



# Lessons Learned:

*A Report on HR Components of Aboriginal Community  
and Mining Company Partnership Agreements*



This project is funded in part by the Government of Canada's Sector Council Program.

MiHR acknowledges the contribution of Doug Paget Consulting for support in the study design, information gathering and synthesis of insights.

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Published October 2012

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## Executive Summary

### Background and Purpose

Canadian mining companies and Aboriginal communities have negotiated and implemented Impacts and Benefits Agreements (IBAs) and similar agreements for a number of mining projects over the years. Through components of these agreements, companies and communities have developed mechanisms for working in partnership to provide employment and other economic benefits for the Aboriginal people living in the area of the mining operation.

Some information about successful practices in IBAs and IBA-like agreements is publicly available. One such source is the 1974 Strathcona Agreement for the Nanisivik lead-zinc mine on northern Baffin Island. Although it was signed by the Government of Canada and Mineral Resources International Limited (MRI), it included initiatives on employment at the mine for the citizens of Arctic Bay; it was, in effect, the first IBA. A monitoring committee provided public information about the performance of the employment section of the Strathcona Agreement — providing valuable information to guide other mining companies and communities seeking to develop similar agreements.

With a few exceptions, however, the terms of most of the IBAs in effect today are confidential. This makes it challenging to fully understand what constitutes a successful human resources (HR) strategy for an IBA, so that future negotiators have knowledge to achieve “win-win” outcomes. To build a greater body of information in this area, the Mining Industry Human Resources Council (MiHR) has commissioned this research study on *Lessons Learned on HR Components of Aboriginal Community and Mining Company Partnership Agreements* as part of a larger project called *SHIFT: Changing the Face of Canada's Mining Industry*.

### Methodology

The research included a limited review of literature and academic papers that have focused on IBAs, and identification of IBAs and IBA-like agreements associated with mining projects in Canada.

A total of 21 mines that are still producing have IBAs or similar agreements. This research focused on IBAs that have been in effect for at least three years, to allow for more thorough analysis of their implementation results.

For the selected projects, the research consultant contacted the leaders of both the companies and the Aboriginal groups to request interviews. Companies that had negotiated a total of 16 IBAs and Aboriginal groups that had negotiated eight, agreed to participate. Following the interviews in the winter of 2011–2012, responses were summarized in a manner that precluded identification of particular companies and communities.

## Key Findings: Initial Contact and General Negotiation

Many Aboriginal people living in remote regions have little to no information about mining before being approached by a mining or mineral exploration representative. Respondents from both companies and communities agreed that the initial contact between a community and a company seeking to develop a mine is an important factor in determining the long-term success of the relationship and negotiation of an IBA.

Advice on initial contact included:

- First contact should occur as early as possible. At a minimum, contact should be made after the company has selected the land and has begun the early stages of prospecting and exploration. Some companies reach out to affected communities even before site selection.
- Initial contact should take place between the highest-ranking company official possible and the leadership of the Aboriginal community, creating the foundation of a relationship between two equals.
- Mining companies are advised to show respect for Aboriginal protocols.
- Companies should not only communicate their plans for the mining project but also work to increase community understanding of the entire exploration/mining sequence. Community meetings are considered the best forum for building this knowledge.
- The parties may wish to negotiate an Exploration Agreement or Agreement-in-Principle, before IBA negotiations get underway.

Respondents also provided advice on approaches for successful negotiations:

- Holding early IBA negotiations in the affected communities is advisable.
- The company's negotiations should be led by the President, CEO and/or other high-ranking managers. Communities typically bring together teams of negotiators and in some cases, companies provide financial assistance to the community for use of technical advisors.
- Both parties need to work to overcome the challenges typically associated with the beginning of negotiations. For communities, the biggest challenges were a lack of understanding about the project and uncertainty or unrealistic expectations about its benefits and/or impacts. Companies stated that building trust with communities was by far their greatest challenge.

## Key Findings: HR Components of Impacts and Benefits Agreements

Once negotiations begin, the human resources (HR) components of the agreement are paramount. Employment opportunities are almost always the top agenda item for Aboriginal communities negotiating an IBA with a mining company.

Participants in the research shared views on successes and challenges related to the HR components of IBAs, including:

- It is important for both companies and communities to set concrete and achievable HR objectives. Many respondents said that developing realistic targets for employment and training can only be set after a complete assessment of the company's HR needs and the abilities and career interests of community members.

- Employment targets for Aboriginal community members can be defined in various ways: a fixed number, a percentage of the total workforce or “best effort”. Companies and communities both believe that establishing a numeric target (fixed or percentage) is more successful; it allows the signatories to better measure progress towards goals.
- As mining operations expand, it is not uncommon for the parties to negotiate increased employment targets.
- IBAs are flexible and can be adapted to the unique requirements of each partnership. Beyond the employment commitments, IBAs frequently contain other HR components, such as scholarships, funding for education upgrades, work-readiness training and specific job training, and assistance for community business ventures.
- Hiring a community-liaison officer and creating a joint company and community HR committee are considered good practice; many respondents say these mechanisms help to maximize employment of community members at the mine.
- All the IBAs examined in this study included some form of mandatory, cross-cultural training for Aboriginal and non-Aboriginal employees.

## Key Findings: Implementation

No matter how strong the wording and commitments of the HR clauses in an IBA, the mechanisms must be in place to ensure proper implementation.

Companies and communities shared insights on the factors influencing implementation of HR commitments:

- Although the company has led responsibility for implementing the IBA, there are many benefits to involving the community in implementation.

A common implementation task for communities is development and maintenance of a skills inventory of local residents. Some communities maintain a community business database as well.

- Both companies and communities agree that community support in the recruitment of employees is valuable. One of the most popular methods of obtaining such help was through the hiring of community-liaison officers. Some respondents described setting up a joint company-community committee responsible for community liaison.
- Companies typically work with the communities to disseminate information about available jobs, using a number of vehicles, including job fairs, visits to high schools, community presentations and media advertisements.
- Companies shared the importance of culturally-sensitive recruitment methods, including having an Aboriginal person as part of their hiring teams, where possible.



# 1 Introduction

## 1.1 Foundations of the Impacts and Benefits Agreement

In 1974, the Government of Canada and Mineral Resources International Limited (MRI) announced the signing of the Strathcona Agreement, governing development and operation of the proposed Nanisivik lead-zinc mine on northern Baffin Island. The negotiations that led to the signing did not include the local Aboriginal community, but in an effort to ensure that those affected by the mining project were well informed, the federal government and MRI did conduct 26 meetings with the Hamlet of Arctic Bay Council and the people of Arctic Bay, prior to construction.<sup>1</sup>

While the main aim of the Strathcona Agreement was to enable the government to provide financial assistance to MRI to support construction of infrastructure, including roads, an airstrip a wharf and the town site, one of its most important components was the section dealing with the employment of local residents at the mine — a section that made the Strathcona Agreement, in effect, the first Impacts and Benefits Agreement (IBA) in Canada.

The government provided funding and among other commitments, MRI agreed to provide employment and training for the local Inuit population. Initially, the company had proposed to work towards hiring up to 100 Inuit as permanent employees — approximately 50 per cent of the total workforce in the mine. However, the final agreement stated that within three years of start-up, members of the local Aboriginal population would make up 60 per cent of the workforce.

Although MRI agreed to the 60 per cent target, the company consistently maintained a level of only 21 to 30 per cent Aboriginal employment — despite extensive training and apprenticeship programs for the local people. The turnover rate for the local Inuit employees averaged 100 per cent each year, roughly two and half times that of employees recruited from outside the community. It was once said that Nanisivik had hired and trained every able-bodied Inuit from northern Baffin Island.

The question that must be answered is this: Why did Nanisivik not attain 60 per cent northern Aboriginal employment? A number of reasons have been put forward to explain this outcome. The fact that the company could not retain the Inuit employees was a major factor. MRI did tackle the retention issue and in fact, changed its re-hiring policy to reflect the reality of the Inuit lifestyle — allowing any employee who had left the job (for example to go on a hunt) to be re-hired, as long as that person was not fired for cause. Another reason that has been put forward was the lack of trained Inuit available to take the jobs and the fact that the cost of training greater numbers would have negatively affected the economics of the mine.

<sup>1</sup> Sub-Committee of the Intergovernmental Working Group on the Mineral Industry. *Report on Native Participation in Mining, Phase I*. August 1990.

Although the Nanisivik mine is now closed, the fact that the Strathcona Agreement included a monitoring committee — with members from government, the local community and the company — means that information about the performance of the employment section is publicly available. This is generally not the case with the IBAs in effect today, with the exception of the diamond mines and more recently, the lead-zinc Prairie Creek Mine in the Northwest Territories. Because of this lack of information, the Mining Industry Human Resources Council (MiHR) recognized the value of conducting a study on the human resources (HR) components of partnership agreements between mining companies and Aboriginal communities.

## 1.2 The Current Study

The Mining Industry Human Resources Council (MiHR) has commissioned this research study — *Lessons Learned: A Report on HR Components of Aboriginal Community and Mining Company Partnership Agreements* as part of *SHIFT: Changing the Face of Canada's Mining Industry*.

The goal of this research is to increase understanding among both the mining industry and Aboriginal groups of how to achieve “win-win” employment outcomes when negotiating and implementing the HR components of Aboriginal community/industry partnership agreements. This study looks specifically at the HR and training aspects of IBAs and IBA-like agreements, in order to identify successful practices — from the perspectives of both industry and Aboriginal communities.

The intent is not to categorize one approach as better than another but to provide innovative examples from previous agreements, so that future agreements can benefit. This research does not identify a “silver bullet” that will guarantee the successful negotiation and implementation of the HR components of IBAs; rather, it offers insights from those who have walked this path before and have valuable experiences to share. It is important to remember that almost all of these agreements are confidential so it is difficult to understand all the intricacies of the HR components of the IBAs.





## 2 Study Methodology

The study began with a review to identify agreements that have been negotiated between mining companies and Aboriginal groups — and in the early days, governments — to develop an understanding of Canada’s experience with IBAs and similar agreements. The study continued with a very limited review of some of the research and academic papers that have focused on IBAs, to determine how much information is available on the HR and training aspects.

Subsequently, 10 mining projects were identified that have included IBAs or IBA-like agreements with local Aboriginal groups. These 10 projects cover mining in most of the regions of Canada, and all have been negotiated, signed and implemented at least three years ago. It is generally believed that it takes at least three years from the time of the signing of the IBA for the mine to be constructed and move into operation. The HR needs of a mining company are very different during construction than during production, so the full implementation of the agreement does not occur until production begins.

### 2.1 A Snapshot of IBAs in Canada

As previously noted, the 1974 Strathcona Agreement was, in effect, the first Impacts and Benefits Agreement (IBA) negotiated in Canada. In fact, it was the first agreement of any kind negotiated with the intent of improving Aboriginal inclusion within the mining industry. Since that time, 318<sup>2</sup> agreements of all types have been negotiated across the country, covering 185 different projects. A breakdown of the agreements shows that 98 are IBAs or IBA-like agreements, associated with 61 projects. The remaining 220 are less formal agreements, such as Exploration Agreements and Memoranda of Understanding, which are negotiated earlier in the mining cycle than IBAs.

Of the 98 negotiated IBAs or IBA-like agreements, 26 are no longer in effect because the mines have closed. Thus, 72 IBAs or IBA-like agreements were still in effect at the time of this study and 30 of these involved producing mines. However, because some mines have more than one IBA with Aboriginal groups, a total of 21 producing mines have IBAs or IBA-like agreements.

The literature on IBAs contains little in the way of detailed information on the HR aspects. This — and the fact that most of these agreements are confidential and are rarely reported on — make it very difficult to fully evaluate the success of the HR components.

<sup>2</sup> Information in this section has been collected by Researcher, Mr. Doug Paget, May 31, 2012.

## 2.2 Interviews

The study examined only IBAs that had been in effect for at least three years, to allow more thorough analysis of how the HR clauses of the agreements were working. After identifying the IBAs, the leadership of both the companies and the Aboriginal groups were contacted and permission was requested to interview representatives with knowledge of the negotiation and implementation of the IBA.

Companies that had negotiated a total of 16 IBAs and Aboriginal groups that had negotiated eight, agreed to participate. (The fact that many of the respondents were involved with more than one IBA proved to be valuable, as they often spoke about differences between the agreements.) Once a company or community identified one or more spokespersons, participants were provided with the questionnaires for both the community and the company, so that they could understand the full scope of the study before the interview.

Interviews were conducted during the winter of 2011–2012 and generally lasted for one hour. At the beginning of each interview, the interviewee was reminded that they could choose not to respond to specific questions.

Following the interviews, responses were summarized in a manner that precluded identification of the particular community or company. Instead of referring to a First Nation or Inuit group, the term Aboriginal group or community has been used. Instead of Chief or Mayor, the term leadership has been used and, instead of using the company's name, the term company has been used. Each write-up was sent to the interviewee for their suggested clarifications and approval, to ensure accuracy and confidentiality.



## 3 Key Findings: Initial Contact and General Negotiation

Most mineral exploration and mining in Canada occurs in the remote, northern regions of the provinces and in the three territories. These lands are also home to many of Canada's Aboriginal peoples — and have been for millennia.

Evidence is building about the best ways to forge successful long-term relationships between mining companies and the Aboriginal communities affected by their operations. It is increasingly clear that the initial contact between a company and the local Aboriginal community is an important factor in long-term success; if the initial contact is positive, the long-term relationship usually works effectively over time. The reverse also holds true.

It is important to note that at the stage of initial contact, many remote communities have had little or no contact with mining and the residents generally do not understand the various phases of the mining cycle.

### 3.1 Initial Contact

The interview subjects generally agreed that one of the most important aspects of negotiations is the timing of the company's initial contact with Aboriginal groups. The majority said this contact should occur as early as possible.

*The more talk that there is before negotiations begin, the faster negotiations are completed.*

According to the findings, first contact should be made after the company has selected the land during the early stages of prospecting and exploration. Informing Aboriginal community leaders about plans at this early stage is warranted and valuable, even though the company does not yet know whether a project will lead to a mine.

This outreach can occur even earlier; in fact, one company reported contacting the potentially affected communities before site selection. Its top officers spent months in the communities, establishing relationships with the local people. These company leaders worked to build trust and made it clear that they would not search for minerals on the Aboriginal groups' traditional territories without their cooperation and consent.

After initial contact, a company may negotiate an Exploration Agreement or Agreement-in-Principle well before the Impacts and Benefits Agreement (IBA) negotiations begin. The earlier agreements set the stage for negotiation of an IBA and are considered to be a very useful tool for continuing good relations between the two parties.

The more talk that there is before negotiations begin, the faster negotiations are completed.

Quite often, properties change hands at least once prior to the arrival of the final owners. In one case like this, the new owner and the Aboriginal leaders agreed that the IBA developed under the previous owner would not work, so they renegotiated it to include more defined procedures.<sup>3</sup>

Aboriginal communities attach considerable importance to which individuals the mining company first contacts. Almost all the companies participating in this study reported making first contact with the leaders of the community and the Aboriginal leaders considered this to be appropriate as well. In one case, the company did not contact the leadership, but rather a person who was known to the company. The community was opposed to this approach and the company eventually had to make formal contact with the leaders.

Additionally, respondents generally believed that initial contact should be made by the highest ranking company official possible — generally the President or CEO — creating the foundation of a relationship between two equals.

The study found that the reactions of Aboriginal communities to initial contact with a mining or exploration company vary widely and are generally influenced by the communities' mining knowledge and past experiences with the industry:

- Communities that were familiar with mining (and had had a good experience in the past) tended to be the most open to the first contact.
- Companies stated that even if they were the first mining company to reach out to the local community, the reception was generally very positive.
- Communities that had a negative past experience with a mining company were the least receptive to initial contact.

**If a trapper sees unfamiliar people working in the traditional territory and the exploration workers approach the community only after being spotted — the reception is invariably negative.**

The success of initial contact is also affected by the degree to which a company demonstrates respect for Aboriginal protocols. If the community indirectly discovers that an exploration company is operating in its area — for example, if a trapper sees unfamiliar people working in the traditional territory and the exploration workers approach the community only after being spotted — the reception is invariably negative.

Most companies contacted for this study had been well prepared for the possibility of a negative community reaction and were pleasantly surprised when the reaction was favourable. However, it was noted that even a positive initial reaction did not necessarily lead to a rapid negotiation of an IBA; one company reported that negotiations still took 10 years.

### **3.2 Building the Relationship through Trust and Information**

Given that most communities have limited knowledge of mining, it is crucial for companies to not only communicate their plans but also to work to increase community understanding of the whole exploration/mining sequence.

Community meetings are the best forum for building this understanding. In some cases, the community will organize these meetings and in others, the company will set up the process. It is not uncommon for the two parties to hold numerous meetings, often including company mining specialists who can answer specific questions. One company that had more than one IBA noted that in one case, it offered to meet with the community and found that some community members were not eager for such a meeting; in another, the entire community was very receptive.

<sup>3</sup> In another case, there was no clause covering change of ownership and the second owner refused to honour the IBA. This led to great resentment by the Aboriginal group.

The respondents saw these meetings as the best vehicles for the formation of community negotiating positions. A successful model was developed by one community that held meetings on general mining information for all residents and surveyed its members on their views of mining. There were numerous meetings that covered all aspects of the company's proposed business — geology, mining, technology and marketing.

The community leaders used the information they gathered to develop a negotiation mandate. In this case, the leadership regularly updated the community on the negotiation process and continued to seek direction from community members.

The study found that in most cases, the early IBA negotiations were held in the communities. Interview subjects said this was appropriate, as it was not uncommon for community members to attend the negotiations as observers. Holding the meetings locally helped the residents learn more about the mining industry and the communities were able to use the information to build capacity.

In fact, the one company that reported holding most of the meetings in a large city — far from the community — stated that both its managers and the Aboriginal leaders agreed it was a mistake not to meet in the community. Even if meetings aren't open to or attended by all community members, holding meetings locally fosters community ownership of the process and improves focus.

### 3.3 Negotiating Teams

The position of the person leading the negotiations was of utmost importance for both the community and the company. On the company side, negotiations were generally undertaken by the President, the CEO or other high-ranking members of the management team. If another negotiator was used, that person had direct contact with upper management. For complex negotiations, some companies brought together a team that could cover the various aspects of the agreement.

The communities generally developed teams to undertake the negotiations, allowing the views of stakeholders such as healthcare providers, educators, youth and Elders to be represented at the table. In addition, communities often hired technical advisors to answer mining-related questions. In some cases, companies provided financial assistance to the community to ensure that it had access to this technical advice and in some cases, this money was provided by government.<sup>4</sup>

The interviewees were asked whether there had been a “Eureka” moment when both sides agreed that negotiating an IBA was a good idea. This question wasn't relevant for all, for example, in areas where the settled land claim dictated that an IBA or an Inuit Impacts and Benefits Agreement (IIBA) had to be negotiated.

However, the true “Eureka” moments identified by both companies and communities resulted from both positive and negative circumstances. On the positive side were those companies that realized that they did indeed have an economic project that needed community buy-in — through the negotiation of an IBA — to make the project a reality. Another positive revelation occurred when — after a number of meetings — the community truly understood what the mining company was seeking and at the same time, the company understood what the community wanted from the project. Another company indicated that it had wanted an IBA and that the community agreed, once it realized that the company was sincere in its offer of a veto and its commitment to open communication.

Another moment of clarity occurred for one company when there was a protest at the exploration camp and the police had to be called in. Although not positive at the time, the second owner of the company realized the necessity of building its relationship with the Aboriginal peoples due to this situation and eventually an agreement was reached.

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<sup>4</sup> An example of this were the hearings held for the Ekati Diamond Mine in 1996, the Department of Indian Affairs and Northern Development noted that it had provided \$170,000 to three Aboriginal groups to participate in benefit agreement or opportunity negotiations. (Federal Environmental Assessment Panel Review of BHP Diamonds Inc. Northwest Territories Diamonds Project. February 22, 1996)

### 3.4 Beginning to Negotiate

Both communities and companies revealed challenges associated with the commencement of negotiations.

From the community point-of-view, the challenges were related: a lack of understanding about what the company planned to do, and uncertainty or unrealistic community expectations about the benefits of the project.

For the residents of at least one community, misunderstanding was compounded by the fact that the original owner of the property had vastly inflated expectations while trying to entice investors and investors. This lack of understanding of the project and unrealistic expectations made it very difficult to develop a mandate for the negotiations.

From the companies' point-of-view, it was clear that building trust with communities was by far the greatest challenge. This was manifested in various ways: in one case, the company had to prove that it was there to give, not just take; for another company, the biggest challenge was to bring the community on-side, given negative experiences with mining in the past. In the latter case, the company sought permission to at least explain what they wanted to do and how they would do it, and it urged the community to be open-minded. This approach worked, as the two sides eventually negotiated and signed an IBA.

The second-greatest challenge for the companies was negotiating with individuals who had a very rudimentary knowledge of mining, and little or no financial knowledge. The study also found that companies sometimes had trouble understanding that their "clock" for negotiation was set at a different time than that of the community. Companies wanted to move their projects forward, so an aggressive schedule was commonly important. On the other hand, communities often felt less urgency about schedules, as they were focused on fully understanding a project in order to achieve the best possible deal for their residents.

### 3.5 Recommendations on First Contact and Negotiations

**Recommendations 1:** *The company should contact affected communities as soon as possible after selecting the land.*

**Recommendation 2:** *Initial company contact with the Aboriginal community or communities should be made by the highest-ranking person possible (President or CEO) and should be with the community leadership.*

**Recommendation 3:** *Negotiations should be led by the highest-ranking member of the company management team and the highest-ranking member of the community leadership.*

**Recommendation 4:** *Regardless of who leads the negotiations for the community, technical advisors should be employed to ensure that mining-related questions can be answered.*

**Recommendation 5:** *If a company takes over a property that has an IBA, and there are no provisions for maintaining the terms of the IBA, the company should offer to review the Agreement with the community and determine how to make it continue to work.*

**Recommendation 6:** *The company should seek the advice of community members on how to make the negotiations more amicable and effective.*

**Recommendation 7:** *In order to solidify the relationship with the community, the company should offer to negotiate an earlier agreement well before entering negotiations for an IBA. The earlier agreement should contain a commitment to negotiate an IBA in the event that a mine is developed.*



## 4 Key Findings: HR Components of Impacts and Benefits Agreements

This study found that, once negotiations for an Impacts and Benefits Agreement (IBA) begin, the HR components of the final Agreement are paramount. The lack of employment opportunities in the remote and northern areas of Canada — especially for Aboriginal peoples — has long been recognized. Therefore, it is not surprising that employment opportunities were foremost on the agenda of almost all of the Aboriginal communities featured in this study, once it was agreed to negotiate towards an IBA.<sup>5</sup>

### 4.1 Establishing HR Goals

It is important that both companies and Aboriginal groups enter the negotiations of the HR portions of their IBA with well-developed and achievable HR objectives. Although communities and companies have various HR objectives, both frequently give high priority to maximizing local employment and to training as many residents as possible, to facilitate career advancement. One company expressed this goal with an even larger focus; it wished to provide the community with skills and businesses that would be sustainable and transferrable after the mine closed.

Given that some of the companies had negotiated Exploration Agreements and other earlier agreements, it was not surprising that they wanted to ensure that the communities benefited through all stages of the project (exploration, construction, production and closure).

One company set an HR objective of ensuring its hiring policies supported maintenance of safety and productivity at the mine. The company noted this approach has been successful, as its mines have achieved some of the best safety and productivity numbers in North America.

### 4.2 Employment Targets

In the first IBA-type agreement, the Strathcona Agreement, the parties aimed to have 60 per cent of the workforce represented by local Aboriginal peoples. This was an arbitrary number chosen by the company and the federal government without any apparent analysis; as such, it was bound to fail.

<sup>5</sup> Despite the fact that this study is on the HR aspects of the IBAs, every community raised concerns about the ability of the company to mitigate the environmental impact of their project.

Since then, some IBAs have included targets with fixed numbers of local Aboriginal employees; some have included a percentage of all employees; and others have stated that the company will utilize “best effort”.

According to many respondents, establishing a realistic target for numbers or percentages of Aboriginal workers could only occur after the company learned the full make-up of its potential workforce, and after the community assessed the abilities and career interests of the candidates.

Both communities and companies believed that establishing a numeric target — whether a percentage or a fixed number — was far more successful than aiming for “best effort”. One company with a best-effort clause in its IBA now uses an informally agreed-upon percentage. After a number of years, this company initiated a “second-start” program with a number of training programs and practices to help it meet the informal percentage target.

As mining operations expand, it is not uncommon for the parties to renegotiate and increase employment targets.

The use of percentages does present challenges. As total mine employment grows, the number of Aboriginal workers has to grow as well, to keep up with the target. Under these arrangements, it is possible to hire all employable residents in a community and still not meet the target, should the company’s size increase significantly. One company reported that its mine employs its highest-ever number of Aboriginal employees; yet, it is still slightly below the percentage target of its IBA.

*As mining operations expand, it is not uncommon for the parties to renegotiate and increase employment targets.*

One company with multiple IBAs noted that each has a different measure of success: percentage, fixed number and best effort. Communities stated that they prefer the use of known employment targets (fixed numbers or percentages) as it enables them to monitor how well the company is fulfilling its IBA obligations.<sup>6</sup> A definite number can be tracked and that alone means the company can be held accountable. However, this study showed that although the company’s performance can be tracked and reported, it is rarely done. As a result, some communities stated that they were not sure how well — or even if —, the HR section of the IBA was succeeding.

Generally, the final employment targets were agreed-upon without prolonged or overtly difficult negotiations. While reaching agreement on a measure of employment was a lengthy process for some, it was not considered to be a “sticking point”.

### 4.3 Types of HR Components

One of the best aspects of IBAs is their flexibility; there is no set template that negotiators must follow, which allows them to be adapted to each partnership. Each IBA can be negotiated based upon the needs and wants of both the specific Aboriginal community and the company. This research found a number of variations in the HR sections of the IBAs studied.

#### *Tracking Employment Progress*

All IBAs reviewed for this study included language on the employment of local Aboriginal peoples and generally, this included preferential hiring. Community respondents stated that both the company and the community need firm targets that they can hold on to. The study found that some IBAs include components to ensure that implementation is transparent.

<sup>6</sup> Although the companies were asked (on a voluntary basis) to provide data on their success in reaching their HR goals, only one company replied positively, so it was decided not to pursue this aspect of the study.



For instance, one company reported its IBAs include reporting mechanisms to track progress of performance against commitments by all contractors, with appropriate follow-up. Another company stated that its newer IBAs provide for unspecified penalties if the employment goals are not met (even though these are best efforts).

Some communities are concerned that companies are not sharing all of the results with them, which can lead to perceptions that a company is not meeting its commitments.

### **Scholarships**

Most IBAs contain funds for scholarships. In some cases, these are controlled by the Aboriginal communities on the basis that they best know the needs of the students. Some IBAs include establishment of a community-scholarship coordinator who handles the applications. In all cases, the funds for scholarships do not try to channel the students into mining-specific studies.

### **Training**

Training was extremely important for all — both as part of the IBA and for companies, even if it was not included in their IBA. In some cases, training is used to upgrade education levels (literacy, numeracy) and to develop work-readiness skills (problem solving, effective communication); in other cases it is employment-related (computer and equipment operation).

It is quite common for companies to use the construction phase of operations as an on-the-job training period. In one case, people hired for construction jobs were entered into a database for possible employment once the mine began operations. The companies often tapped into government funding (e.g. Human Resources and Skills Development Canada) and in some cases, they had the funds managed by the local Aboriginal community.

Employees often complete certificate programs (first aid, mine rescue) as well as earn certificates for occupations, such as shift-boss. One company described provision of three levels of training: 1) skills development by the company on-site (diamond drilling, camp cook); 2) outside training (heavy equipment operator); and 3) more formal courses such as those provided by the Department of Education and the local training provider. Assistance in selecting employment candidates may be provided by the appropriate personnel in the local community, such as career advisors.

While training is a feature of most IBAs, and is stressed by companies, some community representatives complained that although a number of residents have been trained, only a few have been hired. Some interviewees said that a lack of communication and transparency between the company and the community led to occasions where the community trained residents for job-openings but the company hired non-trained people. This was described as a “large waste of scarce resources”. Collaboration is important to ensure training is fully aligned with employment needs.

### **New Business Ventures**

Respondents were asked about IBA components dealing with business ventures because of the possibility of employment associated with new businesses. Most Agreements have new business components but generally they are in stand-alone sections called Business Development or Business Opportunities. The research found that communities that have signed multiple IBAs have been known to negotiate beyond employment to business development opportunities, but most community respondents were less familiar with the business aspects of the IBAs than were the company respondents. It also found the components on business varied in their strength. In one case, commitments were made to local Aboriginal businesses that were identified as being strong and valuable.

The IBA may include language whereby the company assists Aboriginal businesses to develop partnerships or joint ventures. If Aboriginal Business Development is included in the IBA, Aboriginal suppliers must be reasonably cost competitive, with services and products comparable in quality to those of other suppliers. One company reported that Aboriginal businesses comprise 80 per cent of suppliers to its mine.

### *Other HR Components*

Respondents identified a number of additional HR components. Most were related to increasing Aboriginal employment when mine operations began, not during the construction phase of operations. This acknowledges the difference in labour skills needed to construct a mine compared to operating it, and the relatively short time-frame required to construct a mine. However, in cases where construction employment was part of the IBA, contracted construction firms were expected to attempt to hire as many local Aboriginal workers as possible. At least one company stated that all requirements of their IBA must be followed by all sub-contractors.

In some cases, the respondents noted that the hiring of a community-liaison officer helped to increase the number of local people hired. Another promising practice is the development of a joint management and community committee to review and discuss HR issues.

It is also common for the HR provisions of IBAs to include a requirement for Aboriginal applicants to meet the job qualifications for the positions they seek.

**Another promising practice is the development of a joint management and community committee to review and discuss HR issues.**

### *Aboriginal Culture and Human Resources*

It is well accepted that there are cultural differences between Aboriginal traditions and the mining industry. In some cases, a company's lack of understanding of either workplace or traditional cultures has made recruiting or retaining Aboriginal workers difficult. As such, the research investigated how frequently IBAs include clauses covering cultural components that would increase the potential for success of the HR aspects.

**It is important to ensure that Aboriginal and treaty rights are covered in the proper context.**

All IBAs covered in this study include some form of mandatory, cross-cultural training for all personnel. Some managers and supervisors must undergo a more detailed and longer course. Cultural components that were especially popular included the provision of country kitchens (for the preparation of traditional foods) and the use of special leave for culturally sensitive activities.

For Aboriginal communities, the cultural aspects of the IBAs were very important for the success of the project. One community expressed the opinion that the agreements governing the company's relationship with the various Aboriginal groups were culturally sensitive documents. This was stressed in one case, where it was noted that if cross-cultural training had been provided, serious human rights problems that arose at the project might have been avoided.

It is important to ensure that Aboriginal and treaty rights are covered in the proper context.

## 4.4 Recommendations on HR Components

**Recommendation 8:** *When negotiating the HR aspects of the IBA, ensure that a definite number, expressed either as a number or as a percentage of all employees, is used. The number must be based upon realistic targets and should be revisited as employment at the project grows or compresses.*

**Recommendation 9:** *Ensure that there is a reporting mechanism on the company's progress towards fulfilling the agreed-upon employment goals and include penalties should the company fail to fulfill these goals.*

**Recommendation 10:** *The Agreement should include a provision that will enable the company to be aware of potential challenges in hiring local residents. A mechanism could be a company-paid community-liaison officer or an HR committee comprised of both company and community personnel.*

**Recommendation 11:** *The Agreement should include cross-cultural training for all mine personnel. The training should be done by the local community.*



## 5 Implementation

No matter how strong the HR clauses of an IBA are, the company will not succeed in meeting its HR goals if the Agreement is not properly implemented.

### 5.1 Role of the Community

It is generally accepted that the company has lead responsibility for implementation of the Agreement, given that the company is the party that wishes to use the Aboriginal groups' traditional land. However, involving the community in implementation — at least in some measure — fosters ownership of the Agreement by both parties.

One of the most common implementation tasks for communities is development of a skills inventory of the local residents. This is valuable because the community knows its residents, and hence the potential workforce, better than the company.

In some cases the IBA requires the community to maintain records of personal résumés and a community business database. One company provides both the software for the database and the training to on its use — at no cost to the community. In another case, the company completed the skills inventory but hired Aboriginal Employment Co-ordinators to work with the community. One company respondent said that including a skills inventory undertaken by the community helps ensure that all parties were accountable for their requirements under the IBA.

Some IBAs include other provisions to ensure the community is involved in the mine. One example is environmental monitoring, in which monitors work at the mine-site but are employees of the communities.

In these circumstances, the community is working with the company, helping to increase the company's understanding and openness to local and traditional processes.

Company and community respondents agreed that companies need community support in recruiting new employees. One of the most popular methods of obtaining such help was through the hiring of community-liaison officers. Almost all companies say their IBAs include a provision for a community-liaison officer; one noted that both the company and the community have hired their own liaison officers. According to another company, the position was so successful that liaison officers were hired for each of two rotations.

*In these circumstances, the community is working with the company, helping to increase the company's understanding and openness to local and traditional processes.*

Another successful practice is having liaison officers for each community associated with the IBA. A company reported that its IBA did not include such a position, and said employees have stepped forward on their own to act as liaison officers.

Respondents generally agreed on the critical importance of establishing reasonable expectations and objectives when creating the liaison position; if realistic outcomes aren't clearly communicated, there is a risk that stakeholders will expect more or different results and see the liaison process as a failure.

Most companies described challenges in staffing the liaison-officer position, saying it was difficult to find someone with the right skills and language proficiency acceptable to both the company and the Aboriginal leadership. One respondent said it took three attempts before the appropriate liaison officer was in place. All companies indicated that the position was funded by the company.

Some IBAs include the establishment of a joint company-community committee with responsibility for community liaison. These committees can handle multiple IBAs for a community. Respondents described the use of a joint committee as very successful; it ensured good communication between the company and the community, and spread the duties over more than one person.

## 5.2 Dissemination of Employment Information

Communities indicated that companies generally worked well with them to provide employment information after the IBA was signed. Some communities, however, expressed concern that the level of effort was not always maintained once mining operations began.

All companies worked with the communities to explain which jobs were available. A variety of methods were employed, including:

- HR specialists that explained skills requirements and career opportunities, and helped in the development of the skills database
- job fairs and recruitment drives with associated career counselling
- visits to high schools (with Aboriginal leadership) to explain jobs and academic requirements
- community presentations and visits, and correspondence to the community from head office
- development of a handbook with a description of job requirements and the number of positions becoming available

Once the IBA was signed and the company was ready to hire, a variety of methods were used to communicate recruitment needs to the community:

- media (newspapers, television, and radio)
- job fairs
- community visits
- trade shows
- word-of-mouth
- community newsletters
- e-mails to the Aboriginal liaison office

- postings on community boards
- postings in Community Employment Offices (also called Economic or Career Development Offices) and in the Aboriginal leadership offices

The communities found that using a Community Employment Officer was a very good way to spread information related to available jobs. Communities noted residents' ability to find employment on-line varied widely, as not all residents are computer-literate. Companies agreed that communication through the Aboriginal organization (often the Community Office) or through Community Employment Centres and word-of-mouth were most effective.

Communication methods for recruitment varied in effectiveness, depending on the type of job being advertised. For entry-level positions, advertisements in the community (both local paper and TV channels) were effective but respondents said that newspaper advertising (both national and trade papers) produced better results for more skilled positions.

## 5.3 Recruiting

### *Culturally Sensitive Recruitment Methods*

Companies used both traditional HR recruiting methods and culturally sensitive methods. In one case, a less formal interview situation was achieved by having the community-liaison officer sit in — to increase the comfort level of the interviewee, and to ensure that the exchange was correctly translated and understood.

In another case, family members of potential candidates were brought on-site to allow a collective decision about the job opportunity. While the hiring process was competitive, interviews were adapted to take account of the cultural differences between Aboriginal and non-Aboriginal recruits. The communities agreed it is beneficial when companies include an Aboriginal person as part of their hiring teams.

Communities agreed that companies generally act in a culturally sensitive manner when undertaking their original hiring; however, some raised concerns about the level of company sensitivity dwindling over time.

One company noted that its Aboriginal Affairs person was involved in all recruiting; other companies considered the Aboriginal recruiter's schedule (hunting, fishing) when planning employee interviews.

Communities agreed that companies generally act in a culturally sensitive manner when undertaking their original hiring; however, some raised concerns about the level of company sensitivity dwindling over time.

### *Education and Training*

Some companies considered experience and not just academic qualifications when assessing skills and job suitability. For safety and security reasons, basic English is required, as most workplace documents are written at a Grade 8 literacy level. Some companies indicated that flexibility was not possible when hiring for the trades because of the jurisdictional requirements for English proficiency.

According to 2006 Statistics Canada information, one-third (33%) of Aboriginal adults aged 25 to 54 had less than a high school education, compared to nearly 13% of the non-Aboriginal population — a difference of 20 percentage points.<sup>7</sup> According to the information gathered for this study, not only have many Aboriginal people not completed high school, but many are not functionally literate and require extra training in order to safely work in a mine.

<sup>7</sup> [www.statcan.gc.ca/pub/89-645-x/2010001/education-eng.htm](http://www.statcan.gc.ca/pub/89-645-x/2010001/education-eng.htm)

To ensure compliance with the terms of their IBAs, most companies said they were very flexible during the hiring process when it came to education and training. A number of them explained that a Grade 10 or Grade 12 education is a typical requirement for many of their projects but Aboriginal employees on projects covered by IBAs do not necessarily require this level of education. Often, basic literacy and numeracy were the requirements for entry-level jobs.

Given the challenges associated with education, it is surprising to find that companies rarely provided pre-employment training as part of the IBA. One company did report encouraging potential employees to upgrade before employment — through local Adult Learning Centres or local Aboriginal mining education and training services. In a few cases, pre-employment workshops have been provided but not as part of the IBA. Understandably, the required level of education depends upon the position.

According to a 2006 study by the Canadian Council on Learning titled *Métis Post-Secondary Education Systems: Literature Review*,<sup>8</sup> 7.7 percent of all Aboriginal people between the ages of 25 and 64 have completed a university program (6.0 per cent of males and 9.3 percent of females). Among the on-reserve population in the same age group, only 4.3 per cent have completed a university program, compared to 3.9 percent of all Inuit. This comparatively low level of university training makes it very difficult for Aboriginal people to enter a mine at higher levels and makes advancement in the professional categories almost prohibitive without support.

### **HR Components Related to Recruiting**

Employment was the most popular (well-received and accessed) HR component of the IBAs by both companies and communities. Other popular HR components included:

- preferential entry-level hiring
- training
- professional development
- scholarships

Company-provided scholarships are heavily accessed and in most cases, are run by the Aboriginal community. As noted earlier, the IBAs do not try to steer students receiving scholarships into mining-related studies; in fact, respondents reported that no students are using their scholarships to study mining or mining-related fields. Neither the communities nor companies felt that this was inappropriate.

**Up-take of apprenticeship training has increased, as the education level of the local students has started to rise.**

Most of the IBAs contain apprenticeship provisions. However, in a number of cases, companies have not been very successful because the education (literacy) requirements to enter an apprenticeship program are stringent. As one company stated, the ability of Aboriginal employees to enter the program is stymied by the system.

One respondent did note that up-take of apprenticeship training has increased, as the education level of the local students has started to rise. One community said it supported the use of hard-number targets for apprenticeships, as is often the case with employment.

<sup>8</sup> [www.ccl-cca.ca/pdfs/ablk/Metis\\_PSELitReview.pdf](http://www.ccl-cca.ca/pdfs/ablk/Metis_PSELitReview.pdf)

## 5.4 Advancement and Retention

The study found that companies striving to attain IBA employment goals must not only implement a plan to hire local employees, but must also develop programs to ensure employee advancement and ultimately, retention.

### *Training and Professional Development*

All companies provide opportunities to Aboriginal employees for post-employment upgrading/training or professional development — either through or outside IBAs. Many companies noted that most of their training attracts a number of applicants but actual attendance can be problematic.

Upgrading and professional development are provided in a number of ways:

- mentoring programs (after one year of employment)
- career development programs
- educational upgrading in the community to obtain a Grade 12 equivalency
- on-site adult education (One company noted that this training used to be provided during working hours but has been phased out.)
- courses through local colleges and technical schools
- job-related training programs for specific positions
- language training to ensure a safe workplace
- workplace specific-training in the communities

Companies invest heavily in programs supporting advancement and retention both within and outside IBAs. IBA provisions that have helped in this area include cultural leave to enable Aboriginal employees to participate in the traditional spring and fall hunts, and on-site training and certification that offers staff the chance to work a regular rotation while being trained.

One successful practice was the development of an on-site Education and Technical Training Committee. Comprised of both Aboriginal and non-Aboriginal employees, this committee helped increase both advancement and retention at the mining project.

Companies mentioned various methods used for retention. The following techniques were also cited for training and advancement:

- on-site literacy
- skills development
- adult education
- coaching and mentoring
- a “buddy system”
- prior-learning assessments
- cultural accommodations
- country foods (kitchens)
- cultural events hosted on-site



Companies shared two main reasons why advancement has been difficult: 1) reluctance of many employees to supervise their fellow community members, and 2) fear of failure during the interview for the higher position.

It was noted that Aboriginal workers tend to not self-promote for leadership roles. To circumvent this issue, companies simply appoint the qualified Aboriginal worker. Companies report that the worker then tends to accept the supervisory job and generally thrives.

Most companies believe their retention and advancement policies have generally worked, although retention is often more challenging. One company noted that people often come to work with a specific goal in mind, for example, to purchase a new truck. In some cases, they work enough hours to buy the truck and then do not return to the job. Other companies noted that family pressure to be at home more often leads to employees leaving their jobs.

**Aboriginal workers tend to not self-promote for leadership roles.**

### ***Community Involvement in Retention and Advancement***

It is important that both partners champion the HR aspects of the IBA. However, community involvement in helping the company to retain and promote local employees was not an evident feature of the IBAs examined in this study. Indeed, most community respondents felt that the community was not working to help their resident workers.

One community respondent said the retention issue has been addressed through the work of the Community Development Office. In this case, the Community Development Office operates as a listening post for workers' concerns and members of this Office work with the company to manage employment issues. So far, the Office appears to have been successful, as the company's retention rate has improved.

**The Community Development Office operates as a listening post for workers' concerns and members of this Office work with the company to manage employment issues.**

Companies were very keen to directly involve the community in efforts to retain and advance their residents. In cases where local communities are doing this work in collaboration with companies, companies learn more about culturally appropriate methods of working with employees and with the broader community to find solutions to common issues. An example provided was the collaborative establishment of a pool of employees that the company can draw from when other workers wish to take time off to fish or hunt.

Aboriginal leaders can show support for their communities' employees by holding regular community meetings to discuss issues of concern to workers and by undertaking on-site visits to talk to all employees. Companies view community leadership participation as very positive, as it supports the retention of workers.

When bringing Aboriginal people into the organization, the company needs to foster a culture of inclusion; it must be accepting and supportive of all employees to encourage them to remain with the company and ultimately to advance. Respondents pointed out that bridging Aboriginal and non-Aboriginal cultures can pose a major challenge, and they cited a need to increase mutual understanding of values and perceptions. For example, an Aboriginal employee may be deeply affected by the death of a community member who is not a close relative or friend. Companies reported that they often did not understand why an employee felt it necessary to attend the funeral in this type of case. They would sometimes discipline an employee who missed work to be with the community.

Communities consider advancement to be the greatest HR challenge and they express concern about the lack of public data on retention and advancement. Community respondents said a lack of information about how well a company is fulfilling this aspect of its IBA results in frustration and even distrust.

The companies noted a number of challenges with advancement and retention — low education levels being the major one. Companies may hire someone with less education but in these cases, advancement to supervisory or management positions poses a great challenge. This study found that more advancement occurs in the company when the education level in the surrounding area improves.

### ***Other Factors Affecting Retention and Advancement***

One company's leadership-recognition program encourages employees to nominate colleagues they believe exemplify leadership to be featured in the company's internal newsletter. In this case, an Aboriginal worker was nominated and approved unanimously by all managers. Providing recognition in this manner has proven to be valuable as a retention initiative.

Another effective tool for companies to manage retention is the exit interview.

Although not included in the IBA, one company described undertaking exit interviews to find out why employees leave. Responses provide valuable information for the development of new programs to help the company retain new workers.

Honest and thorough exit interviews allow the company to mitigate the causes of departure one by one.

Communities were concerned that on-site training was given high priority at first but tended to wane over time. Even when sites have provided high-quality training, it has not fostered advancement, which is a source of frustration for communities. One community representative stated that for HR clauses to work properly, both the company and the Aboriginal community must remain focused on the clauses — and that this does not always happen.

Another concern related to retention and advancement is drug abuse. Due to safety requirements, the use of drugs and alcohol on-site cannot be tolerated. As one community respondent said, even though the company has spent a great deal of money helping certain employees, they continue to use drugs and often refuse to get professional help, resulting in dismissal.

Companies also noted that the normal competitive factors such as recruitment by other companies or industries represent a problem when it comes to retention. This was identified as an issue for both the more “urban” sites and the remote sites, and can make it difficult for a company to meet its IBA obligations.

### ***Lessons Learned on Retention and Advancement***

Respondents were asked to share “lessons learned” on retention and advancement that they could pass along to help those negotiating a similar agreement in the future.

From the point of view of the community respondents, a key piece of advice came from one community that created a 10-member working group to replace the community-liaison officer. This working group vets complaints, briefs the mining company on employee issues and seeks remedies for complaints. It also ensures regular meetings between the Aboriginal leadership and the mine management. This was viewed as a good method to help the community assist local resident workers and at the same time keep the community informed about what was happening at the mine.

According to the company respondents, the most important lessons are that it is impossible to “over-communicate” and it is necessary to be very patient. In addition, companies stress that they have to be more strategic in understanding the needs of the communities, so that both sides are on the same page. It was noted that residents working at the mines are role models for the rest of the community. As the workforce becomes more literate, more young people are graduating from high school and going to college or university, and the number of Aboriginal-owned businesses supplying mines tends to increase significantly after the inception of IBAs.

**Honest and thorough exit interviews allow the company to mitigate the causes of departure one by one.**

## 5.5 Succeeding with Implementation

The research found that some companies had done a better job of implementing the IBAs than others, but there was no sense that any company had completely failed to live up to its obligations. The degree of success of the IBA depends greatly upon the degree of engagement of the mine president in the IBA process. If the president is interested and involved in the implementation, it is successful.

Companies strive to meet the obligations of the IBA for both legal and social reasons. IBA implementation helps build the capacity of the community and the cultural capacity of the company. One company representative stated: “Strong relations allow for future development opportunities that can bring additional local benefits to the region.”

Companies are recognizing that even if an IBA is required by law, it is a good thing to have. From a cost point of view, many companies noted that it is much less expensive to hire locally than to bring employees in from hundreds of kilometres away.

One company reported that a number of years ago, the Chairman stated that one of the driving forces of the company was to make profits but to do so in a manner that makes a positive and lasting contribution to the communities. In simpler terms, the company tends to talk about a “hand up” rather than a “hand out” so that community members develop pride and greater self-esteem, and are able to stand as role models for youth.

## 5.6 Recommendations on Implementation

**Recommendation 12:** *Ensure that the community is involved in the success of the HR component of the IBA through direct participation, such as the undertaking of a skills inventory of community residents interested in employment at the mine.*

**Recommendation 13:** *The Agreement should include a provision that will support the company in hiring (and retaining) local residents; either a company-paid community-liaison officer or an HR committee comprised of both company and community personnel, has proven to be suitable. If it is agreed to include the liaison position or committee as part of the IBA, it is important to ensure that the expectations for its success are reasonable and known.*

**Recommendation 14:** *To improve the possibility of hiring Aboriginal peoples, the company should include Aboriginal recruiters as part of its recruiting staff.*

**Recommendation 15:** *In order to help maximize the number of Aboriginal employees, pre-employment training should be included in the IBA.*

**Recommendation 16:** *The IBA should include a mechanism that would allow for the advancement of Aboriginal employees based upon demonstrated competency and not solely upon educational level, tests or interviews.*

**Recommendation 17:** *The requirement for exit interviews should be included in the IBA.*

**Recommendation 18:** *When an IBA contains clauses related to advancement of Aboriginal workers, the company should work to ensure that the appropriate training is available and that its promotion system is sensitive to cultural barriers that might hinder an employee from seeking a promotion.*

**Recommendation 19:** *Stay focused. Continue to provide career information and offer valuable training opportunities as the mine ages.*



## 6 Understanding Community and Mine Cultures

The importance of the mining company and the Aboriginal community understanding each other's culture cannot be overstated.

### 6.1 Cross-cultural Training

Most communities conducted activities to inform the mine workers about the culture of the area where the mine was located. It is very important that these information sessions are factual and conducted with the purpose to educate — not to isolate one group from another.

In one case, a community respondent stated that the cross-cultural course developed by the community was “wrong”, which caused the non-Aboriginal workforce to feel uncomfortable and made the training ineffective. In another case, meetings between the community and the company have been positive experiences and a venue for teaching the mining company about the local culture. The meetings allow the community to constantly remind the mine leadership that the local culture is alive and well. In addition, the mine leadership is invited to meet with the community leadership on a regular basis, which has helped to cement the relationship between the two groups.

All companies in the study have supported cross-cultural training and in most cases, the community has been involved in providing the training. In some cases, both the non-Aboriginal and Aboriginal employees receive the training and it has been well received by both groups. One company reported that some of the Aboriginal workers have come forward with suggestions on how to improve the course, and also that some non-Aboriginal workers have asked for more detailed training. All companies indicated that the sessions have been popular with non-Aboriginal employees, in particular when covering sensitive subjects that are not fully understood by non-Aboriginal people, such as residential schools.

## 6.2 Cultural Accommodation

One community said that accommodating local culture was somewhat less important in the case of non-fly-in mines. According to the communities, most mines provide local food (sometimes with a dedicated kitchen) and most provide for leave if an elder dies.

All companies indicated that they accommodate local Aboriginal culture. A variety of accommodations were noted, including:

- providing different rotations for Aboriginal people (two weeks in, two weeks out) compared to non-Aboriginal people (three weeks in, three weeks out)
- serving of country (traditional) foods or making available a special kitchen where country foods can be prepared by Aboriginal employees
- hosting traditional ceremonies on-site (Aboriginal Day, the solstices)
- promoting Aboriginal artists on-site
- hosting elder tours; providing an Aboriginal gathering area
- providing for periodic on-site pow wows, dancing and similar events
- using Aboriginal designs in the buildings to help make local people feel more at home
- using Aboriginal signage throughout the mine



## 7 Advice on Negotiating and Implementing Impacts and Benefits Agreements

Both community and company representatives shared stories or lessons about negotiating and implementing both the HR components of their IBAs and the IBAs in their entirety, in order to assist others in future negotiation. Not surprisingly, some of the advice was a repeat of what the respondents had said in reply to earlier questions.

### 7.1 Mutual Perspectives

Probably the most succinct lesson came from a company representative who said, “Negotiating the agreement is the easy part — implementing is the hard part.”

Negotiating the agreement is the easy part — implementing is the hard part.

- The importance of making all partners aware of the company’s efforts to fulfil the obligations of the Agreement is paramount. Although some companies are doing a good job of informing the community of their efforts, it is clear that this does not happen often enough. In order to rectify this problem, respondents recommended that the company and community work together to produce an annual report that is full of measurable variables and substantial information such as: employment by community; hours of training; safety records; average wages; and positions filled by Aboriginal workers.
- “A report like this would stop the rumour mill” — Community respondent
- Companies should ask what they can learn from the local Aboriginal peoples and then work hard to ensure that the community understands that they are good people to work with. As one member of a community said: “Things (negotiations) fall off the rails because of a lack of communication.”
- Make use of available resources such as the “Mining Information Kit for Aboriginal Communities”<sup>9</sup> and “Mining Essentials: A Work Readiness Training Program for Aboriginal Peoples”<sup>10</sup>. Make sure that these resources are available to both groups and that they are utilized before the negotiations begin, so that all parties understand what is happening.

<sup>9</sup> [www.nrcan.gc.ca/minerals-metals/aboriginal/bulletin/3059](http://www.nrcan.gc.ca/minerals-metals/aboriginal/bulletin/3059)

<sup>10</sup> [www.aboriginalmining.ca](http://www.aboriginalmining.ca)

- Look at the IBA in the longer term, not just the for the life of the mine and closure — but in the context of the life of the community.
- Spin-off effects of the development were raised as food for thought for those entering into new agreements:
  - The number of indirect jobs created is relative to the size of the mine and directly affects the impact of the site on the local economy.
  - In certain cases, the education level (especially post-secondary) of Aboriginal employees has increased, although it was noted that boys (at the age of 17) are at times hired by the mine instead of continuing their education. As a result, boys tend to have lower education levels than girls.
  - Employees have moved out of their traditional communities to larger centres where there is better housing, medical care and education. This has led to a decrease in the available skills pool in the community.

## 7.2 Company Perspectives

Although some companies felt that their agreements were good and that they would change little, there was a lot of advice from other companies including:

- Take a lot of time. Be patient with the community even though the company is under pressure to get a return on its investment.
- Work hard to make the Aboriginal group understand that the best success comes through partnership.
- Make sure that everything is in writing — informal “good intentions” are not enough.
- When negotiating with several communities, consider bringing all the right leadership representatives into one room and seek agreement on the division of the financial benefits in percentage terms. This will help communities realize the extent of the project benefits and how to divide them through consensus.

Over time it has been shown that the company’s values and those of the Aboriginal group are not all that different.

As one company advised, negotiations should lead to a win-win solution and this is best accomplished by building a relationship before beginning the negotiations. Other company advice included:

- One of the strongest messages was that negotiations should start early (an Exploration Agreement is a good idea).
- Both sides should be patient and if the property looks promising, both sides should use a negotiating agreement (MOU or Agreement-in-Principle) to define the path forward.
- Realize that the negotiations will be hard — but they should be fair. It is important to use principle-based negotiations.
- It is also important that both sides do their homework and know what the limits of negotiations and be willing to say “no” and if so, explain why. The IBA is not just for today but also for the future.

Over time it has been shown that the company’s values and those of the Aboriginal group are not all that different.

## 7.3 Community Perspectives

Advice from the communities about negotiating the IBA included:

- It is important that both sides understand the project and be well prepared before starting negotiations.
- Those who are going to be responsible for implementing the IBA should be at the table.
- The need for a proper problem-solving mechanism was raised as an insurance against future problems.
- The IBA should be precise — for example, there should be a specific commitment for training funds every year.
- There should be an automatic evaluation of the IBA especially during the first years (perhaps after five years).
- If, at a later date, all are not happy with the IBA, then go back and fix it (re-negotiate).

## 7.4 Working for Mutual Benefit

In many cases the advice on negotiating the agreement provided by the communities and the companies is very similar. Communities advised that it is especially important that the community is well prepared and fully understands mining before entering negotiations. The community must know exactly what it wants from the project and community negotiators are advised to be willing to walk away from the negotiations, if reasonable compromise is not possible.

Both parties were advised to listen, think and learn, then do the right thing.

Likewise, the communities advised that the company must understand exactly what its underlying interest is and it must work to ensure that the community understands the project and the interests of the company. Work must be done by both parties to ensure that they have the same interest in the project.

The main message is to be patient; it is not unusual for parties to take a number of years to negotiate a good agreement. Both parties were advised to listen, think and learn, then do the right thing. It was noted that over time, the company's values and those of the community are not all that different and that both groups should work towards mutual benefits. This is accomplished by understanding each group's needs and what the other party is trying to achieve.

## 7.5 Recommendation

**Recommendation 20:** A clause should be included in the IBA that allows for re-opening the agreement if either party feels that it is not working.



## Summary of Recommendations

### from *Lessons Learned: A Report on HR Components of Aboriginal Community and Mining Company Partnership Agreements*

- 1** The company should contact affected communities as soon as possible after selecting the land.
- 2** Initial company contact with the Aboriginal community or communities should be made by the highest-ranking person possible (President or CEO) and should be with the community leadership.
- 3** Negotiations should be led by the highest ranking member of the company management team and the highest-ranking member of the community leadership.
- 4** Regardless of who leads the negotiations for the community, technical advisors should be employed to ensure that the mining-related questions can be answered.
- 5** If a company takes over a property that has an IBA, and there are no provisions for maintaining the terms of the IBA, the company should offer to review the Agreement with the community and determine how to make it continue to work.
- 6** The company should seek the advice of community members on how to make the negotiations more amicable and effective.
- 7** In order to solidify the relationship with the community, the company should offer to negotiate an earlier agreement well before entering negotiations for an IBA. The earlier agreement should contain a commitment to negotiate an IBA in the event that a mine is developed.
- 8** When negotiating the HR aspects of the IBA, ensure that a definite number, expressed either as a number or as a percentage of all employees, is used. The number must be based upon realistic targets and should be revisited as employment at the project grows or compresses.
- 9** Ensure that there is a reporting mechanism of the company's progress on pursuit to fulfill the agreed-upon employment goals and include penalties should the company fail to fulfil these goals.
- 10** The Agreement should include a provision which will enable the company to be aware of potential challenges in hiring local residents. A mechanism could be a company-paid community-liaison officer or an HR committee comprised of both company and community personnel.
- 11** The Agreement should include cross-cultural training for all mine personnel. The training should be done by the local community.

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**12** Ensure that the community is involved in the success of the HR component of the IBA through direct participation, such as the undertaking of a skills inventory of community residents interested in employment at the mine.

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**13** The Agreement should include a provision that will support the company in hiring (and retaining) local residents; either a company-paid community-liaison officer or an HR committee, comprised of both company and community personnel, has proven to be suitable. If it is agreed to include the liaison position or committee as part of the IBA, it is important to ensure that the expectations for its success are reasonable and known.

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**14** To improve the possibility of hiring Aboriginal peoples the company should include Aboriginal recruiters as part of its recruiting staff.

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**15** In order to help maximize the number of potential hires, pre-hire training should be included in the IBA.

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**16** The IBA should include a mechanism that would allow for the advancement of Aboriginal employees based upon demonstrated competency and not solely upon educational level, tests or interviews.

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**17** The requirement for exit interviews should be included in the IBA.

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**18** When an IBA contains clauses related to advancement of Aboriginal workers, the company should work to ensure that the appropriate training is available and that its promotion system is sensitive to cultural barriers that may hinder an employee from seeking a promotion.

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**19** Stay focused. Continue to provide career information and offer valuable training opportunities as the mine ages.

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**20** A clause should be included in the IBA that allows for re-opening the Agreement if either party feels that it is not working.

## Bibliography

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