Solid Waste Management
Municipal-Type Service Agreements (MTSA's)

Saskatoon, July 17-18, 2019

FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE

Presentation Overview

- What is an MTSA
- Needs Assessment & Feasibility Study
- MTSA Development Process
- Key Elements of an MTSA
- Funding

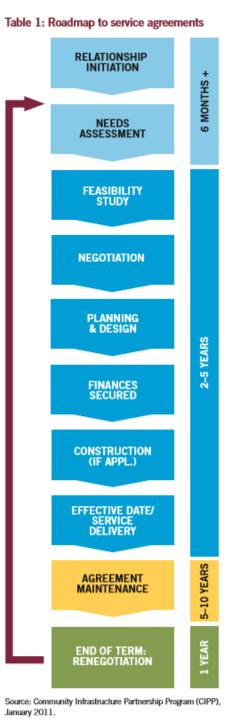# Needs Assessment & Feasibility Study

- Review existing assets & services. Do they meet existing and future needs?

- Strategize

- Compare costs & options

- Is MTSA an option?

- Include ISC early on for funding and support

- Identify Infrastructure & equipment upgrades prior to MTSA

Process:

Table 1: Roadmap to service agreements

RELATIONSHIP INITIATION	6 MONTHS +	
NEEDS ASSESSMENT		
FEASIBILITY STUDY	2–5 YEARS	
NEGOTIATION		
PLANNING & DESIGN		
FINANCES SECURED		
CONSTRUCTION (IF APPL.)		
EFFECTIVE DATE/ SERVICE DELIVERY		
AGREEMENT MAINTENANCE	5–10 YEARS	
END OF TERM: RENEGOTIATION	1 YEAR	

Source: Community Infrastructure Partnership Program (CIPP), January 2011.

https://data.fcm.ca/documents/tools/cipp/CIPP_Toolkit_Unit_1_EN.pdf Page 10

Municipal & Land Use Planning

Long-range Planning

Municipal Official Community Plans (OCP)

First Nation Comprehensive Community Plans

First Nation Land Use Plans

Early engagement

Local gov't Service providers need to anticipate providing services

Will likely need to increase capacity to serve communities outside their boundaries

Internal Land Use Planning

Think about what services are needed

Engage with service providers during LUP process

Know Your Neighbor

- Contact neighboring communities –
  - E.g. Managers of solid waste
  - Learn what services are being provided
  - Determine the types of contracts & which companies providing service
  - Explore potential partnerships
  - Understand the level of service received by off-reserve households
  - Know the rate paid by non-reserve households
- Review municipalities bylaws
- Identify ways FN can help municipality ex. Capital cost contributions
- Assess: services & contractors, Blue Box materials, Total collection & processing costs, disposal fees, willingness to pursue MTSA

Negotiating a Servicing Agreement

Build Trust & Understanding

Strengthens relationships

Mutually beneficial

Documented in a Protocol or MOU

Political

Technical

Town of Peace River & Regional Municipalities
https://www.youtube.com/watch?v=KaV1zumJMo0

Resources Available for Relationship Building

- **Saskatchewan**: The **Municipal Capacity Development Program (MCDP)** was created to promote growth, cooperation and community development through inter-municipal partnerships in Saskatchewan. https://sarm.ca/resources/municipal-capacity-development-program-mcdp

- **Alberta**: **Collaborative Governance Initiative (CGI)** helps municipalities develop collaborative protocols and processes, which can include engagement with adjacent First Nations. with adjacent First Nations. Grant funding for the assessment phase can reach $50,000, while grant funds for the implementation phase can reach $30,000 on a matching basis. https://www.alberta.ca/collaborative-governance-initiative.aspx

- **Federation of Canadian Municipalities FCM**: Community Economic Development Initiative https://fcm.ca/en/programs/first-nation-municipal-collaboration/community-economic-development-initiative

Video: FCM's First Nations-municipal collaboration

https://fcm.ca/en/programs/first-nation-municipal-collaboration

Preparing to negotiate: Key Questions

- On what services am I willing to cooperate?

- What are my main concerns?

- What will my partner's main concerns be?

- How am I prepared to address my partners concerns?

- What are my communities' main restrictions?

- What am I looking for in this partnership in terms of communication?

- Is there a timeline in which I would like to try achieve our objectives?

- What does success look like to me?

Memorandum of Understanding

- May be good if you're:
  - Starting a new MTSA or a major update to an existing one
  - Negotiating a capital contribution from ISC
  - Planning a major upgrade to infrastructure
  - Have a history of poor communication or misunderstanding
  - Had major staff turnover & working relationship between representatives is new.
- Sets out:
  - Point person, Other parties involved, Communication:
  - general principles of working together,
  - When & how often to communicate/ meet
  - Info sharing
- Plan for developing MTSA:
  - How managing pre-work – providing info & sharing work or studies
  - Sharing info on political level
  - Timeline for negotiating MTSA
  - Resourcing

Finding a Contractor

- When deciding on a service agreement with private contractors, you'll more than likely go through an RFP process to determine which contractor your community will select to provide services.

Issuing a Request for Proposals

1. Pre-planning

Determine:
- Purpose of Plan and need for consultant
- Scope of work
- Budget
- Specific deliverables
- Criteria consultants must meet (e.g. certified planner, experience with First Nations Lands Governance)
- RFP Review Panel
- RFP Scoring criteria and review process

2. RFP Drafting

Terms of Reference:
- Purpose of RFP
- Introduction, community & background info
- Study area
- Available resources
- Specific deliverables
- Work plan requirements
- Capacity building requirements
- Contract details
- Proposal format
- Evaluation process & criteria
- Submission details & deadline

3. RFP Issued

- Distribution
- Q&A
- Receive submissions

4. Review and Award Contract

- Strike review panel
- Score RFP's
- Select finalists
- Conduct interviews and reference checks
- Clarify any gaps in information
- Select consultant & award contract
- Negotiate final contract
- Notify other bidders
- Begin project!

Consultant Evaluation Matrix example

Identify what values matter to you when reviewing a proposal. Rank each value in order of it's importance to you (e.g. if price is the biggest factor, rank that value as #1). Score each consultant's proposal against each value using a score of 1-5, and then multiply that score based on the importance of the value (e.g. a score of 3 for consultant #1 on Planning experience would equal 15 points, as planning experience is given a multiplication factor of 5). Tally up the total.

Always compare the results with your gut feeling!

Value	Importance (1-5) (1 = lowest importance, 5 = highest importance)	Consultant #1 Company name Contact info	Consultant #2 Company name Contact info	Consultant #3 Company name Contact info
Planning Certification & experience	5	3 (15)	4 (20)	5 (25)
Experience with Land Code Governance	4	2 (8)	2 (8)	3 (12)
Reputation & reliability	3	2 (6)	4 (12)	3 (9)
Price	2	5 (10)	4 (8)	3 (6)
Proposal meeting RFP requirements	1	2 (2)	3 (3)	5 (5)
TOTAL SCORE		**41**	**51**	**57**

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Key Elements

of an MTSA

1. Term of agreement

2. Renewal terms

3. Service area

4. Level of service

5. Roles & Responsibilities

6. Rates & Payment

7. Suspension & Termination

8. Notification

9. Growth & Development

10. Dispute Resolution

11. Communication

http://www.pathwaysforservice.ca/wp-content/uploads/2016/05/2016-05-MTSA-Garbage-Collection-Handbook-FINAL.pdf

1. Term of Agreement

It determines how long of a commitment you and your service provider are agreeing to (to receive / provide services).

Garbage collection and disposal agreements tend to be for a shorter period of time than other service agreements, typically one to two years.

A shorter agreement gives greater flexibility (to try out provider(s), renegotiate terms, etc.),

A longer agreement provides more stability and certainty that your service needs will be taken care of for the foreseeable future.

Longer term agreements are preferred if there has been investment in infrastructure or equipment.

Agreements with longer terms may contain schedules that are updated more frequently (e.g. rates, service area, etc.).

2. Renewal Terms

Renewal terms make it clear whether the agreement can be renewed, and the conditions for renewing it.

- It reduces the administration time and effort to develop new agreements.

- It maintains consistency in the terms of the agreement.

- it ensures both parties are on the same page and are committed to the relationship.

- Upon the renewal of any agreement, it is beneficial to review the terms and make any necessary adjustments prior to renewing. Consider including a clause in the original agreement to make this clear.

3. Service Area

Service area identifies what specific single family or multi-family residences, community facilities, commercial, industrial, or institutional buildings, or areas in the community will receive the garbage collection services.

Why it's important

- Ensures the First Nation, residents, and the service provider are all clear on who will be (or won't be) receiving service.

Key decisions

- How many houses and / or buildings are there in the service area?
- Are there any buildings or areas that are excluded?

Key considerations

- Your service agreement should include a map or specifically listed addresses.
  - You may want to include maps or addresses in a schedule to the agreement, which will make it easer to update without changing the rest of the agreement.

4. Level of Service
Level of service refers to the quality of the services being provided and paid for.

why it's important

It determines that amount and quality of service (i.e. level) that will be provided and received.

It can vary based on each party's ability to pay for or provide service, or other factors.

key decisions

What materials do you need to be collected and disposed of?

How will the materials be stored for collection?

How often do you require service?

Are there limits to the amount of service? What about excess?

Who will maintain the garbage and/or recycling bins?

5. Roles & Responsibilities

Roles and responsibilities clearly state what each party is responsible for under the agreement.

why it's important

- Ensures that all parties know what they are responsible for so that the agreement functions as it's intended.

What are the responsibilities of the First Nation?	What are the responsibilities of the service provider?
Notification Liability insurance Payment on-time and in-full Access to reserve and pick-up areas Maintaining bins and storage conditions Updating service area	Service provision on-schedule and in-full Provisions of equipment and staff (vehicles, drivers, etc.) Invoicing Notification Liability insurance

6. Rates & Payment

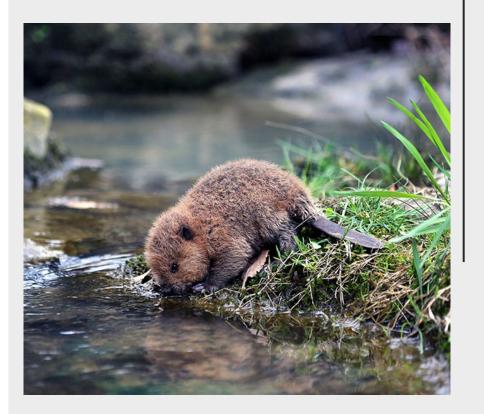Clearly states the cost of service (rates) and procedures for payment.

why it's important

- Explains how costs are determined / what you're paying for and allows for budgeting.

key decisions:

- What is the structure of the rate for service?
- Are tipping fees included or separate?
- Who will supply and maintain the bins and what will the cost be?
- How does the rate compare with similar municipal users?
- Will fees stay the same for the duration of the agreement or will they increase each year?
- When is invoicing to occur?
- When must payment be received?
- How must payment be made?
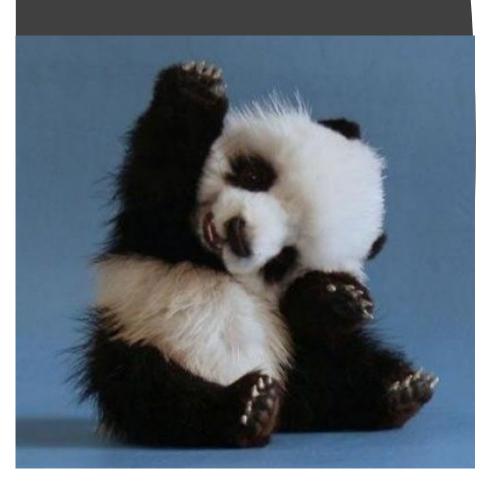
7. Suspension and Termination

why it's important

- Allows parties to take action if agreement terms are not met.
- Makes the suspension or termination process clear and fair to both parties.

Key Decisions:

- Who can suspend or terminate the agreement?
- Under what conditions can services be suspended/terminated?
- What are the procedures for suspension / termination?
- What type of advanced notice is required prior to termination of the agreement? 60 days, 120 days, Other?
- How is notice given?

8. Notification

Notification outlines when each party needs to contact one another and the procedures for doing so.

It ensures clear communication between parties and a written record of key decisions, changes, issues, etc.

What conditions is notice required? Amendments to agreement or schedules, Changes in service area, Invoicing, Renewal, Violations, Suspension / Termination of Services.

Notice provisions are more commonly included in agreements with municipalities, however it is important that all agreements have clear notification provisions to ensure clear communication and a written record of key decisions.
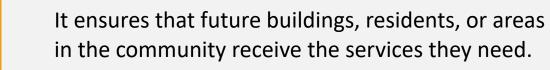
9. Growth & Development

Growth and development establishes the conditions under which additional units, buildings, and areas can be added to the service agreement.

It identifies a process for figuring out if the growth and development can be serviced with the existing system, or if additional capacity is required.

It helps both parties **plan for the future.**

It ensures that future buildings, residents, or areas in the community receive the services they need.

10. Dispute Resolution

Establishes procedures for when there is a disagreement between the parties.

Why it's important

- It helps ensure that disagreements are resolved in a fair and balanced manner, so that both parties may move forward.

11. Communication

States how the parties of the MTSA will formally communication with one another over the lifetime of the agreement

Proactive planning to meet with your service partner.

Regular communication helps you: Stay up to date on service delivery, Discuss and resolve issues early, before they become problems, Share information, especially if there are staff changes, Build rapport and establish trust, **Avoid confusion**

Identifies the primary contacts for each party, Contact Information

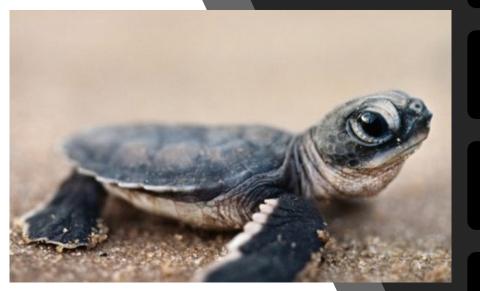**How often meetings are to occur, What topics need to be discussed** regularly

12. Legal Review

MTSA's are legal documents, they require legal review

Ensure consistency

Confirm the specifics of the services to be received

You should get a legal review:

Starting a new MTSA

Making major changes to an existing MTSA
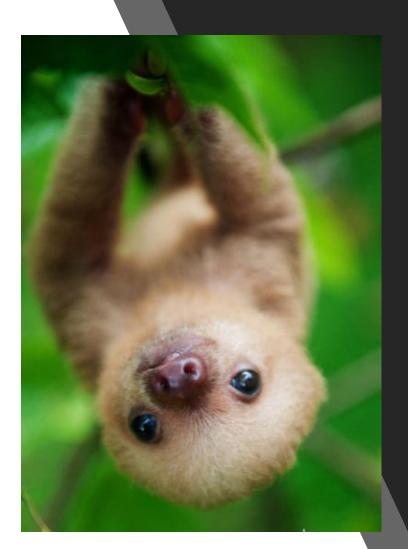
Planning large capital investments

Once your community & partner agreed on the components of your MTSA, a lawyer can draft & take care of the standard details.

Capital Funding Opportunities

- The Green Infrastructure Fund https://www.infrastructure.gc.ca/prog/programs-infc-summary-eng.html#gif

- FCM's Green Municipal Fund FCM's Green Municipal Fund https://fcm.ca/en/funding/gmf/capital-project-waste-diversion

- Northern Capital Grants Program Northern Capital Grants Program https://www.saskatchewan.ca/government/municipal-administration/funding-finances-and-asset-management/funding/northern-capital-grants-program

ISC Funding

While Indigenous Services Canada is not a party to the agreement, the department provides funding to assist First Nations to cover the fees.

The ISC funding is based on cost-sharing levels between ISC & First Nations (Up to 80%). The First Nation will need to cover the remaining 20%

Only the portion of an MTSA that services First Nations band members residences is eligible for ISC funding. This can include band owned buildings that receive annual O&M from ISC, as a fundable asset.

ISC Funding

- A community's solid waste management plan must indicate what portions of the community waste stream is eligible for support from ISC and what portion is not eligible.

ISC will support the costs for waste generated from the following:	ISC will not support waste generated from the following:
Residents Community buildings (band offices, recreational centres, cultural centres) Schools and day care centres	Industrial source waste Commercial source waste (gas stations, stores, warehouses, casinos) Institutional source waste (health clinics, training facilities) Private, non-First Nation source waste (such as Health Canada offices, privately owned buildings) Cottage/leased lots

ISC: Responsibilities of Parties

Responsibilities of First Nation:	Responsibilities of Municipality/Contractor:	Responsibilities of ISC:
Community notifications Liability insurance Payment on-time & in-full Provide access to reserve and pick-up areas Maintain transfer station Maintain bins Updating service areas	Responsibilities of Municipality/Contractor: Service provision on schedule and in-full Provision of their equipment and staff Invoicing Notifications Liability insurance	Review service agreement documents Respond to requests for new service agreements and renewals Confirm funding to support service agreement Enter into a funding agreement with First Nation Conduct service agreement assessment and request for renewals Review reporting provided by First Nation Update ICMS database and service agreements

ISC Funding eligibility

Eligible Solid Waste Services	Ineligible Solid Waste Services
Solid waste Collection from Transfer Station Solid Waste Disposal (including hauling and transportation fees) Solid Waste Landfill Tipping fees Hazardous waste diversion Recycling composting	Services that are already included and funded under ISC O&M Industrial

INAC - FNIF

- **First Nation Infrastructure Fund (FNIF)** – Improves & increase public infrastructure on reserves, crown land, also **off-reserve that are cost shared with non-FN partners** (Municipalities)

- No need to apply, projects identified through FNIPs annual process & priority ranking (may identify projects that are not documented in FNIP, screened for eligibility & assessed by same criteria.)

- Priority given to projects that:
    - Have a regional impact by providing a benefit for more than one FN and/or cross regional boundaries
    - Are cost-shared (ex. Neighboring municipality or private sector)
    - Align with regional priorities (Munic. Prov. Fed)
    - Demonstrate the potential to partner with neighboring communities.

Additional resources

- Pathways – MTSA Handbook specifically for SW http://www.pathwaysforservice.ca/wp-content/uploads/2017/06/2017-06-12-MTSA-Solid-Waste-Checklist_Website.pdf

- Federation of Canadian Municipalities https://data.fcm.ca/documents/tools/cipp/CIPP_Toolkit_Unit_1_EN.pdf

- New MTSA guide will be coming out from ISC

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For more information, please visit:
www.labrc.com

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