



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

Aboriginal Affairs and Northern Development Canada

Internal Audit Report

Audit of the Additions to Reserve Process

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ACRONYMS

AANDC	Aboriginal Affairs and Northern Development Canada
ADM	Assistant Deputy Minister
AES	Audit and Evaluation Sector
AIP	Approval in Principle
ARDG	Associate Regional Director General
ATR	Additions to Reserve
BC	British Columbia
BCR	Band Council Resolution
DG	Director General
DOJ	Department of Justice
DRAP	Deficit Reduction Action Plan
HQ	Headquarters
LED	Lands and Economic Development Sector
NRCAN	Natural Resources Canada
ON	Ontario
MB	Manitoba
NATS	National ATR Tracking System
RO	Regional Operations Sector
SK	Saskatchewan

EXECUTIVE SUMMARY

Background

An Addition to Reserve (ATR) is a proposal for the granting of reserve status to land which is within the service area of an existing reserve community. The Indian Act defines a reserve as a “tract of land, the legal title to which is vested in Her Majesty that has been set apart by Her Majesty for the use and benefit of a band”¹. The Act also gives the Governor in Council the right to “determine whether any purpose for which lands in a reserve are used is for the use and benefit of the band”. An ATR process has been developed in order to assist both the First Nations and the Department in completing the necessary steps to add land to reserve.

There are numerous reasons for land to be added to a reserve. According to the Additions to Reserves/New Reserves Policy (Directive 10-1 of the Lands Management Manual), land can be added to a reserve to fulfill a legal obligation (such as a treaty land entitlement or a claim settlement agreement), for community additions, for a new reserve or other reasons such as economic development. ATR Policy described in the Directive is applicable to both rural and urban reserves.

As stipulated in the ATR Directive, the ATR process is divided into three distinct phases; Proposal Request, Plan and Develop, and Final Approval.

The Proposal Request phase is led by the First Nation, which identifies the lands to be added to the reserve, and prepares an ATR proposal describing the specifics of the situation. This phase culminates with the submission by the First Nation of a Band Council Resolution (BCR) to Aboriginal Affairs and Northern Development Canada (AANDC) requesting an ATR.

In the second phase, Plan and Develop, the AANDC Regional Office determines whether the proposed ATR meets the requirements of the ATR Policy, and other relevant legislation and policies. Departmental due diligence is also completed at this phase through consultation with potential impacted parties (such as other First Nations, municipalities, and provinces) as well as through a review by the Department of Justice (DOJ). During this phase AANDC must also request that DOJ conduct a title search in order to certify good title. This phase culminates with the granting of Approval in Principle (AIP) by the Regional Director General (RDG).

During the third phase, Final Approval, AANDC facilitates the process and seeks final approval through an Order In Council, or Ministerial Order, resulting in the land being added to reserve. This third phase has historically been the responsibility of AANDC Headquarters personnel, but this responsibility was transferred to regional offices, beginning in December 2012.

¹ *Indian Act*, R.S.C., 1985, c. I-5, s 2.

The ATR process can be extremely complex, and can involve multiple considerations, including environmental issues, litigation, and resolution of third party interests. The procedures for an addition to an existing reserve or the creation of a new reserve can vary depending on whether the land to be added is federal Crown land, provincial Crown land or land that is privately owned. Depending on who owns the land in question, various partners and stakeholders can be involved in the ATR process in partnership with AANDC and the First Nation.

Even under ideal circumstances, complex land transactions to enable Additions to Reserve may take years to complete; frequently, the process is delayed. Delays may be caused by any number of factors, including: scheduling of environmental assessments of land parcels, funding and scheduling of land surveys, identification of third-party interests and resolution of these interests, negotiation of agreements with municipal governments, and the purchase and transfer of lands involved in the ATR file. Delays in processing an ATR file may also result from protracted negotiations with one or more parties to the file, changes in First Nation administration, or poor file/project management practices. Some of these delays may be controllable by AANDC; many are not.

Given that the ATR process is managed by each individual AANDC regional office and that as of December 2012, regional offices now play an even more important role in supporting ATR submissions, it is important that Regions interpret and apply the ATR Policy and related procedures in a consistent manner.

Audit Objective and Scope

The objective of this audit was to assess the adequacy and effectiveness of procedures and controls used to manage the Additions to Reserves (ATR) process, so that ATR submissions are prepared and completed as efficiently as possible, and comply with relevant program authorities, frameworks and Treasury Board and AANDC policy requirements.

A second objective of the audit was to provide observations and recommendations which will support management in the redesign of the ATR process, which is currently undergoing transition.

The scope of the audit included all ATR submissions that were initiated, completed, or in progress during the period April 2011 through October 2012.

The audit scope included an assessment of the following:

- Headquarters and regional governance practices used in monitoring and reporting on the status of ATR submissions; and,
- Systems, controls and management practices used by AANDC regional offices to initiate, complete and document steps taken during the processing of ATR files.

The audit examined the related governance and control processes in place at Headquarters as well as at a sample of four Regions: British Columbia, Saskatchewan, Manitoba and Ontario, from December 3, 2012 to January 11, 2013. The audit included a review of a sample of 25 ATR files (combination of completed and in progress).

Statement of Conformance

This audit conforms with the Internal Auditing Standards for the Government of Canada, as supported by the results of the quality assurance and improvement program.

Observed Strengths

Throughout the audit fieldwork, the audit team observed examples of how controls are properly designed and are being applied effectively by Headquarters and Regional management. This has resulted in several positive findings which are listed below:

- Regions are diligent in reviewing ATR proposal submissions and ensuring information required for approvals is provided and completed appropriately;
- Supporting documents for decisions taken are well maintained in ATR files (e.g. supporting Band Council Resolutions, approvals, reviews, correspondence, etc.);
- Regional staff who are responsible for ATR activities and manage the ATR process communicate and work closely with First Nations to answer questions and support First Nations throughout the ATR process; and,
- Recent training, provided to Regions on their new responsibilities in the ATR process resulting from changes made in the department's Deficit Reduction Action Plan, was well received.

Conclusion

Generally, the audit found that control practices related to the processing of ATR proposals were adequate. Some opportunities for improvement were noted to improve the efficiency of the process and strengthen management practices in the following areas: governance, common processing steps and procedural tools for staff, establishment of priorities and performance measures, service level expectations of stakeholders, and information management systems.

Recommendations

The audit team identified areas where control practices and processes could be improved, resulting in six recommendations, as follows:

1. The Senior Assistant Deputy Minister (ADM) of Regional Operations (RO) should formalize and update regional governance practices and work with the Assistant Deputy Minister of Lands and Economic Development (LED) to develop a practice to share leading practices, establish common ATR processing steps and milestones, and report on the ATR process at a national level.
2. The Assistant Deputy Minister of Lands and Economic Development should continue updating the Lands Manual to better identify procedural steps.

3. The Assistant Deputy Minister of Lands and Economic Development should review performance measures for continued relevance to allow for more useful performance reporting across all Regions and support Senior Assistant Deputy Minister of Regional Operations in establishing clear priorities for processing ATRs, including identifying possible risks to the achievement of those priorities.
4. The Assistant Deputy Minister of Lands and Economic Development should work with the Senior Assistant Deputy Minister of Regional Operations to clarify the role of the Department of Justice, communicate the national service standard expectations to regional staff, and develop practices to increase the efficiency of DOJ's participation in the ATR process.
5. The Senior Assistant Deputy Minister of Regional Operations should work with the Assistant Deputy Minister of Lands and Economic Development to review alignment of staffing level requirements and capacity to the volume of activity and priorities.
6. The Assistant Deputy Minister of Lands and Economic Development should clarify user needs and revise the National ATR Tracking System (NATS) application to provide ATR file management support based on clearly defined processing milestones, data fields, and reporting requirements. The Assistant Deputy Minister of Lands and Economic Development should also delay First Nation's access to NATS until the issues surrounding data completeness and accuracy are addressed.

1. INTRODUCTION AND CONTEXT

1.1. *Additions to Reserve*

An Addition to Reserve (ATR) is a proposal for the granting of reserve status to land which is within the service area of an existing reserve community. The Indian Act defines a reserve as a “tract of land, the legal title to which is vested in Her Majesty that has been set apart by Her Majesty for the use and benefit of a band”². The Act also gives the Governor in Council the right to “determine whether any purpose for which lands in a reserve are used is for the use and benefit of the band”. An ATR process has been developed in order to assist both the First Nations and the Department in completing the necessary steps to add land to reserve.

There are numerous reasons for land to be added to a reserve. According to the Additions to Reserves/New Reserves Policy (Directive 10-1 of the Lands Management Manual), land can be added to a reserve to fulfill a legal obligation (such as a treaty land entitlement or a claim settlement agreement), for community additions, for a new reserve or other reasons such as economic development. The ATR Policy described in the Directive is applicable to both rural and urban reserves.

As stipulated in the ATR Directive, the ATR process is divided into three distinct phases; Proposal Request, Plan and Develop, and Final Approval.

The Proposal Request phase is led by the First Nation, which identifies the lands to be added to the reserve, and prepares an ATR proposal describing the specifics of the situation. This phase culminates with the submission by the First Nation of a Band Council Resolution (BCR) to AANDC requesting an ATR.

In the second phase, Plan and Develop, the AANDC Regional Office determines whether the proposed ATR meets the requirements of the ATR Policy, and other relevant legislation and policies. Departmental due diligence is also completed at this phase through consultation with potential impacted parties (such as other First Nations, municipalities, and provinces) as well as through a review by the Department of Justice (DOJ). During this phase AANDC must also request that DOJ conduct a title search in order to certify good title. This phase culminates with the granting of Approval in Principle (AIP) by the Regional Director General (RDG).

During the third phase, Final Approval, AANDC facilitates the process and seeks final approval through an Order In Council, or Ministerial Order, resulting in the land being added to reserve. This third phase has historically been the responsibility of AANDC Headquarters personnel, but this responsibility was transferred to regional offices, beginning in December 2012.

² *Indian Act*, R.S.C., 1985, c. I-5, s 2.

The ATR process can be extremely complex, and can involve multiple considerations, including environmental issues, litigation, and resolution of third party interests. The procedures for an addition to an existing reserve or the creation of a new reserve can vary depending on whether the land to be added is federal Crown land, provincial Crown land or land that is privately owned. Depending on who owns the land in question, various partners and stakeholders will need to be involved in the ATR process in partnership with AANDC and the First Nation.

Even under ideal circumstances, complex land transactions to enable Additions to Reserve may take years to complete; frequently, the process is delayed. Delays may be caused by any number of factors, including: scheduling of environmental assessments of land parcels, funding and scheduling of land surveys, identification of third-party interests and resolution of these interests, negotiation of agreements with municipal governments, and the purchase and transfer of lands involved in the ATR submission. Delays in processing an ATR file may also result from protracted negotiations with one or more parties to the file, changes in First Nation administration, or poor file/project management practices. Some of these delays may be controllable by AANDC; many are not.

Given that the ATR process is managed by each individual AANDC regional office, and that as of December 2012, regional offices now play an even more important role in supporting ATR submissions, it is important that Regions interpret and apply the ATR Policy and related procedures in a consistent manner. The ability for the Department to administer the ATR Policy consistently is challenged by the presence of distinct legal requirements for treaty lands in some provinces (i.e. Manitoba and Saskatchewan), by distinct requirements for land transfers among provincial governments, and by the resulting expectations and practices of legal counsel and other parties involved in an ATR proposal. Despite these complexities, senior management in AANDC's Land and Economic Development Sector, responsible for oversight and implementation of the ATR Policy, recognize a need for clarity and consistency in the application of the ATR process across all Regions.

1.2. Recent Changes Affecting Additions to Reserves

Since the completion by AANDC's Audit and Assurance Services Branch of a Preliminary Assessment of the ATR process (conducted from October 2011 through March 2012), AANDC has implemented changes that affect the processing of ATR proposals as part of the Department's response to the Government of Canada's Deficit Reduction Action Plan (DRAP), including a reorganization of human and financial resources that support Additions to Reserves. As a result of these changes, tasks in the ATR process that were previously performed by AANDC Headquarters personnel were made the responsibility of AANDC regional offices, beginning in December 2012.

Regional offices are now fully responsible for the processing of ATRs through all phases. Support Centers have been established in two regional offices to assist Officers with completing the ATR process and establish practices for the coordination and sharing of leading practices between Regions.

An internal AANDC working group focused on changes to the ATR Policy has been meeting over the past eighteen months. At the same time, the Department has been working with the Assembly of First Nations (AFN) through a Joint Working Group to explore policy, legislative and operational options for improving ATRs, and to bring forward recommendations for reform.

A revised ATR Policy is currently being drafted.

2. AUDIT OBJECTIVE AND SCOPE

2.1. Audit Objective

The objective of this audit is to assess the adequacy and effectiveness of procedures and controls used to manage the Additions to Reserves (ATR) process, so that ATR submissions are prepared and completed as efficiently as possible, and comply with relevant program authorities, frameworks and Treasury Board and AANDC policy requirements.

A second objective of the audit is to provide observations and recommendations which will support management in the redesign of the ATR process, which is currently undergoing transition.

2.2 Audit Scope

The scope of the audit includes all ATR submissions that were initiated, completed, or in progress during the period April 2011 through October 2012.

The audit scope includes an assessment of the following:

- Headquarters and regional governance practices used in monitoring and reporting on the status of ATR submissions; and,
- Systems, controls and management practices used by AANDC regional offices to initiate, complete and document steps taken during the processing of ATR files.

The audit examined the related governance and control processes in place at Headquarters as well as at a sample of four Regions: British Columbia, Saskatchewan, Manitoba and Ontario, from December 3, 2012 to January 11, 2013. The audit included a review of a sample of 25 ATR files (combination of completed and in progress).

3. APPROACH AND METHODOLOGY

The audit of the Additions to Reserve Process was planned and conducted to be in accordance with the *Internal Auditing Standards for the Government of Canada* as set out in the Treasury Board *Policy on Internal Audit*.

Sufficient and appropriate audit procedures have been conducted and evidence gathered to support the audit conclusion provided and contained in this report.

Four Regions were selected during the planning phase for site visits: British Columbia, Saskatchewan, Manitoba and Ontario. In addition, individuals based at AANDC Headquarters were also selected for management interviews and a desk-based review was undertaken of relevant supporting documentation.

The principal audit techniques used included:

- Interviews with key management and staff personnel (due to the focus on AANDC processes, DOJ resources were not included in interviews);
- Reviews of relevant documentation related to the management and administration of additions to reserve proposals;
- Evaluation of the system of internal controls over governance, people (roles and responsibilities, training and job tools), risk management, stewardship (planning and quality), results and performance, and information management for processes within the audit scope;
- Review of a sample of 25 ATR files (combination of completed and in progress); and,
- Walkthrough of the National ATR Tracking System (NATS)

The approach used to address the audit objectives included the development of audit criteria against which observations and conclusions were drawn. The audit criteria developed for this audit are included in Appendix A.

4. CONCLUSION

Generally, the audit found that control practices related to the processing of ATR proposals were adequate. Some opportunities for improvement were noted to improve the efficiency of the process and strengthen management practices in the following areas: governance, common processing steps and procedural tools for staff, establishment of priorities and performance measures, service level expectations of stakeholders, and information management systems.

5. FINDINGS AND RECOMMENDATIONS

Based on a combination of the evidence gathered through the examination of documentation, analysis and interviews, each audit criterion was assessed by the audit team and a conclusion for each audit criterion was determined. Where a significant difference between the audit criterion and the observed practice was found, the risk of the gap was evaluated and used to develop a conclusion and to document recommendations for improvement.

Observations include both management practices considered to be adequate as well as those requiring improvement. Recommendations for corrective actions accompany observations of management areas identified for improvement.

5.1. Governance and Strategic Direction

5.1.1. Governance and Common Practices

Governance and oversight arrangements for the management of ATR activities are the foundation for all other components of internal control. Governance bodies should receive sufficient, complete, timely and accurate information to maintain an effective oversight role, and to ensure that there is adequate challenge and discussion on all matters related to Additions to Reserves. Without adequate governance and oversight arrangements in place, there is increased risk of a lack of accountability, challenge, and discussion of significant issues. For Additions to Reserves, where processing activities are managed by each Region, effective governance arrangements should help to ensure that the ATR process is consistently interpreted and applied from Region to Region, and that results of performance from all Regions are reviewed regularly so that inconsistencies can be identified, and remedial actions taken. Ultimately, effective governance is necessary to ensure the achievement of expected results and the monitoring of progress against stated objectives.

The audit expected to observe that governance arrangements in place in each Region, and at Headquarters, are sufficient to evidence that AANDC has established effective oversight bodies that meet regularly and receive key information to allow for effective monitoring of the ATR process.

Regional staff who are responsible for ATR activities and manage the ATR process communicate and work closely with First Nations to answer questions and support First Nations throughout the ATR process. Regions are diligent in reviewing ATR proposal submissions and ensuring information required for approvals is provided and completed appropriately. Supporting documents for decisions taken are well maintained in ATR files (e.g. supporting Band Council Resolutions, approvals, reviews, correspondence, etc.).

In all Regions, management oversight of ATR files is accomplished through regular formal and/or informal management/staff meetings. Regionally, committee structures exist to formalize the technical review and approval of ATR files, and these committees receive sufficient information on individual ATRs requiring their review. The number of committees, the formality of the documentation of their terms of reference and of their proceedings, and the degree to which the committees participate in the oversight of ATR processing within regional offices varies.

All four Regions included in the scope of the audit had, at one time, a governance committee dedicated to oversight of ATR file management. These ATR Review Committees (ARCs) were responsible for the review and approval of ATR proposals at the Approval-in-Principle (AIP) stage, and again just prior to sending the completed ATR file to Headquarters for final approval (i.e. either by Ministerial Order or by Order-in-Council).

The audit found that only one Region still retains a dedicated ARC that has documented terms of reference, and meets regularly. ARCs in two other Regions have become 'virtual' committees. These virtual committees review and approve files, but do not meet as a group, unless to

discuss significant issues. Records of decision are represented by sign-off on the routing slip attached to the file under review. In the fourth Region, the ARC was discontinued in 2011; in its place, responsibility for ATR review and approval has been included in the scope of the Regional Operations Committee. Terms of reference for ATR governance committees were found to be non-existent, or out of date. Only one Region has the terms of reference that had been updated recently (2010).

Nationally, AANDC Headquarters committees and working groups specific to ATRs are focused on the policy aspects of Additions to Reserves, and the revision of the ATR Policy in particular. Headquarters' new role is not to review each individual ATR submission. The audit, however, did not find a governance committee or practice which existed to review and oversee the ATR process at a national level to help to ensure that the ATR process is consistently interpreted and applied from Region to Region, leading practices are shared, and results of performance from all Regions are reviewed regularly so that inconsistencies can be identified, and remedial actions taken. The audit recognizes that some of these coordination and sharing responsibilities are to be assumed by the newly established ATR Support Centers.

A necessary condition for the establishment of useful national performance measures, job tools, training materials and information systems is the existence of a common ATR process across all Regions. Sufficiently similar processing steps, recording practices, and documentation of processing steps in all Regions is necessary to perform analysis of the duration of key ATR processing steps and to enable the analysis and comparison of results among AANDC Regions.

Through file testing, the audit noted that the process step of satisfying third party interests takes, on average, the longest duration to complete in comparison to other key ATR process steps. In addition to having the longest average procession time, satisfying third party interests also has the largest range and variance in processing duration (e.g. 2 to 15 years), which interviewees noted makes planning and forecasting expected ATR completion difficult. This observation was consistent across all Regions visited.

While the audit found that the resolution of third party interests is consistently one of the key ATR challenges, the audit also found that among the four Regions in scope for the audit, there are significant differences in ATR processing steps that make analysis of the duration of processing steps difficult, and reduce the value of comparisons of processing of ATRs from Region to Region. Some of these differences include:

- Tools to document planned actions, track progress, and record communications with stakeholders exist, but differ from Region to Region, and in some cases from Officer to Officer. The audit found limited common project management/file management tools in use by ATR management and staff to support the processing of ATR files and the documentation of key milestones in the ATR process varies by Region and by Officer.
- The audit found a wide variation in the involvement by AANDC in activities associated with initiating an ATR proposal and preparing documentation to support an ATR submission to AANDC. Activities in this initial phase are identified as the responsibility of the First Nation; however, in one Region, AANDC staff officers frequently advise the

First Nation on requirements of the process, then feel obligated to assist First Nation through all required steps. When documentation is not received from the First Nation on a timely basis, AANDC initiates follow-up conversations. In two other Regions, however, the audit found AANDC's involvement in the preparation of initial documentation was minimal prior to the receipt of complete (or nearly complete) ATR proposal.

- In several of the ATR files reviewed, the audit found that resolution of third-party interests were often the cause of long delays in file processing. Officers in all Regions described ATRs as unique; i.e. that no two ATR files are alike, including the requirements for resolving third party interests. In many cases, these issues involved extensive legal negotiations that included legal counsel for the First Nation and the third party, and from DOJ. The audit found that template agreements between parties were included in the legislated framework agreement that governs Treaty Land Entitlement (TLE) ATRs in Saskatchewan, and that these agreements have been accepted as a standard by legal representatives to the extent that these templates are also used in non-TLE cases in Saskatchewan as well. These standard agreements streamline the process of satisfying third party interests in Saskatchewan, compared to other regions where the terms of these agreements need to be negotiated every time third party interests are identified on a parcel of land. This is an example of a strong practice that should be discussed in a national ATR governance forum, and potentially leveraged elsewhere.
- The audit found that the efficiency of AANDC's management of an ATR proposal is also affected in two Regions by the expectation that the Region will provide funding (without a corresponding budget) and arrange for the survey of the parcel of land that is the subject of the ATR, and the title search to identify encumbrances on the land. In the other two Regions included in the audit, AANDC's role was only to ensure that a valid survey was included in the ATR proposal.

These factors are all important when considering how AANDC can improve measurement of ATR processing steps. Given the recent changes to the ATR process plans to increase the use of information management systems to support ATR processing (refer to Section 5.3.1), a clear and consistent definition is required for when AANDC's responsibilities for an ATR actually begin and for when ownership for a particular task should start/end and who is responsible for completion.

Lastly, the audit found only one Region that used a procedural manual to assist staff. This manual was produced to support the implementation of a Treaty Land Entitlement framework agreement. A common, step-by-step procedural manual for the completion of ATR files was not in use among Officers in AANDC in all Regions. The audit found that the ATR portion (Chapter 10) of the Lands Manual was dated (2003), and its content combined policy and descriptions of processing steps, rather than providing step-by-step guidance to the reader. Headquarters noted that there are plans in place to update the ATR portion of the Lands Manual.

Recommendations:

1. The Senior Assistant Deputy Minister (ADM) of Regional Operations (RO) should formalize and update regional governance practices and work with the Assistant Deputy Minister of Lands and Economic Development (LED) to develop a practice to share leading practices, establish common ATR processing steps and milestones, and report on the ATR process at a national level.
2. The Assistant Deputy Minister of Lands and Economic Development should continue updating the Lands Manual to better identify procedural steps.

5.1.2. Priority Setting, Risk Management and Performance Reporting

Managing effectively with limited resources requires that priorities must be set to ensure that efforts are directed first to the most important outcomes for an organization. AANDC Officers that manage ATR files should be aware of which files, or which type of file, is considered a higher priority by senior management at AANDC Headquarters. Effective performance reporting frameworks should address planned operating priorities, establish measures that are relevant to the process, and risks associated with achieving planned priorities should be identified and assessed.

In all four Regions, the audit found that limited national strategic or operating objectives concerning ATRs are received from AANDC Headquarters.

In all Regions, priorities for ATR processing are set as part of a bottom-up annual business planning process. Individual ATR files are prioritized, and annual objectives for the Region are set from these priorities. File prioritization is based on the judgment of ATR management and Officers; i.e. those files where progress towards a milestone (such as Approval in Principle) appears likely in the coming year, are identified as higher planning priorities. The audit found that ATR staff in all four Regions maintained their own prioritized lists of ATR files. In those Regions where a Treaty Land Entitlement (TLE) framework agreement exists (Saskatchewan and Manitoba), priorities and plans are driven by objectives set out in the agreements. TLE agreements set out targets in terms of number of acres to be converted to reserve, so that ATR plans and performance toward those objectives can be measured.

The audit also expected to find that performance measures and measurement strategies are in place, and that results of performance measurement are reported to ATR process stakeholders, who review performance measurement results to analyze, compare and explain variances between actual performance of the ATR process and planned results.

The audit found that performance is measured based on acres converted to reserve in three Regions, while the fourth Region sets objectives based on the number of ATR files completed. The audit found that performance results are measured and reviewed in each Region; however, not all Regions conduct an analysis to explain variances between actual performance of the ATR process and planned results. In one Region where a Framework Agreement exists, performance measurement and reporting is included in the implementation of the agreement. Work plans are circulated to stakeholders (including First Nations), progress against targets is

reported, and variances are discussed. As the nature of ATRs becomes more complex (i.e. urban), and the average size of a parcel of land being added to reserve decreases (as land becomes more scarce), it will become difficult for the Department to continue to use acreage as a primary performance measure. In some Regions, Officers indicated that ATRs intended to enable economic development are perceived to receive more favorable and timely Ministerial approval which has led their office to highlight development possibilities in all ATRs, even though most files processed in that Region were categorized as legal obligations.

Finally, specific risks that may preclude the achievement of ATR objectives are not formally identified or formally mitigated in any of the Regions included in the audit. The approach taken to risk management is largely reactive, and each risk to an individual ATR is managed at the file level. The audit found that DOJ is heavily involved with most ATR files, and that legal risks encountered while processing an ATR file are usually referred to DOJ counsel for advice and direction.

Recommendation:

3. The Assistant Deputy Minister of Lands and Economic Development should review performance measures for continued relevance to allow for more useful performance reporting across all Regions and support Senior Assistant Deputy Minister of Regional Operations in establishing clear priorities for processing ATRs, including identifying possible risks to the achievement of those priorities.

5.2. People

A clear understanding of the roles and responsibilities of each stakeholder involved in the ATR process file is critical to the efficient management of the file. For management and staff within an organization, formal definitions of roles and responsibilities are often found in job classifications and job descriptions. Internal staff rely on tools such as process and procedural manuals, checklists, and formal training programs to maintain competencies required to perform their role and meet their responsibilities. External organizations depended upon by AANDC staff to deliver services in support of an organization typically describe service expectations and performance levels in a formal document, such as a Service Level Agreement (SLA), Memorandum of Understanding (MOU), or Interdepartmental Letter of Agreement (ILA).

5.2.1. Role of Supporting Organizations

The audit expected to find that the role, responsibilities, and service expectations of supporting organizations such as the Department of Justice (DOJ) and Natural Resources Canada (NRCan) related to the processing of ATRs were formally documented in an SLA, ILA, or MOU.

In each Region, an Interdepartmental Agreement was used to define the roles and responsibilities of NRCan in assisting AANDC in ATR processing; however, the audit did not find that a similar SLA or MOU was used to define the roles and responsibilities of DOJ with respect to the processing of ATRs. While the Region provides input on the level and type of support required from DOJ, services are managed centrally by AANDC Headquarters.

The Department has a master agreement with DOJ for legal services with a ceiling dollar value per full time equivalent (FTE), based on the number of hours of service required. This agreement includes a set of national service standards designed to help manage the working relationship. The Policy and Strategic Direction Sector in AANDC tracks requirements for legal services of each sector, including Lands and Economic Development and Regional Operations; sectors are allocated DOJ FTE amounts based on these estimated requirements. AANDC's Regional Operations Sector provides each Region with a ceiling amount for legal services, based on estimates received from the Region. AANDC Regional management establishes a work plan with Regional DOJ, based on Regional priorities, and their allotted DOJ FTE budget. While a quarterly DOJ utilization report is provided to Regions, the audit found that regional work plans did not include references to the national service standards or quality metrics that can be used to assess services received from DOJ. Headquarters reported that a repository of legal precedence for land transactions was being developed.

The audit found differences in how DOJ's role was perceived by ATR staff in Regional offices. Although ATRs and other land transactions account for a large proportion of DOJ services in all Regions (estimates ranged from 80% to 95% of legal services are consumed on land transactions), staff in one Region noted that support from DOJ had declined in recent years, that support and advice were not always provided in an efficient manner, and that advice given to ATR staff was not constructive (i.e. focused on what could not be done, rather than providing alternative strategies). Interviewees expressed concern regarding the overreliance that is sometimes placed on DOJ. In addition, the audit noted operational staff in the regions were not aware of the national service standards regarding the support provided by DOJ, and therefore did not incorporate them into their working relationship with regional DOJ counterparts.

In other Regions, however, the management of DOJ's role by AANDC was more proactive. Priorities related to ATRs were shared with DOJ in three of the four Regions included in the audit, AANDC participates in a DOJ working group on ATRs in one Region, and DOJ and AANDC meet quarterly in one Region to discuss status of ATRs with respect to planned priorities.

Recommendation:

4. The Assistant Deputy Minister of Lands and Economic Development should work with the Senior Assistant Deputy Minister of Regional Operations to clarify the role of the Department of Justice, communicate the national service standard expectations to regional staff, and develop practices to increase the efficiency of DOJ's participation in the ATR process.

5.2.2. Training and Resource Alignment

Although roles and responsibilities of AANDC Regional offices have changed recently as a result of the implementation of the Department's Deficit Reduction Action Plan, and Regions are now responsible for steps in the process formerly conducted at AANDC Headquarters, roles and responsibilities among Regional Office staff are felt to be well understood. The audit expected to find that adequate training, tools, resources and information were available and aligned to support the discharge of responsibilities related to the ATR process.

The audit found that in all Regions, job competencies were defined through job classifications, and management and staff positions were described as having a steep learning curve. Training was recently provided in the fall of 2012 on new Regional responsibilities, and was well received in all Regions. Outside of this recent experience, however, most training on ATR processing is delivered informally through consultation with peers and supervisors. Interviewees noted that on-the-job training techniques like shadowing and mentoring are used to train new employees in a Regional Office. The audit found that no formal training plans or competency frameworks specific to ATR roles and responsibilities have been developed for staff. In addition, new national ATR support centers established in December 2012 are being staffed with new resources who have very limited, or no ATR experience, and at the time of the audit, had not received any training on ATR processing.

Finally, the audit found that while objectives and priorities for ATR processing are established by the Lands and Economic Development Sector, LED does not control staffing levels. Allotment of resources to regional offices for staffing and other operational spending is controlled by the Regional Operations Sector. Organizational structures vary among Regions, and capacity requirements have not been analyzed by AANDC Headquarters. Some Regions process a far greater number of ATR proposals than other Regions, with far fewer staff. Some Regions have staff dedicated to ATRs while in other Regions, responsibility for ATRs is shared among Officers who also process other types of land transactions.

Recommendation:

5. The Senior Assistant Deputy Minister of Regional Operations should work with the Assistant Deputy Minister of Lands and Economic Development to review alignment of staffing level requirements and capacity to the volume of activity and priorities.

5.3. Stewardship

5.3.1. Information Management Systems

Effective information management systems should support the execution of business processes by maintaining a common data structure for relevant processing information, promoting the accuracy and consistency of data captured by applying validation rules at the time information is captured, enforcing dependencies in the sequencing of processing steps, and recognizing key milestones, due dates and other performance information to enable effective reporting on the business process. Given that the ATR process is managed by each individual regional office, it is critical that the department have a reliable national system to allow for reporting and decision-making.

The audit expected to observe that information management systems meet the needs of users, are used consistently, and support the ATR process. The National ATR Tracking System (NATS) is a national software application that was developed by AANDC in response to recommendations made by the Auditor General in its 2005 report entitled *Meeting Treaty Land Entitlement Obligations*. The Auditor General recommended that AANDC "...develop and implement a file tracking system that can provide accurate information on results achieved (for

example, number of acres selected, number of acres converted). The file tracking system should be designed to flag barriers and risks to individual files so that remedies may be introduced and files can be completed in a timely and efficient fashion...".

The audit found that while NATS has been implemented nationally, the system remains in limited use among most regional offices. In one Region, for example, all data entry for active ATR files is delegated to a single user in the office; however, the audit found that all users who manage ATR files in the Region maintain their own spreadsheet-based file tracking tool, and consider information recorded in these personal tools to be most complete and most accurate for reporting status of a file. Spreadsheet-based file tracking tools and file checklists were found to be used in all Regions included in the audit.

The audit also found that the NATS system does not adequately support the ATR process by defining required tasks, by tracking progress on an ATR file, by raising alerts, or by linking an ATR record to supporting documents in electronic document repositories. Users of the system in all Regions regarded the input and maintenance of ATR file information in NATS as additional work, since the system was not perceived to be helping officers to actively manage ATR files.

The audit also found inconsistency among users' interpretation of the purpose of some data fields, and in which optional data fields should be used to in the processing of a file. This inconsistency makes it more difficult to analyze the duration of processing steps. Data fields that are interpreted differently will be populated with varying information, which will adversely impact the ability to roll up the information, and report out nationally in a way that will ensure relevant and reliable information. Only one Region was found to be using NATS's reporting utility, and this usage has only occurred since November 2012, when a custom report was prepared for the Region's use.

Lastly, Regions also expressed concern regarding the amount of work still required to provide First Nations with the ability to review the status and progress of their ATR proposals in NATS. The audit found significant risk in the reasonability and timeframes of the department's action plan to pilot web-based access to a limited set of First Nations in March 2013 given the limited data that was entered into NATS at the time of the audit.

Recommendation:

6. The Assistant Deputy Minister of Lands and Economic Development should clarify user needs and revise the National ATR Tracking System (NATS) application to provide ATR file management support based on clearly defined processing milestones, data fields, and reporting requirements. The Assistant Deputy Minister of Lands and Economic Development should also delay First Nation's access to NATS until the issues surrounding data completeness and accuracy are addressed.

6. MANAGEMENT ACTION PLAN

Recommendations	Management Response / Actions	Responsible Manager (Title)	Planned Implementation Date
<p>1. The Senior Assistant Deputy Minister (ADM) of Regional Operations (RO) should formalize and update regional governance practices and work with the Assistant Deputy Minister of Lands and Economic Development (LED) to develop a practice to share leading practices, establish common ATR processing steps and milestones, and report on the ATR process at a national level.</p>	<p>Governance structures have been implemented for all ATR streamlining efforts and include the formalization of process, documents and templates. Governance structures have been developed with clearly outlined roles and responsibilities for land submissions that cover HQ, Regions, Corporate Secretariat, Regional Support Centres, CFO, LED and RO. Training for regional offices on ATR streamlining was completed on December 1, 2012. Regular reporting and monitoring occur through monthly calls with all LED directors and managers and the NATS system is used as a means for reporting on ATR submissions. Training and guidelines will be provided to all regions during 2013-14 for the roll out of the new ATR policy.</p> <p>Regional Service Centres will share best practices. Regional LED Directors will be asked by RDGs (through EPMs and other tools) to provide regular updates on reporting and monitoring on ATRs, especially major program changes.</p>	<p>Senior Assistant Deputy Minister, Regional Operations</p> <p>Assistant Deputy Minister, Lands and Economic Development</p>	<p>June 2013 (ATR Policy)</p> <p>March 2014 (regional training on new ATR policy)</p>

	RO and LED will seek feedback from regions that are in the midst of implementing lands streamlining changes.		
2. The Assistant Deputy Minister of Lands and Economic Development should continue updating the Lands Manual to better identify procedural steps.	Revisions to Chapter 10 of the Land management manual are currently underway. This will include consultation with RDGs.	Assistant Deputy Minister, Lands and Economic Development	Sept 2013
3. The Assistant Deputy Minister of Lands and Economic Development should review performance measures for continued relevance to allow for more useful performance reporting across all Regions and support Senior Assistant Deputy Minister of Regional Operations in establishing clear priorities for processing ATRs, including identifying possible risks to the achievement of those priorities	Performance measures will be reviewed by LED and RO to ensure relevance. A process for establishing clear priorities will be addressed in the new ATR policy. As required, LED officials will continue to work with RO Senior Management to identify obstacles, solutions and priorities.	Assistant Deputy Minister, Lands and Economic Development Senior Assistant Deputy Minister, Regional Operations	March 2014
4. The Assistant Deputy Minister of Lands and Economic Development should work with the Senior Assistant Deputy Minister of Regional Operations to clarify the role of the Department of Justice, communicate the national service standard expectations to regional staff, and develop practices to increase the	DOJ will comply with existing service standards to ensure that they are being implemented and that any impediments are identified and dealt with in a timely manner. If service standards are not being met on a broad basis, LED, PSD, DOJ and RO will discuss and clearly identify the time delays and examine solutions and make recommendations as required. To ensure national consistency, LED and RO in consultation with DOJ, will develop a	Assistant Deputy Minister, Lands and Economic Development Senior Assistant Deputy Minister, Regional Operations	Sept 2013

<p>efficiency of DOJ's participation in the ATR process</p>	<p>checklist that clarifies the role of DOJ and identifies specific issues that may require legal review.</p>		
<p>5. The Senior Assistant Deputy Minister of Regional Operations should work with the Assistant Deputy Minister of Lands and Economic Development to review alignment of staffing level requirements and capacity to the volume of activity and priorities.</p>	<p>ADM LED and DG's as needed to work with SADM RO and RDGs to identify opportunities for improved resource alignment.</p>	<p>Senior Assistant Deputy Minister, Regional Operations</p> <p>Assistant Deputy Minister, Lands and Economic Development</p>	<p>March 2014</p>
<p>6. The Assistant Deputy Minister of Lands and Economic Development should clarify user needs and revise the National ATR Tracking System (NATS) application to provide ATR file management support based on clearly defined processing milestones, data fields, and reporting requirements. The Assistant Deputy Minister of Lands and Economic Development should also delay First Nation's access to NATS until the issues surrounding data completeness and accuracy are addressed.</p>	<p>The need for additional enhancements will be examined. RO and LED will assess the timing and feasibility of opening NATS to First Nations. ADM LED will seek ongoing SADM RO input on NATS enhancements.</p>	<p>Assistant Deputy Minister, Lands and Economic Development</p>	<p>Sept 2013</p>

Appendix A: Audit Criteria

The audit objective was linked to audit criteria developed in alignment with Core Management Controls. Additional audit criteria were developed to address specific risks identified in the planning phase.

Audit Criteria	
Governance	
1.1	AANDC has established effective oversight bodies that meet regularly and receive key information to allow for effective monitoring of the ATR process.
1.2	Strategic and operating objectives and priorities for the ATR process exist and are effectively communicated to AANDC staff in regional offices.
People	
2.1	There are clearly defined roles and responsibilities for AANDC personnel and other stakeholders who participate in the ATR process.
2.2	AANDC provides employees in Headquarters and regional offices with the necessary training, tools, resources and information to support the discharge of their responsibilities related to the ATR process.
Risk Management	
3.1	AANDC management identifies specific risks that may preclude the achievement of ATR objectives and communicates relevant plans.
Stewardship	
4.1	ATR processing steps are planned, initiated and completed in a timely manner, recorded accurately, and the documentation of each action is complete. Exceptions to required policies and procedures are identified and appropriate actions are taken.
4.2	Adequate operational practices are in place to ensure accuracy and quality.
4.3	Appropriate and timely reporting on the status and results of ATR transactions is communicated.
4.4	Information management systems meet the needs of users, are used consistently, and support the ATR process.
Results and Performance	
5.1	Performance measurement strategies are in place, and results of performance measurement are documented, and reported to ATR process stakeholders.
5.2	Performance measurement results are reviewed to analyze, compare and explain variances between actual performance of the ATR process and planned results.