place to make federal programs for Indigenous people work are

- first, sustained political will;
- second, what the Institute on Governance's paper entitled Characteristics of a Nation-to-Nation Relationship refers to as aggregation;
- third, appropriate and real consultation about the needs of recipients, level of services, and mechanisms of service delivery;
- fourth, clear statements of the level of service to be delivered;
- fifth, an appropriate legislative base that supports the desired level of services;
- sixth, local service delivery capacity with appropriate governance structures and accountability to the Indigenous people receiving the services;
- seventh, appropriate and stable funding to provide the services; and
- eighth and finally, monitoring on the part of the federal government of whether it's living up to its commitments.

And to be truly successful, all of those factors have to exist within a learning and improving system that focuses on the services Indigenous people receive.

I'm going to go through each of those eight factors individually.

**First, political will.**

I'll only touch on this briefly because it's dangerous water for an auditor general to wade into.

What I'll say is that in our 2015 report on establishing the First Nations Health Authority in British Columbia, we said that sustained commitment over a period of almost 10 years by key leaders from British Columbia First Nations, the Government of Canada, and the Government of British Columbia built a climate of trust and respect that allowed the parties to discuss how to transfer responsibility for health programs and services to British Columbia First Nations.

I'll refer to our report on establishing the First Nations Health Authority in British Columbia a few times this morning, but I want to make sure that you're aware that we didn't audit how well the Authority was operating; we just looked at how the parties got past the four obstacles that we identified in 2011 to establish the Authority.

The other thing I'll say is that for political will to be sustained, there have to be some successes along the way.

**The second key factor is aggregation.**

As I see it, the first challenge to create a nation-to-nation relationship is to figure out if it's possible to move away from the current model of disaggregation that exists on both sides of the table. On the one hand, there are over 600 First Nations communities, other Indigenous people's groups, and other Indigenous representative organizations; and on the other hand, there are multiple federal departments under no common direction. And let's not forget, the provinces are also involved in delivering programs to Indigenous people.

Again, in our 2015 report on establishing the First Nations Health Authority in British Columbia, we said that in 2005, First Nations across British Columbia agreed that a unified approach to negotiating with other levels of government would be preferable to negotiating as individual First Nations.

The three British Columbia First Nations political organizations—the Union of British Columbia Indian Chiefs, the First Nations Summit, and the British Columbia Assembly of First Nations—formed the First Nations Leadership Council. The Council acted as a single point of contact for the federal and provincial governments, and allowed them to work directly with the Council instead of having to negotiate with over 200 individual First Nations across the province.

Unfortunately, I can't give you an example of federal departments involved in delivering or funding programs for Indigenous people creating a single point of contact to make it easier for First Nations to discuss their concerns with the government.

**The third factor for better services is real consultation.**

There are many people who know much more than I do about consultations and the duty to consult. But consultation is something that we've mentioned in a number of our audits.

I'll start with some good news: In our 2016 audit on preparing Indigenous offenders for release, we said that Correctional Service Canada consulted extensively with members of Indigenous communities and corrections experts to ensure that its programs for Indigenous offenders would be effective and culturally relevant.

That was the good news, but unfortunately, Correctional Service Canada didn't provide the programs to Indigenous offenders early enough in their sentence to prepare them for parole.

Our other examples of consultation are not good.

In our 2016 audit of the First Nations specific claims process, we said that without input from First Nations, Indigenous and Northern Affairs Canada developed a separate process to settle small-value claims.

But because it didn't seek input from First Nations, it created barriers to, rather than removed barriers from, the settlement process.

For example:

- The Department determined by itself whether a claim should be classified as a small-value claim.

- The Department determined by itself that a negotiation plan would not be jointly prepared for small-value claims, so the process did not require discussion and agreement from First Nations on a claim's terms of negotiation.

- The Department determined the compensation offer by itself.

- The Department determined by itself that studies to help determine claim value could be undertaken only in exceptional circumstances.

- The Department did not provide First Nations with the information the Department used to arrive at an offer.

- The Department's letter of offer to compensate First Nations claimants for small-value claims did not invite discussion or negotiation about compensation—the offers were, therefore, considered to be take-it-or-leave-it offers.

In another audit, our 2014 audit of the First Nations Policing Program, we said that the principles of the First Nations Policing Policy identified the need to include First Nations in the negotiations of policing agreements to give them input into the policing model appropriate for their communities.

And Public Safety Canada held a series of community engagement sessions in 2010 as part of a comprehensive review of the program.

During those sessions, communities said that the negotiation of policing agreements was "not a real negotiation." The communities told Public Safety Canada that they were usually presented with a final agreement and were told that they wouldn't receive funding for policing services if they didn't sign it.

So we looked at that, and we found no evidence that Public Safety Canada received input from First Nations in seven of the nine policing agreements we looked at.

In the case of one agreement that we examined, it contained a specific clause that required the parties to begin negotiations in good faith one year in advance of the expiry date of the agreement with the goal to complete negotiations within six months.

However, that approach wasn't followed in the renewal of the agreement.

In fact, less than four weeks before the agreement was to expire, Public Safety Canada told the First Nations organization that the federal and provincial governments had negotiated an extension to the current agreement and that the First Nations organization had to sign the extension—another take-it-or-leave-it type of offer.

We further found that 30 policing agreement signatories had less than one month's notice to complete negotiations of agreements that would have otherwise expired on 31 March 2013.

So, I've talked about political will, I've talked about aggregation, and I've talked about consultation.

**The fourth factor for better services is the need to have clear statements of the level of service to be delivered.**

The lack of clarity about service levels was one of the impediments we identified in 2011.

The federal government supports many services on reserves that provincial and local governments provide off reserves, but it hasn't clearly defined the type and level of services it supports. And if it does have a service objective, it doesn't measure whether it's achieving that objective.

In 2015, we reported on this problem in our audit on access to health services for remote First Nations communities. In that case, we found that Health Canada didn't compare the access that remote First Nations communities had to health services with the access other remote communities had to health services. The Department hadn't met its objective of ensuring that remote First Nations had comparable access to the clinical and client care services as other provincial residents living in similar geographic locations.

This is an example of a problem we often see in federal programs: a department not doing something—in this case, not determining if the level of service was comparable—even though that department had a specifically stated objective. In this case, the stated objective was to ensure that First Nations individuals living in remote communities had comparable access to health care services as other provincial residents living in similar geographic locations.

If that was the Department's objective, it should've been doing something to compare the level of services.

So, it's not always evident whether the federal government is committed to providing services on reserves of the same range and quality as non-reserve communities get from their local and provincial governments.

A clear statement of what level of services the federal government intends to deliver to First Nations and how it will monitor the comparability of those services is needed to reduce this impediment.

This would also help to estimate the cost to deliver the services.

**The fifth factor for better services is the need for an appropriate legislative base that supports the desired level of services.**

The lack of a legislative base was another of the impediments we identified in 2011.

Provincial legislation provides clarity about services to be delivered by provinces to the people who live in those provinces.

A legislative base is an unambiguous commitment by government to deliver certain services and that allows funding to be defined and leads to accountability.

The federal government has often developed programs to support First Nations communities without a legislative base for them.

In 2011, we said that this meant that for First Nations members living on reserves, there was no legislation supporting programs in important areas such as education, health, and drinking water.

When the federal government's programs and services for First Nations are supported only by policy and not by legislation, there's confusion about federal responsibility for funding them adequately.

In our 2014 report on the First Nations Policing Program, we again identified the problem of ensuring that there is an appropriate legislative base for federal programs for Indigenous people.

And again, the problem existed even though one of the key principles of Public Safety Canada's First Nations Policing Policy was that "First Nations police services should be founded on a legislative framework that enables First Nations to establish, administer and regulate their police service and appoint police officers, consistent with provincial norms and practices."

We found that in Alberta and Manitoba, the policing agreements we looked at clearly required policing services under the First Nations Policing Program to comply with provincial policing legislation and standards.

But we found that for the two agreements we examined in Ontario, there was no requirement for First Nations self-administered policing services to comply with provincial policing legislation and standards.

For example, the agreements didn't require post-recruitment training for police officers as was required by provincial policing standards.

Also, the Ontario *Police Services Act* requires compliance with provincial standards for infrastructure like communication systems and policing facilities, but the policing agreements in Ontario that we looked at didn't require compliance with those infrastructure standards.

And that's important because substandard policing infrastructure is a safety issue.

**The sixth key factor for better services is local service delivery capacity with appropriate governance structures and accountability to the Indigenous people receiving the services.**

The lack of organizations to support local service delivery was one of the impediments we identified in 2011.

Over the decades, provinces have established many organizations and structures to support local delivery of programs and services to communities. For example, provinces have school boards, health services boards, and social service organizations.

In 2011, we said that there were few similar organizations to support service delivery within First Nations communities.

The federal government established each First Nation band as an autonomous entity and provides separate program funding to each. Many of the more than 600 First Nations across Canada are hampered by a lack of expertise to meet the administrative requirements for delivering key programs within their reserves.

But even when local service delivery organizations are established, they will only be successful if they have appropriate governance structures in place.

The Characteristics of a Nation-to-Nation Relationship discussion paper quotes Stephen Cornell of the Harvard Project as saying that “at the end of the fight for self-determination there is a prize for the winners: it’s called the governance challenge.”

In our 2015 report on establishing the First Nations Health Authority in British Columbia, while we were able to show that in establishing the health authority, the parties were able to overcome the four obstacles we identified in 2011 to create the health services delivery organization, we found problems in the Authority’s governance framework.

Some of its policies—for example, on conflict of interest, recruitment, personnel security, administrative investigations, financial information and disclosure, and employee relocation—were not strong enough, and it did not fully comply with some of its own policies.

Once local delivery organizations are established, a well-designed, implemented, and functioning governance system, with transparency and accountability to Indigenous people, is critical to the organization’s long-term success.

**The seventh factor for better services is appropriate and stable funding to provide services.**

The lack of an appropriate funding mechanism was one of the obstacles we identified in 2011.

In 2011, we said that the federal government used contribution agreements to fund the delivery of services on First Nations reserves. In our view, that caused several problems. We noted that most contribution agreements had to be renewed each year, and we said that often funds may not be available until several months into the period that the funding was for. One reason for that was that new agreements could not be finalized until departments had reviewed documentation and confirmed that funds from the previous period were used appropriately. This

meant that First Nations had to reallocate funds from elsewhere to continue meeting community needs for some services like health care and education.

We also said that the use of contribution agreements between the federal government and First Nations inhibited appropriate accountability to First Nations members.

But I think it's important to realize that, while the contribution agreement approach is fragmented and problematic, there can be issues in more comprehensive funding arrangements as well.

So moving from a contribution agreement funding approach to a more comprehensive approach is not simple. The funding instrument doesn't create the problem on its own; the critical part is to make sure that the funding provided is commensurate with the services to be delivered and that the funding is stable.

For example, look at our 2015 audit on implementing the Labrador Inuit Land Claims Agreement.

That agreement was signed in 2005 by the Labrador Inuit and the governments of Canada and Newfoundland and Labrador. It was a comprehensive land claims agreement that settled Indigenous title and ownership of lands and resources, and set out the future relationships and obligations of the three signatories.

And it was supported by a five-year Fiscal Financing Agreement that provided financial support to the Nunatsiavut Government. But, even though the Nunatsiavut Government had responsibilities under the agreement for housing, it had only received some funding for housing through the Fiscal Financing Agreement and through other one-time funding sources.

The lack of a federal program for Inuit housing south of the 60th parallel limited the Nunatsiavut Government's ability to fulfill the housing responsibilities it received by signing the Fiscal Financing Agreement.

Both service delivery and appropriate accountability would be enhanced if there was certainty of funding.

**The eighth and final factor for better services is for the federal government to monitor whether it's living up to its commitments.**

A common problem that we find with many government programs—not just those that result in services to Indigenous people—is the difficulty in determining whether the programs are doing what they are supposed to do.

In fact, we find in many cases measurement of results is based on what is easy to measure rather than what is important to measure.

An example of this was the measurement strategy for the Nutrition North Canada program.

In our 2014 audit of that program, we found that the then department of Aboriginal Affairs and Northern Development Canada's measurement strategy established performance indicators, such as the weight of food shipped and Revised Northern Food Basket prices, but there was no indicator to measure whether the full subsidy on food reached the consumers.

We found that the Department reported things like there were 25.6 million kilograms of food subsidized in the 2012–13 fiscal year and the change in the price of the Revised Northern Food Basket. However, this information didn't let the Department know if the full subsidy was being passed on to consumers because prices in the Food Basket included subsidized and unsubsidized items. Furthermore, the costs of the Food Basket could fluctuate for reasons unrelated to the subsidy.

So they were measuring what was easy to measure—things like how much food was shipped—and not measuring what was important—did the food get to the intended beneficiaries of the program, and what was the effect of the program on the price of the subsidized food.

So those are the eight factors that have shown up in our audits. To recap them:

- First, sustained political will.
- Second, aggregation.
- Third, real consultation.
- Fourth, clear service levels.
- Fifth, a legislative base.
- Sixth, local service delivery capacity.

- Seventh, stable funding.
- And eighth, monitoring.

I know that I've thrown a lot of information at you this morning, and that I've referred to a lot of findings from a lot of audits—I think that illustrates the extent of the work we do in this area—and I suspect that I went too quickly over some of our findings. So if you're interested in the details, the audit reports are available on our website.

**To sum this all up: In 2011, we said that change is needed if meaningful progress is to be realized.**

We said that, despite the federal government's many efforts to implement our recommendations on First Nations programs, we saw a lack of progress in improving the lives and well-being of people living on reserves.

Conditions on reserves were still poor.

We also said there needs to be stronger emphasis on achieving results.

Well, as I said earlier in my remarks, it's now 2017, not 2011, and I'm still frustrated with the approach the federal government takes to programs for Indigenous people.

But it's also important for everyone to recognize that my mandate is to audit federal government programs, and that's why my remarks have been so hard on the government.

I don't know what problems exist on the Indigenous side of the table because we don't audit First Nations or Indigenous organizations.

In 2011, we closed by saying that the federal government and First Nations will have to rise to the challenge, or living conditions will continue to be poorer on First Nations reserves than elsewhere in Canada for generations to come.

In a Message from the Auditor General that I issued in 2016, I lamented that our audits come across the same problems time and time again, and that when we come back to audit the same area again, we often find that program results haven't improved.

In just five years, with some 100 performance audits and special examinations behind me since I began my mandate, the results of some audits seem to be—in the immortal words of Yogi Berra—“déjà vu all over again.”

And I said that, since my predecessor, near the end of her mandate, summed up her impression of 10 years of audits and related recommendations on First Nations issues as “unacceptable,” that when you add the results of the last five years of audits to those we reported on in the past, I can only describe the situation as it exists now as beyond unacceptable.

I said that this is now more than a decade’s worth of audits showing that programs have failed to effectively serve Canada’s Indigenous people.

Delivering effective programming requires leadership. By leadership, I include federal, provincial, territorial, and First Nations levels—with most of the responsibility falling on the federal government, though all levels have some responsibility.

And this is the final thought I want to close on. All of the studies, reports, conferences, audits, lists of obstacles, and lists of success factors are very nice. But for any of them to be useful, they have to operate in an environment that has mostly been missing the one real resource that is needed—a problem-solving mindset.

Until a problem-solving mindset is brought to these issues to develop solutions built around people instead of defaulting to litigation, arguments about money, and process roadblocks, this country will continue to squander the potential of much of its Indigenous population.