The purpose of this document is to describe the process for the First Nations Health Council (FNHC) to oversee negotiations pursuant to the Tripartite Framework Agreement on First Nation Health Governance (“Framework Agreement”) and for the interim FNHA to support that negotiations effort.

Through Resolution 2011-01 passed by First Nations at Gathering Wisdom for a Shared Journey IV, First Nations provided clear direction on next steps to the FNHC, and approved the Tripartite Framework Agreement on First Nation Health Governance, and the Consensus Paper: British Columbia First Nations Perspectives on a New Health Governance Arrangement. With respect to the negotiations required to accomplish the transfer of First Nations health program design and delivery to First Nations control, First Nations directed that the FNHC:

- Provide dedicated political leadership for the implementation of the health plans, and politically oversee the transition of First Nations and Inuit Health-BC Region to a new First Nations Health Authority (Consensus Paper)
- Direct the First Nations Health Society to sign the Framework Agreement, and to take steps to become the interim First Nations Health Authority and begin the early steps in implementing the new health governance arrangement (Resolution 2011-01)
- Develop a strategy and approach for the conclusion of sub-agreements to the Framework Agreement, and share this strategy and approach with First Nations for feedback (Resolution 2011-01)
- Engage with federal and provincial governments to finalize the Health Partnership Accord (Resolution 2011-01)
- Engage with federal and provincial governments to prepare the implementation plan and strike the implementation committee Resolution 2011-01)
- Complete the negotiation for the transfer of First Nations and Inuit Health-BC Region to a new First Nations Health Authority within two years of the signing of the Framework Agreement, or such later time as Canada and the FNHA may agree (Framework Agreement)

This document describes the FNHC’s approach to achieving the above direction of First Nations, by establishing processes and expectations for the following elements of the negotiations process: Guiding Documents; Roles and Responsibilities; and, Preparation, Mandating and Reporting Process.

GUIDING DOCUMENTS

Consensus Paper

On May 26, 2011, by Resolution 2011-01, First Nations in BC adopted a Consensus Paper: British Columbia First Nations Perspectives on a New Health Governance Arrangement. The Consensus Paper establishes seven directives that describe the fundamental standards and instructions for the new health governance arrangement – all agreements or structures relating to the new First Nations health governance arrangement must be consistent with the standards and requirements set out in this consensus paper, which are as follows:

1. Community-Driven, Nation-Based
2. Increase First Nations Decision-Making and Control
3. Improve Services (Consistent with the Principle of Comparability)
4. Foster Meaningful Collaboration and Partnership
5. Develop Human and Economic Capacity  
6. Be Without Prejudice to First Nations Interests (including but not limited to Aboriginal Title and Rights, Treaty Rights, self-government agreements, court proceedings, the fiduciary duty of the Crown, and existing community health funding agreements)  
7. Function at a High Operational Standard

The sub-agreements reached through the negotiations must be consistent with the Consensus Paper, including the Directives.

**Resolution 2011-01 Workplan**

By Resolution 2011-01, First Nations directed the First Nations Health Council to develop a workplan in consultation with Regional Caucuses for next steps in implementing the new health governance arrangement. That workplan has been drafted and circulated to Regional Caucuses for review and feedback by December 31, 2011. This Negotiations Process document is in alignment with that Workplan (it describes in greater detail the work required to implement the Resolution 2011-01 Workplan specifically in the area of negotiations).

**Tripartite Framework Agreement on First Nation Health Governance**

First Nations approved the *Tripartite Framework Agreement on First Nation Health Governance* ("Framework Agreement") which clearly sets out agreement amongst the Parties on key elements of the new health governance arrangement, and specific criteria and standards for the following sub-agreements to be negotiated: Human Resources and Record Transfer; Information Management and Information Sharing; Non-Insured Health Benefits; Assets and Software; Accommodation; Capital Planning and First Nations Health Facilities; and, Alignment or Termination of Canada’s Contribution Agreements. The sub-agreements reached through the negotiations process must be consistent with the Framework Agreement.

**ROLES & RESPONSIBILITIES**

The roles and responsibilities of the various groups involved in the negotiations process are as follows.

*Note on Terminology: The term “interim First Nations Health Authority (interim FNHA)” is used throughout this document. Through Resolution 2011-01 approved by First Nations at Gathering Wisdom IV, First Nations called upon the existing First Nations Health Society to take steps to become the interim First Nations Health Authority. This work is in-progress. Therefore, for the purposes of this document, the term “interim First Nations Health Authority” applies to the existing First Nations Health Society Board of Directors and staff, and to a future interim First Nations Health Authority Board of Directors and staff.*

**First Nations and Regional Caucuses**

Through Gathering Wisdom IV Resolution 2011-01, First Nations have provided the mandate and direction for the FNHC to conclude negotiations pursuant to the Framework Agreement. Throughout the negotiations process, the role of First Nations and Regional Caucuses includes:
• Receiving reports from the FNHC on the status of negotiations and providing feedback on those reports
• As per the processes described in this document, providing guidance and advice to the FNHC on their interests in the subject matters under negotiation
• Volunteering for subject-matter task groups as may be established on specific negotiations matters and issues

**First Nations Health Council**

By Resolution 2011-01, the FNHC has the mandate to oversee and conclude the negotiations and implementation of the Framework Agreement (inclusive of the negotiations described in this document), including appointing and mandating a negotiation and support team.

The FNHC’s role in providing oversight to the negotiations includes:

- Reviewing, discussing and approving recommendations relating to the negotiations process, mandates, and other key decision points
- Receiving regular reports and updates on the status of negotiations and providing guidance as required
- Reporting to their respective regional caucuses and First Nations in their respective regions about the status of negotiations and implementation of the Framework Agreement
- Approving any agreements and documents or direct the interim FNHA for signature as the case may be

In addition, individual members of the FNHC may be called upon by the FNHC or the FNHC Chair to provide support and assistance in negotiations and advocacy relating to the negotiations.

**First Nations Health Council Governance Working Group**

In accordance with its responsibility to appoint a negotiation and support team, the FNHC has established a Governance Working Group (GWG) to implement the direction of the FNHC in the negotiations process.

The GWG is not a decision-making body. It implements direction from the FNHC, including by:

- Providing guidance and direction to the negotiations process consistent with the direction provided by the FNHC
- Participating in tripartite negotiations as required
- Working with the interim FNHA to assemble the negotiations teams required, and provide guidance to negotiations teams and contracted technical expertise
- Developing recommendations, mandates and other key decision documents and bringing these forward to the FNHC for review, discussion, and approval
- Supporting the development of draft agreements and other documents for tripartite negotiations
- Keeping up-to-date on the status of negotiations
- Reporting to regional caucuses and First Nations about the status of negotiations and implementation of the Framework Agreement overall

**First Nations Health Council Chair**
In accordance with its responsibility to appoint a negotiation and support team, the FNHC has identified its Chair as its Chief Negotiator. The FNHC Deputy Chair will support the Chair in this role (including acting in the capacity of Chair when the Chair is unavailable).

The Chair (including the Deputy Chair) does not make decisions independent of the FNHC. His or her role includes implementing the direction of the FNHC and the Guiding Documents on a day-to-day basis, including through:

- Providing leadership to the negotiations process to ensure ongoing progress and that timelines and milestones are met, and that issues with tripartite partners and amongst the FNHC are resolved
- Providing day-to-day guidance to the negotiations process and support teams, including providing direction to staff and contracted technical expertise and for the preparation of documents, research, analysis, etc.
- Leading discussions amongst the GWG to ensure that the interests of the FNHC as described in approved mandate statements are met through negotiations
- Leading, or delegating leadership, in tripartite negotiations meetings and working groups (the Chair will have standing membership in all tripartite working groups and participate as determined / required)
- Keeping fully updated on the status of all elements of the negotiations (including the content of all draft agreements)
- Reporting regularly on progress to the FNHC and GWG, and receiving direction from the FNHC and guidance from the GWG
- Acting as the primary FNHC contact for, and liaising regularly with, federal and provincial negotiators
- Liaising with the interim FNHA Board of Directors and others on the negotiations process

### Interim First Nations Health Authority Board of Directors

The interim FNHA Board of Directors is the legal entity responsible for supporting the activities of the FNHC and FNHA and is legally bound to meet the requirements of the Framework Agreement.

The role of the interim FNHA Board of Directors includes:

- Executing the agreements as directed by the interim FNHA members (the FNHC)
- Meeting the operational and structural requirements as established in the Framework Agreement
- Providing advice to the FNHC, GWG and the Chair on the negotiations
- Identifying, monitoring and approving the resources required for the negotiations process

### Interim First Nations Health Authority Chief Executive Officer

The CEO is a senior advisor to the FNHC (including the GWG and the Chair) in the negotiations process and is responsible on behalf of the interim FNHA to fulfill the FNHA’s legal and operational requirements under the Framework Agreement and various other legal and funding agreements.

The role of the CEO includes:
Providing advice to the FNHC, the GWG and the Chair on the negotiations process and subject matter
Working with the FNHC Chair and engaging in negotiations as required to ensure that the interim FNHA legal and operational issues are addressed through the negotiations process, including that negotiations allow for an integrated and successful transition from FNIH to the FNHA
Participating in tripartite negotiations meetings and working groups (the CEO will have standing membership in all tripartite working groups and participate as determined / required)
Keeping fully updated on the status of all elements of the negotiations (including the content of all draft agreements)
Working with the FNHC Chair, providing strategic direction as required to negotiations teams, such as providing direction to staff and contracted technical expertise and for the preparation of documents, research, analysis, etc.
Reporting to the interim FNHA Board of Directors
Providing sustainable and effective human and financial resources to fulfill negotiation requirements

**Negotiations Teams / Senior Negotiators**

Senior negotiators may be identified, or subject-matter negotiations teams may be struck, as required to carry out the direction of the FNHC, GWG, and the Chair in the detailed negotiations process and meetings.

The role of the Negotiations Teams / Senior Negotiators includes:

- Providing technical advice to the FNHC, the GWG and the Chair on the specific subject matter of sub-agreements
- Participating in tripartite negotiations meetings and working groups to carry out the technical work on the sub-agreement development and negotiations
- Preparing documents and other materials as requested by the FNHC, the GWG, the Chair and the CEO
- Reporting to the Chair, GWG, and/or FNHC as required

**First Nations Health Council Secretariat**

The FNHC Secretariat is responsible for providing support to the FNHC, GWG and the Chair throughout the negotiations process, including logistical coordination and management.

The role of the FNHC Secretariat includes:

- Providing technical advice to the FNHC, the GWG and the Chair on the negotiations process overall and specific subject matter as required
- Participating in tripartite negotiations meetings and working groups as required
- Providing technical oversight to the negotiations process overall, including developing and monitoring the negotiations workplan(s)
- Preparing documents and other materials as requested by the FNHC, the GWG, the Chair and the CEO
- Overseeing and providing logistical support to the tripartite negotiations process, the FNHC, the GWG and the Chair as required
• Communicating and preparing communications materials and updates about the negotiations for use of First Nations, the FNHC, the interim FNHA, tripartite partners, and others as required
• As needed, working with the interim FNHA staff to support the effective management of contracts for negotiations technical support

**Interim First Nations Health Authority Staff**

The FNHC and FNHC Secretariat draw upon negotiations support and expertise from the staff at large of the interim FNHA as required, including for negotiations support and support for the operations of the implementation committee.

The role of interim FNHA staff includes:
• Providing technical advice to the FNHC, interim FNHA, the GWG and the Chair on specific subject matter and the negotiations process overall
• Participating in tripartite negotiations meetings and working groups as required
• Preparing documents and other materials as requested by the FNHC, the GWG, the Chair and the CEO
• Preparing materials and updates to First Nations, the FNHC, the interim FNHA, tripartite partners, and others as required
• Supporting the roles and functions of the FNHC Secretariat as required, including providing logistical support to the tripartite negotiations process, the FNHC, the GWG and the Chair as required
• Providing administrative management of contracts for negotiations technical support as needed
• Providing technical support to the Implementation Committee and other groups as needed

**Legal Counsel**

Participation of legal counsel will be required throughout the negotiations process.

The role of legal counsel is to:
• Provide legal advice to the FNHC, the GWG, the Chair, and the CEO
• Participate in tripartite negotiations meetings and working groups
• Prepare documents and other materials as requested by the FNHC, the GWG, the Chair and the CEO

**Technical Support**

A number of subject-matter experts may be contracted to provide support to specific negotiations.

The role of this technical support is to:
• Provide expert technical advice to the FNHC, the GWG and the Chair on specific subject matter
• Participate in tripartite negotiations meetings and working groups
• Prepare research, analysis, advice and other documents and materials as requested by the FNHC, the GWG, the Chair and the CEO to inform the negotiations
The FNHC will implement the direction that First Nations have provided in the Guiding Documents, and the roles and responsibilities outlined above, through the following negotiations preparation, mandating and reporting process:

- **FNHC Direction**: The FNHC adopts a plan for the negotiation of the sub-agreements (in collaboration with tripartite partners), and the establishment of negotiations teams as required.
- **Identify Interests**: The FNHC approves mechanisms and processes for identifying First Nations interests in negotiations, such as:
  - Collating feedback from First Nations over the past four years with respect to key issues under negotiation (such as Non Insured Health Benefits)
  - An Interests and Priorities Workbook process to obtain feedback from First Nations on key issues under negotiation
  - The establishment of task teams to be composed of members of the FNHC, interim FNHA and First Nations volunteers to explore key issues under negotiation.
- **Mandating**: Based on the interests identified, mandate statements for the sub-agreements and other key documents are drafted, vetted by the GWG and interim FNHA, and approved by the FNHC.
- **Negotiations**: Negotiations teams engage in discussions with tripartite partners to develop draft sub-agreements consistent with the Guiding Documents and mandate statements.
- **Review and Consensus-Building**: Draft sub-agreements are reviewed and vetted amongst the GWG, interim FNHA and FNHC and reworked as required.
- **Approval**: The FNHC approves finalized sub-agreements, and directs the interim FNHA Board of Directors to sign the sub-agreements.
This flowchart is another way to illustrate the preparation, mandating, and reporting process: