

[532] Pursuant to section 53(2) of the *CHRA* the Tribunal orders Canada to:

A. For FNCFS Agencies, including small agencies, and/or First Nations, fund the full cost of the purchase of capital assets that are needed to support the delivery of FNCFS to First Nations children, youth and families on-reserve including in Ontario and in Yukon that are underway or that the FNCFS Agency or First Nation advises are ready to proceed as per paragraphs 191 and 192 (e.g., has relevant First Nations approvals and for which feasibility and design work is complete). Within 15 days of this amended order, Canada will advise FNCFS Agencies and First Nations in writing on how to access this capital assets funding, and Canada will post this information on the ISC website within 30 days.

B. For the construction of capital assets by FNCFS Agencies and First Nations, fund the full cost of projects that are needed to support the delivery of FNCFS to First Nations children, youth and families on-reserve including in Ontario and in Yukon that are underway or that the FNCFS Agency or First Nation advises are ready to proceed as per paragraphs 191 and 192 (e.g., has relevant First Nations approvals and for which feasibility and design work is complete). Within 15 days of this amended order, Canada will advise FNCFS Agencies and First Nations in writing on how to access the capital assets funding, and Canada shall post this information on the ISC website within 30 days.

C. In consultation with the Parties, provide funding for FNCFS Agencies and First Nations to conduct capital needs and feasibility studies regarding the purchase and/or construction of capital assets that support the delivery of FNCFS to First Nations children, youth and families on-reserve, including in Ontario, and in Yukon. This also includes studies for First Nations and FNCFS Agencies that serve children living off-reserve who are eligible under the FNCFS Program.

D. Fund all First Nations or First Nations-authorized service providers for the full cost of the purchase of capital assets to provide safe, accessible, confidential and culturally- and age-appropriate spaces that are needed to support the delivery of Jordan's Principle services to First Nations children on-reserve including in Ontario and to First Nations children in the Northwest Territories and in Yukon that are underway or that the First Nation or First Nations-authorized service provider advises are ready to proceed as per paragraphs 191 and 192 (e.g., has relevant First Nations approvals and for which feasibility and design work is complete). Within 15 days of this amended order, advise First Nations, Jordan's Principle service coordinators and FNCFS agencies in writing on how to access this capital asset funding, and Canada shall post this information on the ISC website within 30 days.

E. For the construction of capital assets, fund the full cost of projects to provide safe, accessible, confidential and culturally- and age-appropriate spaces that are needed to support the delivery of Jordan's Principle services to First Nations children on-reserve, including in Ontario and to First Nations children in the Northwest Territories and in Yukon for First Nations or First Nations-authorized service providers where these projects are underway or the First Nation or First Nations-authorized service provider advises are ready to proceed as per paragraphs 191 and 192 (e.g., has relevant First Nations approvals and for which feasibility and design work is complete). Within 15 days of this amended order, Canada shall advise First Nations, Jordan's Principle service coordinators and FNCFS Agencies in writing of how to access the capital assets funding, and Canada shall post this information on the ISC website within 30 days.

F. In consultation with the Parties, provide funding for First Nations or First Nations-authorized service providers to conduct capital needs and feasibility studies regarding the purchase and/or construction of capital assets to provide safe, accessible, confidential and culturally- and age-appropriate spaces for the delivery of Jordan's Principle services on-reserve, including in Ontario, in the Northwest Territories and in Yukon and off-reserve where these services are eligible under Jordan's Principle.

G. In consultation with the COO and the NAN, to provide funding for First Nations and First Nations-authorized service providers in Ontario to conduct capital needs and feasibility studies regarding the purchase and/or construction of capital assets to provide safe, accessible, confidential and culturally- and age-appropriate spaces for the delivery of Jordan's Principle services.

H. Fund First Nations in Ontario for the full cost of the purchase or construction of capital assets that are ready to proceed as per paragraphs 191 and 192 and that support the delivery of First Nations Representative services and prevention services related to child and family services to First Nations children, youth and families on-reserve consistent with paragraph M. Within 15 days of this amended order, Canada shall advise First Nations in Ontario in writing how to access this capital asset funding.

I. In consultation with the COO and the NAN, provide funding for First Nations in Ontario to conduct feasibility studies and needs assessments for the purchase and/or construction of capital assets that support the delivery of First Nations Representative services and prevention services to First Nations children, youth and families on-reserve and off-reserve for the First Nations who operate under the FNCFS Program off-reserve in Ontario. Within 15 days of this amended order, Canada shall write to First Nations in Ontario to advise them how to access this funding for feasibility studies and needs assessments, and Canada shall post this information on the ISC website within 30 days.

J. The above orders recognize First Nations inherent rights to self-government and that this Tribunal cannot force First Nations that are not a party to these proceedings to do anything. The above orders recognize that complex processes must be followed in order to be ready to proceed to build on reserve and that this cannot be done unilaterally by FNCFS Agencies, Canada or by order of this Tribunal. Consequently, the purchase and construction orders above only include projects that are ready to proceed.

K. Canada's review of capital projects for FNCFS Agencies or First Nations situated in remote areas will consider that some aspects of a project may need to be approved before full feasibility or design work is complete due to factors including, but not limited to, seasonal access to the community (e.g., availability of an ice road during the winter months only).

L. Where an FNCFS Agency or First Nation has advised Canada that a project is ready to proceed as per paragraphs 191 and 192 (e.g., has relevant First Nations approvals and for which feasibility and design work is complete) or has submitted a request for feasibility study funding, Canada will make a determination on full funding of the project or study within 30 business days (other than in exceptional circumstances where complexity related to the project's design or the impact of local circumstances on its delivery, or other unforeseen circumstances, require additional time for Canada to consider the proposal). Where Canada's position is that it will not fund the full cost of a project or feasibility study, that a project is not ready to proceed, or that it requires more than 30 business days to make a determination, Canada will advise the FNCFS Agency or First Nation in writing, clearly substantiating why the project is being delayed, deferred or is ineligible in whole or in part. In the case of incomplete or denied project proposals, Canada will provide the First Nation or FNCFS Agency a reasonable period of time to correct any deficiency.

M. The scope of capital asset categories for the purposes of paragraphs 532(A) to (I) above and considerations related to Canada's approvals process will be further elaborated in a guide to be developed by Canada and the parties within 45 days of the amended order. The creation of this guide will not delay funding for projects that are underway or that are ready to proceed as per paragraphs 191 and 192 (e.g., have relevant First Nations approvals and for which feasibility and design work are complete) and shall not adversely affect First Nations and First Nations service providers from accessing funding for the full cost of purchasing or constructing major capital assets, or for conducting capital needs assessments and feasibility studies.

N. Within 45 days of this amended order, Canada and the parties will develop and implement a joint review mechanism to provide First Nations involvement in both reviewing how Canada is applying the criteria for funding major capital projects under paragraphs 532(A) to (I) and to monitor the overall roll-out of funds for such projects.

O. The funding noted above will be provided based on an initial five-year commitment of \$276.2M for service sites for FNCFS and Jordan's Principle services, backed by a three-year, \$93.5M contingency fund for major capital related to Jordan's Principle group requests. For capital projects to support the delivery of First Nations Representative services in Ontario, funding will be provided based on an initial five-year commitment of \$399M.

P. Funding in excess of the initial commitments noted in paragraph 523(O) will be informed by the feasibility studies conducted pursuant to the orders in paragraphs 532(C), (F) and (I), be provided based on the actual needs of First Nations children, youth and families, be consistent with substantive equality, and address data-driven cost drivers such as inflation, population growth and poverty metrics. Canada's funding of the full cost of major capital projects will also include any reasonable cost overruns (such as increased cost of materials, inflation, or job-site conditions differing from those contemplated in construction plans) resulting between the feasibility/design phase and construction, which will be further defined in the guidance documents for recipients.

Q. For greater clarity, Canada to carry out the above in compliance with paragraphs 422 and 424 of 2018 CHRT 4 (paragraphs containing orders relating to Indigenous Services Canada not reallocating funding).

[533] The orders made above apply until such time as one of the options below occur:

1. Nation (Indigenous)-to Nation (Canada) agreement respecting self-governance to provide its own child welfare services.
2. Canada reaches an agreement that is Nation-specific even if the Nation is not yet providing its own child welfare services and the provisions for major capital in the agreement for child and family services or Jordan's Principle are more advantageous for the Nation than the orders in this ruling.
3. Long-term reform is completed in accordance with best practices recommended by the experts and the parties and interested parties, and funding for the purchase or construction of major capital assets is no longer based on discriminatory funding formulas or programs, including as set out in a Final Order by the Tribunal approving a Final Settlement Agreement signed by Canada and the Parties.