

AUMA's Submission on Intermunicipal Collaboration Frameworks

Question #1

What areas would you like further clarified in the regulations regarding contents of a framework?
When answering the above question please consider:

- Is there a need to define the mandatory services?
- What would constitute “Other services”?

There is not a need to define further mandatory services as the Act specifically includes the requirement to include ANY service that benefits more than an individual municipality and as such captures any and all services.

It would be useful to develop non-legislative toolkits that would provide best practices to assist municipalities who may have difficulty determining exactly the services that fall under the five broad categories included in the legislation.

“Other Services” are already defined in the Bill as any service that benefits residents in more than one municipality included in the framework.

ICF should include reference to Infrastructure: Under 708.29 (b) it states that a municipality must include in their ICF services shared with another municipality. This should also include reference to “infrastructure” as a large portion of services shared with other municipalities also have an infrastructure component such as water lines, or recreation facilities.

Question #2

Should there be a list of important “may” categories for an ICF and why?
When answering the above question please consider:

- If there were important may's they could be contained within the regulation.
- Services can be put into a *may* category in the regulation which encourages, but does not require, discussion or agreement of that topic.

A list of may categories would be redundant as the Act already requires that municipalities **MUST** include services that benefit any other municipality. Unless the Act is amended so that the catch-all requirement does not in fact include all services then a “*may*” category is not necessary and could be confusing.

Question #3

What direction would be important/needed by municipalities in the development of a framework?
Please consider if the direction should be prescribed or general in regulation when creating an ICF. Descriptive regulations could contain specifics on a process to create an ICF. This would be less flexible, but would provide clear process expectations to both municipalities.

Regulations of a general nature would contain principles and guidance to create an ICF rather than rules. This would provide greater flexibility and autonomy, but could lead to uncertainty regarding process.

A direction should not be included in regulation, but instead a tool kit or guide could be created that provides municipalities with assistance in navigating the new process. This would allow for flexibility among varying municipalities and allow for local solutions.

The regulation should also incorporate the need for municipalities to operate in “good faith”. Along with this, a reference should be made as to the role of municipalities to cooperate that has been included in the Bill.

A municipality in a growth management board should have the ability to require that a neighboring municipality that is also in the board work with them to develop an ICF for matters that are unique to their municipalities and not of direct interest to other municipalities in the board.

Question #4

What additional matters and criteria should be considered by the Arbitrator in making an order under section 708.38(1)?

The regulations should also require that the Arbitrator consider a municipality’s ability to pay under this framework. A framework would have the potential for a municipality to incur an excessive cost which the municipality might be unable to pay for a service.

The Act states that an arbitrator may examine other ICF’s that one of the municipalities is a party to. However an Arbitrator should have the ability to examine other ICF’s in the province to inform their decisions; yet, they should not be bound by these other ICF’s in terms of “precedence”. Each ICF will be unique between municipalities and as such what works in one area of the province may not always work in another.

Should Municipal Affairs provide a roster of arbitrators for municipalities?

Yes, however it should be a roster of experts, as opposed to arbitrators, as a municipality may choose to use a panel of experts as opposed to only arbitrators.

Should municipalities be enabled to choose a panel of arbitrators?

Yes, although there should also be the option of utilizing a panel of experts led by an arbitrator to allow for a variety of expert opinions and allow for the consideration of a potential shortage of qualified arbitrators.

Municipal Affairs could also create a standing panel of experts that would be a consistent and duly appointed panel of experts that could assist all municipalities in the province. This would reduce duplicate efforts in the establishment of individual panels across the province.

Question #5

What additional regulations are needed to provide direction to the arbitrator and municipalities under this section?

When answering, please consider:

- the appointment of an arbitrator (sec 708.35);
- the roles, powers and duties of an arbitrator (sec 708.36);
- how municipalities participate in the arbitration process (sec 708.37 + 708.4),
- the circumstances for an arbitrator to create a framework and the criteria to be considered by an arbitrator in making an order; and the practice and procedures of an arbitrator.

The regulations should include a provision that would enable an expert panel so as to benefit from a variety of skillsets.

Mention was made to provide municipalities access to grant funding in order to pay for arbitration. AUMA is supportive of ensuring that municipalities have resources to adequately take part in dispute resolution. In light of this, support for arbitration would be beneficial. However, consideration should be given such that grant funding does not provide incentive for municipalities to stall in their development of an ICF – the mechanism of arbitration should be utilized only as a last resort. Further, consideration in funding should be provided for municipalities that demonstrate financial need, who otherwise would not be able to access arbitration services.

Municipalities should also be allowed to present any information they feel is relevant to the arbitrator, as well as have the ability to have experts present on their behalf.

Question #6

What are the elements you want outlined/included in the model dispute resolution process regulation?

Once an ICF is developed there needs to be a dispute resolution process outlined in the regulation that sets out a minimum standard. If municipalities agree on a more robust dispute resolution process then that could be set out in the ICF.

There also needs to be a process that allows for friendly amendments to an ICF that are agreed to by both parties. Further to this, when an ICF includes multiple municipalities (regional agreement) of more than two municipalities then it should be set out how an agreement between two of the municipalities can form and how, or if, the other municipalities involved in the ICF can respond.

The regulation should also establish a minimum and maximum timeline for dispute resolution. This would allow municipalities to set their own timelines while ensuring that an unlimited timeline could not be created by any one municipality.

AUMA further agrees that the proposed three-step process (direct negotiations in good faith, facilitated negotiations/mediation, followed by applying for binding arbitration) for dispute resolutions would work well for municipalities.

Survey Questions

How long should municipalities have to adopt matching bylaws after the ICF has been completed?
6 months

- This will allow ample time for council to meet in order to pass the bylaw

How long should municipalities have to align other impacted bylaws?

24 months from the date the bylaw is passed

- This is especially important for the first enactment of an ICF as bylaws will need to be aligned to fit. Minor adjustments, or a renewed ICF, will require fewer bylaws to come into alignment and so future ICFs may potentially require a shorter timeframe with which to align bylaws.
- There are some concerns with the timeline of aligning other bylaws with an ICF. The regulation could provide a default and an ICF could create their own timelines but this would mean that another municipality party to a regional ICF could have control over when a municipality amends their bylaws. This means that all municipalities party to the regional ICF must agree to the timeline that they each have to bring their bylaws into alignment, which removes autonomy from a local council.

How much notice would need to be given to other municipalities in the ICF if requires amendments?

3 months

- This would allow council time needed to meet and discuss

Additional Comments

Linkage between financial plans and ICF's

As municipalities will be required to develop three and five year financial plans there should be a requirement in the long term (i.e. In 5 years) to reference these documents within an ICF. There are funding considerations inherent to an ICF and as such to not refer back to a financial plan would reduce the efficacy of both documents

It is important to mention that any toolkits and guides that are to be developed in support of municipalities in the development of an ICF will be necessary as soon as the regulations are adopted. Municipalities are concerned about the tight timelines and if there is a substantial delay in the availability of resources then the deadline will be even more difficult to achieve.

Inter-municipal Collaboration Frameworks Regulation

Discussion Guide

October 2016

Alberta  Municipal Affairs

INTRODUCTION

The *Municipal Government Act (MGA)* is the legislation which governs how local governments (municipalities) in Alberta govern, operate and provide services to the community. The current *MGA* was introduced in 1995 following an extensive review and was considered to be a model for municipal legislation in Canada. However, after nearly 20 years, it was determined the *MGA* should be revisited in order to meet the changing needs of Alberta's communities.

Following extensive consultation, the Municipal Government Amendment Act (Bill 20) was passed by the Legislature in the spring of 2015 to address issues that received broad support from the rural and urban municipal associations, the cities of Calgary and Edmonton, and business and industry associations representing key economic sectors. Most of the Bill 20 amendments have not yet been proclaimed and are therefore not yet in effect.

The *Modernized Municipal Government Act (MMGA)* - Bill 21 was introduced in the Legislature in the spring of 2016 to address other key issues affecting municipalities. Bill 21 includes several important policy shifts. One of those specific policy shifts was in regards to mandating intermunicipal collaboration.

Following the introduction of the MMGA, extensive public feedback was gathered from May to July 2016 will be used to finalize the legislation in fall 2016.

In support of this modernization, work is also underway to develop new regulations authorized by the MGA. This includes considerable work that is required in development of Intermunicipal Collaboration Frameworks (ICF) regulations.

PURPOSE OF THE DISCUSSION PAPER

This discussion paper seeks your input into the development of a set of regulations as it relates to the creation of ICFs. Your comments and perspectives will be important in ensuring that any new principles and procedures accomplish its intended objectives.

BACKGROUND CONTEXT

Currently, the MGA gives municipalities the option to engage in cooperative initiatives with neighbouring municipalities through mechanisms such as intermunicipal agreements or development plans, mutual aid agreements, regional services commissions and Growth Management Boards. These initiatives are typically done on an ad-hoc basis.

The principle – that municipalities should focus on their own taxpayers and local interests, and that intermunicipal collaboration should be voluntary – has been successful on many fronts. But the voluntary nature of these discussions has meant that many services are duplicated where a regional approach may lead to greater efficiencies.

To address intermunicipal collaboration, the MMGA will require municipalities to adopt Intermunicipal Collaboration Frameworks and Intermunicipal Development Plans, along with mandatory Growth Management Boards for the Calgary and Edmonton metropolitan areas.

Among other things, an ICF will address current and future service sharing agreements between neighbouring municipalities. Intermunicipal collaboration will be mandatory for all municipalities. ICFs will be required for municipalities outside of growth management areas, and Growth Management Board Plans will apply to those municipalities in the Calgary and Edmonton metropolitan regions.

The ICF must also address and show the relationship with Intermunicipal Development Plans (IDPs).

ICF LEGISLATION

The intent of the legislation is to better manage growth, coordinate service delivery, and optimize resources for citizens. Intermunicipal Collaboration Frameworks will highlight and formalize existing collaborative work between adjacent municipalities, and provide a forum for neighboring municipalities to work more closely together. The frameworks will need to address intermunicipal land-use planning and how servicing will support development, as well as regional service delivery and funding.

Bill 21 provides the Minister with the authority to make regulations respecting ICF, in the areas of the content and creation; arbitration, and the Dispute Resolution Processes of an ICF. The following are the areas that regulations can be made for ICFs.

ICF Content-Creation

- *Respecting frameworks, including, without limitation, regulations respecting the provisions that must or may be included in a framework;*
- *Defining any term or expression that is used in this Part but not defined in this Act; [what is transportation, water, recreation, etc]*
- *Respecting the process to be followed to create, amend or cancel a framework;*
- *Respecting the time within which municipalities that are parties to a framework must amend their bylaws to be consistent with the framework;*

Arbitration

- *Respecting arbitration under Division 3, including, without limitation, regulations respecting:*
 - (i) the appointment of an arbitrator;*
 - (ii) the circumstances under which an arbitrator must create a framework,*
 - (iii) the powers, duties and functions of an arbitrator,*
 - (iv) the practice and procedures of an arbitrator,*
 - (v) the participation of municipalities in the arbitration process, and*
 - (vi) the criteria to be considered by an arbitrator in making an order under section 708.38(2);*
- *Prescribing matters for the purposes of section 708.38(1)(f); [arbitrator must consider when arbitrating]*
- *Respecting the extent, if any, to which the Arbitration Act applies to an arbitrator under this Part;*

Default Dispute Resolution Process of an established ICF

ICFs may contain a dispute resolution process which is more detailed than that already in the legislation; however, if the ICF is silent on dispute resolution, the default process outlined in the regulation will be used.

- *Respecting the provisions required to be included in the binding dispute resolution process under Division 4, including, without limitation, regulations*
 - (i) governing the dispute resolution process and the appointment of a decision maker,*
 - (ii) respecting the powers, duties and functions of a decision maker,*
 - (iii) respecting the practice and procedures of a decision maker,*
 - (iv) respecting the orders that a decision maker may issue, including orders*
 - (a) requiring an amendment to a framework,*
 - (b) requiring a municipality to cease any activity that is inconsistent with the framework,*
 - (b) providing how a municipality's bylaws must be amended to be consistent with the framework, and*
 - (d) providing for an award, which may include interest, and*
 - (v) respecting the costs, fees and disbursements incurred in respect of the binding dispute resolution process and who bears those costs;*
- *Prescribing model provisions for the purposes of section 708.45(2); [Default Dispute Resolution Process]*

Additional regulation making powers

- *Defining any term or expression that is used in this Part but not defined in this Act;*
- *Respecting a subsequent action before a court following a decision of an arbitrator or decision maker; [appeals]*
- *Respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Part.*

For more information on Bill 21 please refer to the Queen's Printer or click [here](#).

These amendments are anticipated to come into effect when proclaimed as part of the MMGA.

Content and Creation (sections 708.28 to 708.33)

These sections of the legislation refer to the content and process to be followed to create a framework by agreement. When considering the regulations it is important to understand what the requirements for an ICF are under the MMGA for the content and process.

Under section 708.28 it outlines which municipalities must create a framework, timeline for completion, the ability to create regional ICFs with municipalities that do not have common boundaries and the relationship to Growth Management Boards.

- *All municipalities that have common boundaries must within 2 years of the act coming into force create a framework with each other.*
- *Municipalities that do not have common boundaries may be parties to a framework. This allows municipalities to do one regional ICF where there are more than 2 municipalities without a common boundary. This also allows municipalities that share services such as administration or emergency service to be part of a framework.*
- *Members of a growth management board are not required to create a framework with another member of a growth management board unless directed by the minister.*

The required contents of a framework under section 708.29 include, but are not limited to:

- *list of services provided by each municipality*
- *list of services being shared intermunicipally*
- *services in each municipality provided by third parties (regional service commissions, municipal controlled corporation or private contractor)*
- *identify which services are best provided on a municipal, intermunicipal or third party basis*
- *outline how intermunicipal services are delivered (including lead), funded and discontinued*
- *set a time frame for implementation including details for implementation such as planning, locating and developing infrastructure*
- *at minimum, must include services related to:*
 - *transportation*
 - *water and wastewater*
 - *solid waste*
 - *emergency services*
 - *recreation and*
 - *other services that benefit residents in more than one municipality included in the framework*
- *a intermunicipal development plan under section 631 or an intermunicipal development plan is included as an appendix to the framework; (Section 708.3) and*
- *A binding dispute resolution process outlined in the framework (section 708.45)*
- *The legislation also outlines that an ICF may contain any details required to implement services on an intermunicipal basis including details of planning, locating and developing infrastructure to support the services and provisions for developing infrastructure for the common benefit of residents of the municipalities.*

Intermunicipal Development Plan

Intermunicipal development plans (IDP) are intended to achieve the orderly, economical and beneficial development of land and to maintain and improve the quality of the physical environment between municipalities. An IDP may cover all or part of a municipality, but is generally focused on lands boarding another municipality (or municipalities) that are part of an IDP.

IDPs outline future land use with a cursory look at future servicing to support future land use.

Areas an IDP must address:

- *the future land use within the area,*
- *the manner of and the proposals for future development in the area,*
- *the provision of transportation systems for the area, either generally or specifically,*
- *proposals for the financing and programming of intermunicipal infrastructure for the area,*
- *the co-ordination of intermunicipal programs relating to the physical, social and economic development of the area,*
- *environmental matters within the area, either generally or specifically,*
- *the provision of intermunicipal services and facilities, either generally or specifically, and*
- *any other matter related to the physical, social or economic development of the area that the councils consider necessary.*

Please note: The minimum service that must be outlined in the ICF does not mean that the municipalities must provide that intermunicipal service. The intent of the legislation is to ensure that municipalities have the discussion about those services and summarize how those services are going to be provided. Parties can mutually agree that the service listed does not apply to their situation.

Discussion Question #1

What areas would you like further clarified in the regulations regarding contents of a framework?

When answering the above question please consider:

- Is there a need to define the mandatory services?
- What would constitute “Other services”?

For example:

- *Water and wastewater– including distribution? Stormwater?*
- *Transportation – including transit? Truck hauling?*
- *Solid waste - including location of waste disposal (landfill/incineration), recycling programs?*
- *Emergency Services – including emergency management (disaster response)?*
- *Recreation – including publicly owned outdoor and indoor parks and recreation*

Discussion Question #2

Should there be a list of important *may* categories for an ICF and why?

When answering the above question please consider:

- If there were important *mays* they could be contained within the regulation.
- Services can be put into a *may* category in the regulation which encourages, but does not require, discussion or agreement of that topic.

In creating a framework by agreement, section 708.33 includes:

Method of creating framework

708.33

- (1) Municipalities must create a framework by adopting matching bylaws that contain the framework.
- (2) An intermunicipal development plan created as part of a framework may be adopted by the same bylaw that adopts the framework if the requirements of section 692 are met with respect to that plan.
- (3) In creating or reviewing a framework, the municipalities must negotiate in good faith.
- (4) Once the municipalities have created a framework, the municipalities must ensure that a copy of it is filed with the Minister within 90 days of its creation.

Discussion Question #3

What direction would be important/needed by municipalities in the development of a framework?

Please consider if the direction should be prescribed or general in regulation when creating an ICF.

Descriptive regulations could contain specifics on a process to create an ICF. This would be less flexible, but would provide clear process expectations to both municipalities.

Regulations of a *general* nature would contain principles and guidance to create an ICF rather than rules. This would provide greater flexibility and autonomy, but could lead to uncertainty regarding process.

Arbitration - Matters to be considered by an arbitrator

Division 3 – sections 708.34 – 708.43

The purpose of arbitration in the MMGA is to make sure that there is a resolution to the intermunicipal services in a timely manner and to ensure residents are provided municipal services in the best possible manner. Arbitration can also include other non-mandated areas that the arbitrator deems appropriate. The arbitrator would also need to ensure that the framework meets the mandatory content requirements set out in 708.28 to 708.33 and 708.45.

To that end the MMGA provides a substantial amount of guidance in regards to arbitration. In order to provide input on the regulations it will be important to understand the intent and meaning of sections 708.34 to 708.43. These sections refer to frameworks that cannot be created by agreement and require the appointment of an Arbitrator to make decisions on areas of disagreement or creation of frameworks.

In section 708.38(1) it outlines what matters need to be considered by an arbitrator. This section provides the guidance to the arbitrator on how a decision should be made.

Matters to be considered by arbitrator

708.38

- (1)** In resolving a dispute or creating a framework, an arbitrator must have regard to:
 - (a) the services and infrastructure provided for in other frameworks to which the municipalities are also parties,
 - (b) consistency of services provided to residents in the municipalities,
 - (c) equitable sharing of costs among municipalities,
 - (d) environmental concerns within the municipalities,
 - (e) the public interest, and
 - (f) any other matters prescribed by the regulations.

- (2)** When creating a framework by order, an arbitrator shall not make an order that is inconsistent with the criteria established in the regulations.

Discussion Question #4

What additional matters and criteria should be considered by the Arbitrator in making an order under section 708.38(1)?

Arbitration – Roles, powers, duties, practice and procedures of an arbitrator and role of municipalities

There is also regulation making powers under section 708.52 (f) to provide guidance on:

- *the appointment of an arbitrator (sec 708.35);*
- *the roles, powers and duties of an arbitrator (sec 708.36);*
- *how municipalities participate in the arbitration process (sec 708.37 + 708.4),*
- *the circumstances for an arbitrator to create a framework and the criteria to be considered by an arbitrator in making an order ; and*
- *the practice and procedures of an arbitrator.*

In order to provide input on section 708.52 (f) it is important to review and be consistent with the relevant legislation under section 708.35 to 708.37 and 708.4. These sections outline the following:

Arbitration

708.35

- (1) Where municipalities are subject to this Division, their dispute must be referred to an arbitrator in accordance with the regulations.
- (2) The arbitrator must be chosen by the municipalities or, if they cannot agree, by the Minister.
- (3) Any mediator who has assisted the municipalities in attempting to create a framework is eligible to be an arbitrator under this Division.
- (4) Where municipalities for whom an arbitrator is appointed create a framework by agreement, the arbitration process ends.

Role of arbitrator

708.36

- (1) Where a dispute is referred to an arbitrator under section 708.35, the arbitrator must, subject to the regulations, by order create a framework for those municipalities
 - (a) in the case of an original framework, within 3 years from the coming into force of section 708.28, or
 - (b) in the case of a replacement framework, within one year from the date the arbitrator is chosen.
- (2) Despite subsection (1), an arbitrator may, as part of the arbitration process, attempt mediation with the municipalities, and
 - (a) resolve the dispute and require the municipalities to complete the framework within a reasonable time, or
 - (b) recommend an outline for a framework and give the municipalities a reasonable time to complete the framework.

Role of municipality

708.37

- (1) Where a dispute is referred to an arbitrator under section 708.35, each municipality must
 - (a) provide to the arbitrator a report setting out what that municipality considers are the specific reasons why the municipalities are unable to create a framework, and
 - (b) participate in the arbitration process in accordance with the regulations.
- (2) Where a municipality fails to participate in the arbitration process, the arbitrator may

- (a) require the chief administrative officer of the municipality to produce any information required by the arbitrator, or
- (b) settle the dispute or create a framework without the participation of that municipality.

Creation of framework by arbitrator

708.39

- (1) A framework created by an arbitrator must, subject to the regulations, comply with section 708.29.
- (2) The parties to a framework created by an arbitrator may, by agreement, amend the framework.
- (3) For greater clarity, Division 1, except section 708.28(1), applies to a framework created by an arbitrator.

Costs of arbitrator

708.41

- (1) Subject to an order of the arbitrator or an agreement by the parties, the costs of an arbitrator under this Part must be paid on a proportional basis by the municipalities that are to be parties to the framework as set out in subsection (2).
- (2) Each municipality's proportion of the costs must be determined by dividing the amount of that municipality's equalized assessment by the sum of the equalized assessments of all of the municipalities' equalized assessments as set out in the most recent equalized assessment.

Order must be filed

708.42 An order made by the arbitrator under section 708.36(1)(b) must be filed with the Minister within 7 days of being made.

Discussion Question #5

What additional regulations are needed to provide direction to the arbitrator and municipalities under this section

When answering, please consider:

- *the appointment of an arbitrator (sec 708.35);*
- *the roles, powers and duties of an arbitrator (sec 708.36);*
- *how municipalities participate in the arbitration process (sec 708.37 + 708.4),*
- *the circumstances for an arbitrator to create a framework and the criteria to be considered by an arbitrator in making an order ; and*
the practice and procedures of an arbitrator.

Resolving Disputes of an established framework

This section provides guidance to the binding dispute resolution process that is required in an ICF. If the ICF does not contain the required provisions in 708.45 (1) (a) and (b) then the municipalities must follow

the model binding dispute resolution process provisions in the regulations but only on those provisions that are missing from the ICF.

Binding dispute resolution process

708.45

- (1) Every framework must contain provisions respecting a binding dispute resolution process that meets the requirements of the regulations for resolving disputes with respect to
 - (a) the interpretation, implementation or application of the framework, and
 - (b) any contravention or alleged contravention of the framework.
- (2) If a framework does not contain one or more of the provisions required by subsection (1), the framework is deemed to contain the model provisions prescribed by the regulations respecting matter in respect of which the framework is silent.

Section 708.52 gives regulations making powers to the Lieutenant Governor in Council on binding dispute resolution process and provides guidance on where regulations need to be created.

Regulations

708.52 The Lieutenant Governor in Council may make regulations (f) respecting the provisions required to be included in the binding dispute resolution process under Division 4, including, without limitation, regulations

- (i) governing the dispute resolution process and the appointment of a decision maker,
- (ii) respecting the powers, duties and functions of a decision maker,
- (iii) respecting the practice and procedures of a decision maker,
- (iv) respecting the orders that a decision maker may issue, including orders
 - (a) requiring an amendment to a framework,
 - (b) requiring a municipality to cease any activity that is inconsistent with the framework,
 - (c) providing how a municipality's bylaws must be amended to be consistent with the framework, and
 - (d) providing for an award, which may include interest, and
- (v) respecting the costs, fees and disbursements incurred in respect of the binding dispute resolution process and who bears those costs;

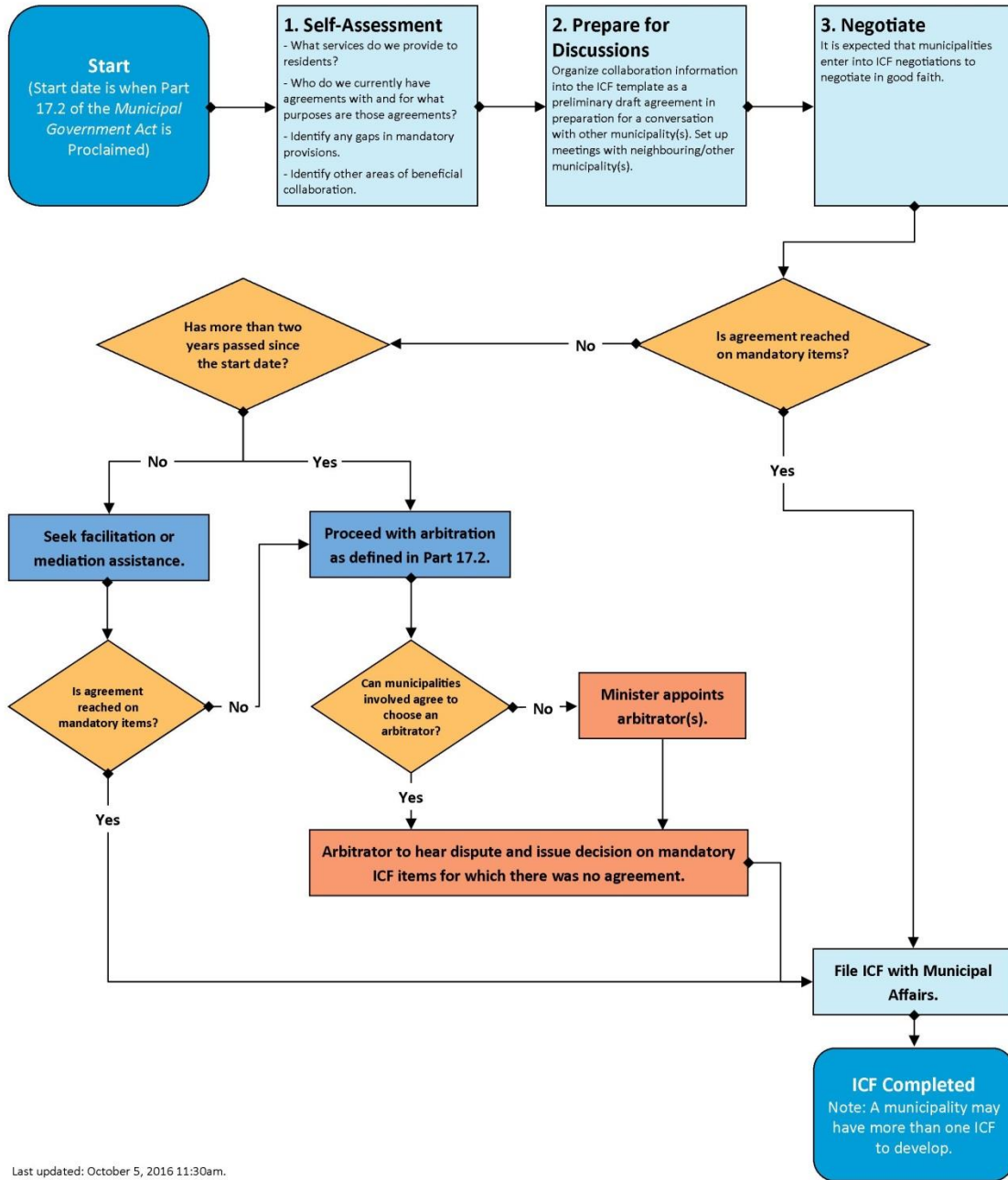
Discussion Question #6

What are the elements you want outlined/included in the model dispute resolution process regulation?

An example a common dispute resolution process used includes:

1. Parties must attempt to negotiate/mediate (facilitated negotiations) in good faith before proceeding to binding decision maker.
2. Parties can apply for binding decision.
3. An outline of sample provisions which may address 708.52.

INTERMUNICIPAL COLLABORATION FRAMEWORK (ICF) IMPLEMENTATION PROCESS



Last updated: October 5, 2016 11:30am.

Inter-municipal Collaboration Framework Survey



This survey is intended to provide input and be used as a tool to help guide discussion on ICF related topics.

How long should municipalities have to adopt matching bylaws after the ICF has been completed?

 days (0-365)

How long should municipalities have to align other impacted bylaws?

Municipalities could state longer time lines in the ICF. This number would be a default

 months (0-60)

How much notice would need to be given to the other municipalities in the ICF if requires amendments?

 days (0-365)

Arbitration

Should Municipal Affairs provide a roster of arbitrators for municipalities?

Municipalities would be free to choose from the roster or mutually agree to another arbitrator

 Yes No

Should municipalities be enabled to chose a panel of arbitrators?

Municipalities would still be able to have a single arbitrator by mutual agreement

Single Arbitrator Panel

What parts of these applicable sections of the Arbitration Act do you believe should be part of a regulation guiding the dispute resolution process and model for municipalities?

Please check the appropriate sections.

Sections 11-16 and 19

Independence and impartiality of arbitrators

11(1) An arbitrator shall be independent of the parties and impartial as between the parties.

(2) Before accepting an appointment as arbitrator, a person shall disclose to all parties to the arbitration any circumstances of which that person is aware that may give rise to a reasonable apprehension of bias.

(3) An arbitrator who, during an arbitration, becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose the circumstances to all the parties.

No revocation

12 A party may not revoke the appointment of an arbitrator.

Challenge

13(1) A party may challenge an arbitrator only on one of the following grounds:

(a) circumstances exist that may give rise to a reasonable apprehension of bias;
(b) the arbitrator does not possess qualifications that the parties have agreed are necessary.

(2) A party who appointed an arbitrator or participated in the arbitrator's appointment may challenge the arbitrator only on grounds of which the party was unaware at the time of the appointment.

(3) A party who wishes to challenge an arbitrator shall send the arbitral tribunal a statement of the grounds for the challenge within 15 days after becoming aware of them.

(Continued...)

(4) The other parties may agree to remove the arbitrator who is being challenged, or the arbitrator may resign.

(5) If the arbitrator is not removed by the parties or does not resign, the arbitral tribunal, including the arbitrator who is being challenged, shall decide the issue and shall notify the parties of its decision.

(6) Within 10 days after being notified of the arbitral tribunal's decision, a party may make an application to the court to decide the issue.

(7) While an application is pending, the arbitral tribunal, including the arbitrator who is being challenged, may continue the arbitration and make an award, unless the court orders otherwise.

Termination of arbitrator's mandate

14(1) An arbitrator's mandate terminates when

(a) the arbitrator resigns or dies,

(b) the parties agree to remove the arbitrator,

(c) 10 days elapse after all the parties are notified of the arbitral tribunal's decision to uphold a challenge of the arbitrator and remove the arbitrator, and no application is made to the court under section 13(6), or

(d) the court removes the arbitrator under section 15(1).

(2) An arbitrator's resignation or a party's agreement to terminate an arbitrator's mandate does not imply acceptance of the validity of any reason advanced for challenging or removing the arbitrator.

Removal of arbitrator by court

15(1) The court may remove an arbitrator on a party's application under section 13(6), or may do so on a party's application if the arbitrator becomes unable to perform the functions of an arbitrator, commits a corrupt or fraudulent act, delays unduly in conducting the arbitration or does not conduct the arbitration in accordance with section 19.

(2) The arbitrator is entitled to be heard by the court on an application under subsection (1).

(3) When the court removes an arbitrator, it may give directions on the conduct of the arbitration.

(4) If the court removes an arbitrator for a corrupt or fraudulent act or for undue delay, it may order that the arbitrator receive no payment for services and may order that the arbitrator compensate the parties for all or part of the costs, as determined by the court, that they incurred in connection with the arbitration before the arbitrator's removal.

(5) Within 30 days after receiving the court's decision, the arbitrator or a party may, with the permission of the Court of Appeal, appeal to the Court of Appeal an order made under subsection (4) or the refusal to make such an order.

(6) Except as provided in subsection (5), there is no appeal from the court's decision or from its directions under this section.

Appointment of substitute arbitrator

16(1) When an arbitrator’s mandate terminates, a substitute arbitrator shall be appointed, following the procedures that were used in the appointment of the arbitrator being replaced.

(2) When an arbitrator’s mandate terminates, the court may, on the application of any party, give directions about the conduct of the arbitration.

(3) The court may appoint the substitute arbitrator on a party’s application if

(a) the arbitration agreement provides no procedure for appointing the substitute arbitrator, or



(b) a person with power to appoint the substitute arbitrator has not done so within the time provided in the agreement or after a party has given the person 7 days’ notice to do so, whichever is later.

(4) There is no appeal from the court’s decision or from its directions under this section.

(5) This section does not apply if the arbitration agreement provides that the arbitration is to be conducted only by a named arbitrator.

Equality and fairness

19(1) An arbitral tribunal shall treat the parties equally and fairly.

(2) Each party shall be given an opportunity to present a case and to respond to the other parties’ cases.



Additional Comments

Please enter any other thoughts on Intermunicipal Collaboration Frameworks (1500 character maximum)

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