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EVALUATION DOCUMENT

EVALUATION OF THE DISPUTE RESOLUTION FUND

Technical Report

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TABLE OF CONTENTS

1. INTRODUCTION.....	1
1.1 Background.....	1
1.2 Objectives of this Evaluation.....	2
1.3 This Report.....	2
2. COMPONENT PROFILE.....	4
2.1 Administration of the DR Fund.....	7
2.2 Program Logic.....	7
3. ISSUES AND DATA SOURCES.....	9
3.1 Issues.....	9
3.2 Evaluation Plan.....	11
4. FINDINGS.....	13
4.1 Awareness of the DR Fund.....	13
4.2 Proposal Preparation.....	14
4.3 Selection of Projects for Funding.....	16
4.4 Timing.....	19
4.5 The Payment Mechanism.....	21
4.6 Notification to Refused Applicants.....	22
4.7 Effect of Reductions in Funding Relative to Amounts Requested.....	22
4.8 Recipients' Contributions.....	23
4.9 Incrementality.....	24
4.10 Project Monitoring and Evaluation.....	25
4.11 Costs and Benefits.....	31
4.12 Views on Program Design.....	31
4.13 Perceptions of Program Impacts.....	33
4.14 Findings of the Case Studies.....	33
5. SUMMARY AND LESSONS LEARNED.....	37
APPENDIX A: Terms and Conditions of the Dispute Resolution Fund.....	41
APPENDIX B: List of Federal Organizations Submitting Proposals to the DR Fund by Year and Outcome.....	51
APPENDIX C: Interview Guides.....	55
APPENDIX D: Case Study Reports.....	85

1. INTRODUCTION

1.1 Background

Dispute resolution encompasses a wide array of possible methods of resolving conflict, ranging from consensual to adjudicative approaches, and from negotiation to litigation. As an alternative to the courts, dispute resolution aims to prevent disputes from arising, or from progressing to formal litigation. Dispute resolution may also seek to streamline the process of resolving those disputes that do involve litigation through a variety of techniques.

The creation of the Dispute Resolution (DR) Fund within the Department of Justice Canada was approved by the Treasury Board on April 30, 1998. The Fund was initially given a two-year mandate, which will expire on March 31, 2000. The size of the fund as approved is \$4.6 million dollars over the two fiscal years, of which \$600,000 represents a re-allocation from within existing Department of Justice reference levels. The Department is also responsible for covering the costs associated with administering and evaluating the DR Fund from within existing budgets. An evaluation of the fund is required at the end of its initial two-year mandate.

The DR Fund was intended to complement the new framework for implementing the federal government's *Claims and Ex Gratia Payments Policy*, which will no longer differentiate between the source of funds for the payment of negotiated settlements and for court judgments. Prior to implementing this framework, the practice had generally been that departments and agencies were directly responsible for paying settlements, while judgments were centrally funded. This was seen to create a disincentive for departments and agencies to settle. The new framework will make departments and agencies responsible for both types of payments.

The new framework for implementing the *Claims and Ex Gratia Payments Policy* became effective on August 26, 1999. There is a transition period of five years within which departments will have access to central resources to fund judgements in excess of certain thresholds. For the first three years, departments will be responsible up to a temporary threshold of \$1 million or 1% of the department's operating budget, whichever is lower. In the fourth year, only one-half of the excess over \$1 million will be centrally funded and in the

fifth year, departments will be fully responsible for the funding of both judgements and settlements. The Treasury Board Secretariat will be conducting a review of the new funding framework after three years, in 2002.

In support of the new funding framework, the Dispute Resolution Fund was identified as one of the key ways of maintaining a “level playing field” by encouraging recourse by federal organizations to more cost-effective dispute resolution mechanisms. Taken together, the availability of the DR Fund, and the new framework on departmental payment of settlements are expected to provide government organizations with greater scope to avoid lengthy and protracted litigation.

1.2 Objectives of this Evaluation

The Terms and Conditions of the DR Fund require that an evaluation be completed by March 31, 2000 and submitted to the Deputy Minister of Justice and to the Treasury Board Secretariat. To facilitate the evaluation process, each funded project was required to submit a project evaluation to the DR Committee. However, given the short period of time elapsed since the creation of the fund (about one and a half years) and the relatively small number of projects (hence, evaluations) completed to date, a comprehensive evaluation of the results achieved by the Fund was deemed to be premature.

There remained two key objectives for this evaluation of the DR Fund. First, the study thoroughly assessed the relevance, design and implementation of the Fund. As a “formative” evaluation, this component of the evaluation study addressed issues relating to the Fund’s implementation that would have a bearing on outcome success, and provides insights into best practices relating to DR.

A second equally important objective for this evaluation study was to measure and report on preliminary program outcomes available to date. This analysis of program outcomes was based on the subset of the projects funded during the first year of the DR Fund which were either completed or sufficiently well-advanced to permit results measurement.

1.3 This Report

The remainder of this report consists of four chapters. Chapter 2 briefly describes the operation of the Fund. Chapter 3 identifies the key issues examined in this evaluation, and the

methods by which these issues were addressed. Chapter 4 presents the findings of this evaluation, organized in terms of the key issues examined. Chapter 5 discusses the key 'lessons learned' from this evaluation.

2. COMPONENT PROFILE

The overall purpose of the DR Fund is to support the development, implementation, monitoring, and evaluation of dispute resolution programs and processes within federal government organizations. For the purposes of the Fund, eligible federal government organizations include departments, agencies, Crown Corporations, tribunals, administrative agencies and federally-constituted courts. Funding is to support dispute resolution projects that provide for non-litigious means of dealing with disputes, including the provision of training in dispute resolution. The objectives of the Fund are:

- To encourage organizations to manage disputes more effectively, creatively and with less litigation.
- To reduce the costs of managing and litigating disputes among funded organizations and the Department of Justice¹

The DR Fund is administered by the Department of Justice and provides federal government organizations with a source of funds to implement specific dispute resolution projects. Notification to potential applicants was by letter to the heads of eligible organizations from the Deputy Minister of Justice. These call letters informed potential applicants of the goals and nature of the Fund, and how to apply for support from it. Reference was made in the letter to the *Terms and Conditions of the Fund*, which specify in more detail the requirements of proposals for support, as well as the process by which proposals are reviewed, and payments made to successful applicants.

Applications for funding are reviewed by the Dispute Resolution Committee whose members are drawn from outside the Department (with the exception of the Chair, who is the Justice official responsible for the administration of the Fund). Committee members possess expertise in both traditional and alternative dispute resolution mechanisms.

The Committee is mandated to select for funding those proposals that are consistent with the Fund's objectives and which are most likely to lead to better management of disputes by

¹ This would be reflected in a reduction in the average costs of dispute management and litigation. It may or may not lead to a reduction in the total costs of managing and litigating disputes if the average cost reduction allows organizations to manage more disputes within the same resource envelope.

government based on the detailed selection criteria listed in the Fund's Terms and Conditions. As listed in the *Terms and Conditions* (see Appendix A), the Committee is to consider the following factors as it reviews proposals for support from the Fund:

- a project must be in keeping with and directly support and advance the objectives of the Dispute Resolution Fund;
- the applicant's financial request for funding assistance;
- whether the applicant has committed to cost-share (either through direct funding or through in-kind contribution) at least 20% of the costs;
- the ability of the applicant to carry out the activities within a specific time frame and budget;
- the innovative nature of the project, as well as its cost-effective aspects;
- whether the proposal has close similarities to or duplicates previous projects;
- the previous funding provided by the Fund and the recipient's experience and background with respect to its ability to successfully complete and document the proposed project;
- the manner in which the project will be developed, implemented and monitored, as well as its accessibility to be documented for information purposes;
- proposals which demonstrate the potential for further advancing the government's knowledge base with respect to dispute resolution; and
- the level of resources remaining in the Dispute Resolution Fund.

The Committee met five times in 1998 and six times in 1999. The 1998 meetings occurred between June and September, while the 1999 meetings occurred between July and September. Proposals received prior to Committee meeting dates were copied and circulated to members in advance of their meetings. Some proposals were accepted for review by the Committee even though they were received after the formal closing date, meaning that the Committee was seeing them for the first time when they met. Telephone calls and, occasionally, meetings were held with applicants to clarify the Committee's understanding of individual proposals.

In its first two years of operation, the Committee has awarded full funding to some applicants, and only partial funding to others. Outright denials of support were rare in the first year of the Fund's operation, due to the limited number of proposals. A larger number of proposals were denied support in the current year.

Based on the DR Committee's recommendation, payments to successful proponents are made by Treasury Board through an annual adjustment of these organizations' reference levels. Notably, these adjustments come close to fiscal year-end, as part of the final estimates process.

During the first fiscal year of the DR Fund, 23 projects were funded. Only one application was denied funding completely. For 1999/2000, 56 applications were reviewed by the Committee, of which 29 were approved for funding. Of these, 14 were continuations of projects initially approved for funding in 1998/99.

The funding amount approved by the Committee for individual projects in 1998/99 ranged from \$26,000 to \$358,930. The range for projects funded in 1999/2000 is \$19,200 to \$212,420. It is worth noting that in a wide majority of the projects, the Committee approved an amount which was substantially less than the amount requested by the proponent.

Appendix B lists the applicants for funding in each year of the Fund's operation, and identifies those whose proposals were approved and refused. Examination of Appendix B demonstrates that proposals for DR funding were received from a wide range of federal organizations.

Exhibit II-1 presents summary information about the proposals received in each year of the Fund's operation. Projects expected to last more than one year are only counted once (for 1998/99). As shown in this exhibit, 44 of 65 proposals submitted to the Fund came from departments as opposed to other federal organizations. Projects concerned with workplace disputes (discrimination, harassment, etc.) made up about half of the proposals received in 1998/99. This contrasts with 1999-2000, when projects concerned with disputes not related to the workplace predominated (28 of 42). Notably, no new workplace-related projects were funded in 1999-2000. Somewhat more than half of the proposals submitted were for projects with duration of two years or more.

Exhibit II-1

Basic Data on Proposals Received by the DR Fund In 1998/99 and 1999/2000*

	1998/99 Approved	1999/2000 Approved	1999/2000 Refused	Total
<u>Organization Type</u>				
Department	14	7	23	44
Other (Commission, Tribunal, Crown Agency, etc.)	9	8	4	21
<u>Project Type</u>				
Workplace	12	0	14	26
Other	11	15	13	39
<u>Expected Duration</u>				
One year	5	9	15	29
Two years or more	18	6	12	36

*Projects funded in 1998-99 and expected to continue into 1999/2000 are counted only once, in the 1998/99 column.

2.1 Administration of the DR Fund

Responsibility for administering the Fund rests with the Department of Justice’s Dispute Resolution Services. In its first year of operation, the resources devoted to the administration of the Fund included approximately one quarter of the time of one legal counsel who sits as the Chair of the DR Fund and acts as the primary point of contact within the Department on the file. In the second year, this commitment increased to approximately one third of this official’s time. Fund-related work is additional to other responsibilities as counsel with DR Services. No increased resources were committed by or to the office at the time of the establishment of the DR Fund to cover the administration of this initiative.

2.2 Program Logic

Exhibit II-2 below presents a logic model for the DR Fund. The purpose of this model is to graphically depict the relationships among the program’s activities, outputs, immediate impacts and objectives.

Exhibit II-2
Logic Model of the Dispute Resolution Fund

Activities	Notify potential applicants of DRF	Review Proposals for DRF support	Monitor projects
Outputs	Call letters	Funding decisions	Progress/final reports
Immediate Impacts	Potential applicants aware of DRF	Projects supported by DRF	DRF aware of project progress and outcomes
Objectives	Federal organizations manage disputes more effectively and with less litigation	Reduced costs of dispute management and litigation	

3. ISSUES AND DATA SOURCES

3.1 Issues

This evaluation of the DR Fund includes an assessment of key design and implementation issues, consistent with Treasury Board of Canada guidelines on program evaluation. The following issues were examined in this evaluation.

3.1.1. Design and Implementation Issues

Given its relatively early stage of development, this evaluation of the DR Fund necessarily focussed primarily on issues of implementation. This work sought to address the following questions.

- Is the process for informing federal organizations of the availability of DR funding (i.e., the call letters) sufficient to gain full participation?
- Is sufficient time available to potential applicants to prepare their proposals? Do applicants understand what the Committee is looking for in proposals for DR funding?
- Are the criteria and guidelines sufficiently clear for federal organizations and for the DR Selection Committee? Are they restrictive enough or too restrictive given the objectives of the Fund?
- Does the timing of the proposal review process limit the potential for funded projects to be completed within a single fiscal year?
- Does the mechanism by which funds are transferred to the organizations which submitted successful proposals limit the accessibility of the Fund? Does it create other problems for recipients of the Fund's support?
- Do the proposals provide the Selection Committee with the information they need to select the best projects for funding? If not, what other information would be helpful?

- Are certain types of projects more likely to be funded than others? Has this changed from year one to year two of the Fund's operation?
- Does the process followed to notify unsuccessful applicants of the Committee's decision regarding their submission provide sufficient information on the reason(s) for the decision?
- Has the nature of projects funded been consistent with the DR Fund's objectives?
- Do the projects selected for funding by the Committee reflect an R&D emphasis or an emphasis on funding projects with the greatest potential for achieving actual reductions in litigation costs?
- Have projects proceeded as planned and on time?
- What forms have recipient organizations' contributions to project costs taken (in-kind, financial, other)? Do actual contributions correspond to the commitments made in their proposals?
- Are certain types of projects more likely to succeed than others?
- What effect has the frequent decision of the Committee to reduce the amount of funding granted below the amount requested had on the conduct of the projects?
- To what extent would projects have proceeded regardless of whether or not they were funded (issue of *incrementality*)?
- Is the DR Fund collecting information that is needed for monitoring and evaluation purposes? Are the project evaluations reporting results in a way that is consistent, useful and can be generalized? Are they contributing to our knowledge of what works?
- What have been the direct and indirect costs of the Fund to date and how much of these costs have been incurred by the Department of Justice? In the short term, has the Department been able to realize cost savings as a result of the program and have these savings offset the department's costs in managing the Fund?

3.1.2 Outcomes to Date

As noted above, the primary focus of this evaluation was on the implementation of the DR Fund, since it was expected that little information would exist on results achieved. However, the evaluation was to report on any measurable results available to date. It was expected that such information would be available only for a subset of the earlier projects funded. Therefore a qualitative case study approach was employed to review any available results to date on funded projects. Questions addressed by this approach were as follows.

- To what extent has the DR Fund resulted in an increase in the use of DR within federal organizations? Has it increased DR beyond those projects that were directly funded?
- Are there measurable cost savings that have accrued to federal organizations and to the Department of Justice litigation budget? Has it reduced costs or allowed for larger caseloads within the same budgets?
- To what extent can any of these results be attributed directly to the DR Fund?

3.2 Evaluation Plan

The main tasks performed in conducting this evaluation of the DR Fund were as follows:

Interviews with the Justice official responsible for the administration of the DR Fund. These interviews covered the full range of issues identified above.

Interviews with four current members of the Dispute Resolution Committee. Each member of the Committee was interviewed in-person. These interviews focussed primarily on the role of the Committee in reviewing proposals for funding. They also sought the members' views on how the operation of the fund might be improved.

Interviews with representatives of the 23 projects which received funding in the first year of the program. These interviews were conducted mainly by telephone. The content of these interviews is provided in the interview guide which is appended to this document as Appendix C. As shown in Appendix C, these interviews focussed mainly on the experiences of applicants as they responded to the call letters, and have carried out their projects.

Interviews with a sample of 10 successful applicants from the second wave of applications. These interviews followed the same general lines of enquiry as for the funding

recipients from the first year of the program. However, given that these projects have only recently been informed that they will be receiving support from the Fund, no data on progress was expected from these interviews.

Interviews with a sample of 10 unsuccessful applicants from the second wave of applications. The primary interest was on assessing applicants' views of the transparency and fairness of the process of applying for support from the Fund. We also asked about the feedback received on the unsuccessful proposals from the program. It was also important to gain an understanding of the extent to which refused applicants had proceeded with their projects without support from the DR Fund.

Case studies of six projects that were funded during 1998/99. The coverage of the interviews conducted for the case studies tracked closely the topics covered in the interviews of the representatives of the first 23 projects to receive funding, supplemented by an assessment of project outcomes (as available). The case studies involved face-to-face interviews with representatives of each selected cases, as well as the collection of any additional data relevant to the measurement of outcomes. Reports of the case studies can be found in Appendix D to this document.

The six organizations whose projects were covered by the case studies were:

- The Canadian Human Rights Tribunal
- The Canadian Human Rights Commission
- The Canadian Transportation Agency
- The Office of the Commissioner of Official Languages
- Fisheries and Oceans (Office of Early Conflict Resolution)
- HRDC (Income Security Program)

4. FINDINGS

4.1 Awareness of the DR Fund

In order for the Dispute Resolution Fund to achieve full participation by federal organizations, it is essential that potential applicants for support be made aware of the availability, and conditions of DR funding. In the spring of 1998, the former Deputy Minister of Justice made a presentation to his colleagues regarding the Fund. Since then, the only formal method of raising the necessary awareness was through call letters sent by the Deputy Minister of Justice to the Heads of federal departments and agencies. At a more informal level, several activities are relevant to the issue of awareness of the Fund:

- Reference to the Fund has been a regular feature of Justice's annual Business Plan, as well as in the annual departmental Plans and Priorities reports.
- A description of the DR Fund is included as part of the DR Legal Awareness Module, a formal training session given to client departments and agencies as part of Justice's Continuing Legal Education Program.
- Information about the Fund is also included in the materials used in the Canadian Centre for Management Development's "Law and Public Management" program, which is delivered as part of governmental executive training.

These various efforts was successful in the sense that they generated demand for support from the Fund sufficient to consume the funds available. It is nonetheless useful to ask how applicants, in fact, learned about the Fund. Exhibit IV-1 below presents counts and percents for three groups of interview respondents: recipients of funding in 1998, recipients of funding in 1999, and applicants denied funding in 1999.

Exhibit IV-1

How applicants first became aware of the Fund

	1998		1999		1999	
	Funded #	%	Funded #	%	Denied #	%
From an interdepartmental memo	2	9	0	0	1	10
From a Letter of Call from the fund/Justice Department	9	39	6	60	5	50
Other	12	53	4	40	4	40
Total	23	100	10	100	10	100

As shown in Exhibit IV-1, the call letter was the most-frequently-cited source of initial information about the Fund. A variety of other sources were also mentioned, however. Notable among these other sources were departmental/agency in-house counsel and other Justice officials.

These efforts to raise awareness of the Fund generated 24 applications in 1998 and 42 in 1999. In 1998, applications from departments exceeded those from other agencies by a ratio of 14:10. In 1999, 30 applications were received from departments, compared to 12 received from other federal agencies.

4.2 Proposal Preparation

The key element of the Fund’s approach to assessing the relative merit of the applications for support it receives is the review of proposals submitted by federal organizations each year. These proposals are prepared largely on the basis of the Fund’s *Terms and Conditions*, which describe the objectives of the Fund, and outline the criteria for funding and the expectations of funding recipients (among other things). A copy of the Fund’s *Terms and Conditions* is appended to this report.

In light of the important role played by the *Terms and Conditions*, it is useful to assess the degree to which applicants understand what the Committee is looking for in proposals for DR funding. By way of introduction to this discussion, a brief description of the variation we observed in proposal content is instructive.

In conducting this evaluation, we examined all of the proposals submitted in the first two years of the Fund’s operation. Despite the fact that all applicants were working from the same terms and conditions, there was significant variation in the length and detail of the proposals submitted. Some were little more than letters of interest with brief budgets attached. Others were lengthy documents which provided considerable detail on the background, conduct and

financial aspects of the proposed projects. Particularly striking was the observed variation in the amounts budgeted for specific elements of the projects. Some proposals requested Fund support for what amounted to salary costs. Many proposals requested support to pay for DR consultants and staff training in DR methods. The allowances requested for these expenditures varied widely.

Given the diverse character of the proposals received by the Committee, it is important to understand the degree to which the criteria and guidelines are sufficiently clear for federal organizations and for the DR Selection Committee. We look first at how applicants perceive the clarity and completeness of the *Terms and Conditions*. Exhibit IV-2 summarizes the responses of applicants to this question. It is apparent from this exhibit that applicants generally found the information available to them about the Fund to be clear and complete.

Exhibit IV-2

Counts and percentages of applicants reporting that the Fund’s materials and other communications (i.e. the Letter of Call, and the Terms and Conditions) provided a clear understanding of the program’s mandate, objectives and criteria for project funding

	1998		1999		1999	
	Funded #	%	Funded #	%	Denied #	%
Fund Materials clear and complete	18	78	10	100	8	80
Fund materials not clear and complete	5	22	0	0	2	20
Total	23	100	10	100	10	100

In order to explore more fully the extent to which the terms and Conditions were found by applicants to be ‘self-explanatory’, they were asked whether or not they required additional assistance from DRF staff to prepare their proposals. Exhibit IV-3 summarizes their responses to this question.

Exhibit IV-3

Counts and percentages of applicants who required assistance from DRF staff to prepare their applications for project funding.

	1998		1999		1999	
	Funded #	%	Funded #	%	Denied #	%
Yes	14	61	3	30	3	30
No	9	39	7	70	6	60
Don’t Know/Not Sure					1	10
Total	23	100	10	100	10	100

Examination of Exhibit IV-3 demonstrates that approximately half of applicants interviewed reported having sought some assistance from DR staff as they prepared their proposals. The assistance sought was generally minor in nature. No clear trend could be discerned in these requests which would be helpful in fine-tuning the *Terms and Conditions*. Those applicants who received assistance reported it to have been helpful to them.

A more specific question was asked about the extent to which the objectives of the proposed project fitted with the objectives of the Fund. Applicants had little or no difficulty with this fit. To some extent, this may reflect the general character of the Fund's objectives, which are:

- Encouraging and assisting organizations to manage disputes more effectively, innovatively and with less litigation, and
- Reducing the costs of managing and litigating disputes among funded organizations and the Department of Justice.

Our findings with respect to the clarity and completeness of the *Terms and Conditions* are that they are not serving either applicants or the DR Committee as well as they might. In spite of applicants' general perception that the *Terms and Conditions* provide the information needed to prepare proposals for support from the Fund, the diverse character of the proposals received by the Committee suggests that there is room for improvement here. This point was also raised by some members of the Committee who noted the 'inadequate' nature of some proposals, and the difficulty they experienced when forced to compare 'apples and oranges'. Some specific suggestions for revisions (or appendices) to the *Terms and Conditions* will be offered in the final chapter of this report.

4.3 Selection of Projects for Funding

As noted earlier, proposals received by the Committee are typically distributed to Committee members prior to their meetings. They are then discussed one-by-one at the meetings. The Committee considers the merits of each proposal in the context of the funding criteria, and in relation to the other proposals received that year. The Committee may pose questions to a proponent about their proposal before reaching a decision on it. Ultimately, the Committee decides whether or not to support each application, and if so, in what amount.

In this context, an obvious question is whether or not the proposals provide the Selection Committee with the information they need to select the best projects for funding. And, if not,

what other information would be helpful? The general answer to this question is that some proposals do provide the needed information and some do not. We believe that the solution to this problem lies in revisions to the Terms and Conditions. Suggestions for potential revisions will be provided in the final chapter of this report. In the meantime, a brief examination of two questions asked of applicants will shed some light on where the proposals fell short of providing the Committee with the needed information.

The first question simply asked whether they had been approached by the Committee for more detail on their proposals. Overall, about half of the applicants we interviewed indicated that they had. When asked about the nature of these enquiries, most reported that they concerned financial aspects of the proposals, e.g., amounts allocated to consultant fees, or training costs. This points to the need for greater clarity in terms of the Committee’s views regarding appropriate costs for specific types of project activities.

At a more general level, most applicants admitted that they had little understanding of how the Committee reached its decisions. This uncertainty notwithstanding, they generally reported that they see the actual selection process as fair. Exhibit IV-4 summarizes the responses provided to a question on the perceived fairness of this process. Not surprisingly perhaps, applicants whose proposals were denied funding were most likely to perceive the selection process as unfair.

Exhibit IV-4

Counts and percentages of applicants reporting that the actual selection process was fair.

	1998		1999		1999	
	Funded #	%	Funded #	%	Denied #	%
Fair	13	57	5	50	2	20
Not fair	2	9	1	10	3	30
Assume so/to best of knowledge	7	30	1	10	0	0
Don’t Know/Not Sure	1	4	3	30	5	50
Total	23	100	10	100	10	100

To some degree, the negative view of the selection process reported by denied applicants may reflect their dissatisfaction with the Committee’s decision not to fund workplace-related projects in 1999/00. The majority of proposals denied funding in that year involved the application of DR approaches to workplace disputes. Unfortunately, the Committee was not able to notify potential applicants in 1999 that such proposals would not be supported, as they could not predict ahead of time the number or types of proposals they would receive.

An event outside the DR program also contributed to the Committee's determination not to duplicate workplace-related projects in its second year of operation. Concurrent with the DR Committee's deliberations, the Department of Justice was working to establish a government-wide, centralized approach to dealing with workplace conflict situations. Specifically, the Coordinator of Workplace Conflict at the Department of Justice was working to establish a Federal Centre for Management of Conflict in the Workplace. This Centre would, among other things, coordinate training in workplace DR and act as a central resource in workplace conflict matters. Therefore, the DR Committee wished to avoid duplicating the work that this new federal Centre would be doing. This was explained to unsuccessful applicants in the letter sent to them by the Committee.

These implementation concerns aside, our review of the proposals received by the Committee confirms that they generally respond well to the DR Fund's objectives. The funded projects, for the most part, demonstrate the potential to address the related goals of encouraging more effective dispute resolution, minimizing the use of litigation and reducing costs. However, our examination of the projects supported by the Committee raises a more abstract question: Do the projects selected for funding by the Committee reflect a R&D emphasis or an emphasis on funding projects with the greatest potential for achieving actual reductions in litigation costs?

If the operation of the Fund were to reflect a R&D emphasis, then projects which were more novel or experimental, might be favoured. Diversity in project types would also be encouraged. Less emphasis might be placed on the potential for the project to demonstrate operational benefits in terms of efficiency or cost savings. The alternative would be to fund projects which show the greatest potential for achieving actual efficiencies and savings within the timeframe of the project. One implication of adopting the R&D model is that preference would be given to projects which are substantively distinct from those previously funded in order to explore new ground. This would be consistent with the Committee's recent treatment of workplace-related applications. Presumably the significant emphasis on projects of this type in 1998 would lead the Committee (as it did) to avoid similar projects in 1999. Adoption of the alternative model, on the other hand, would lead to support projects with the greatest potential to demonstrate actual efficiencies and savings, regardless of the similarity of these projects to others already funded. To date, the Committee has acted in a manner consistent with the Fund's *Terms and Conditions*, which require that both innovation and potential duplication be considered when proposals are reviewed. Examination of the proposals received to date also makes it clear that many have elements of both R&D and the potential for cost savings.

4.4 Timing

Implementation of the program revolves around several key dates. These are:

- When the call letters are sent.
- The deadline for submission of proposals.
- When the proposal review process is completed.
- The end of the fiscal year in which the project is to be completed.

The first important interval defined by these dates is the period of time between the sending of the call letters and the deadline for submission of proposals. In 1998, the call letters were sent in May and the proposal deadline was in early June. In 1999, the call letters were sent in April, with a proposal deadline in May. This provides for approximately one month for applicants to prepare their proposals. Is this sufficient? In the Fund's defence, it should be noted that some Deputy's took some time to pass the DR materials on to the officials who would prepare their proposals. In 1999/2000, the call letters were copied to senior financial officers in an effort to reduce these delays.

In order to assess the degree to which this timetable allows sufficient time for the preparation of proposals, a direct question on this was put to applicants from both years. Exhibit IV-5 summarizes their responses. As shown in Exhibit IV-5, the majority of applicants (approximately two out of three) had sufficient time to prepare their proposals. This leaves about one-third of applicants who reported not having had enough time. This finding raises a related question (which we cannot answer) about potential applicants who did not prepare a proposal because they saw the time available to them as inadequate.

Exhibit IV-5

Counts and percentages of applicants reporting that the timetable for preparation and submission of proposals to the Fund allowed sufficient time to prepare proposals.

	1998		1999		1999	
	Funded		Funded		Denied	
	#	%	#	%	#	%
Provided sufficient time	14	61	8	80	6	60
Did not provide sufficient time	9	39	2	20	4	40
Total	23	100	10	100	10	100

The next important interval defined by the dates listed above is the period of time taken by the Committee to review the proposals it receives. To some extent the schedule is set by Treasury Board’s requirement that the Committee advise it of its decisions by September 30. Subject to that limitation, the schedule is set by the Committee.

In 1998, the Committee met over the period of June to September. In 1999, the comparable time period was from July to September. Notification of the results of the Committee’s deliberations was typically provided in October and November of each year. From the perspective of applicants, this schedule raises a question as to whether the timing of the proposal review process limits the potential for funded projects to be completed within the final few months of a single fiscal year (if applicable). This question was put directly to successful applicants from 1998 and 1999. Exhibit IV-6 summarizes their responses. As shown in this exhibit, two out of three successful applicants reported that there would not be enough time available to complete their projects (following notification from the Committee) within the scheduled fiscal year. It should be noted that this problem is mitigated somewhat by the fact that about two-thirds of the funded projects were scheduled to extend beyond one fiscal year anyway. Of the 23 projects funded in 1998, 5 were planned to be completed within one year (FY 1998/99) with the remainder planned to extend to two years or more. As of November of 1999, only six of these 23 projects had been completed. To some extent, this may be due to the late notification given by the Committee. It also suggests that some applicants are proposing project schedules which are not realistic.

Exhibit IV-6

Counts and percentages of successful applicants reporting that there would be enough time available between receiving notification of support from DRF and the end of the fiscal year for to complete their projects according to the schedule proposed.

	1998 Funded		1999 Funded	
	#	%	#	%
Time available sufficient to complete project within scheduled FY	7	30	4	40
Time not sufficient to complete project within scheduled FY	16	70	6	60
Total	23	100	10	100

Given the problems created by the late (in the fiscal year) notifications of funding by the Committee, it is not surprising that many applicants do not see the review process as having been carried out in a reasonable timeframe. Exhibit IV-7 summarizes their responses to this question. While the views of 1998 applicants were evenly divided on this issue, approximately 75% of 1999 applicants regard the timeframe as unreasonable. This is particularly true of unsuccessful applicants.

Exhibit IV-7

Counts and percentages of applicants reporting that the proposal review process was carried out in a reasonable timeframe

	1998		1999		1999	
	Funded		Funded		Denied	
	#	%	#	%	#	%
Timeframe of review process reasonable	12	52	3	30	2	20
Timeframe of review process not reasonable	11	48	7	70	8	80
Total	23	100	10	100	10	100

The findings presented in this section indicate that the schedule of key events followed by the DR Fund is creating difficulties for applicants and funding recipients. The time available to prepare proposals (approximately one month) is too brief for many applicants and may be limiting access to the program. The time taken to review proposals (approximately three months) is seen by some as unreasonably long. It also contributes to difficulties completing projects within a fiscal year, as notifications are only given in November, leaving less than five months for one-year projects to be completed. We will return to the issue of timing in the final chapter of this report.

4.5 The Payment Mechanism

As noted above, payments to successful applicants are made by Treasury Board, through an annual adjustment of these organizations’ reference levels. Notably, these adjustments come close to fiscal year-end, as part of the final estimates process. This raises the question of whether this mechanism limits the accessibility of the Fund to those organizations which are able to self-finance project costs until fiscal year end. Related to this is whether it creates other problems for recipients of the Fund’s support.

In conducting this evaluation, we did not become aware of any access problem created by the payment mechanism. We did not, however, canvass organizations which received the Call Letter but did not apply to the Fund, to assess any impact of this aspect of the program.

With respect to the experiences of funding recipients with the payment mechanism, a direct question was asked regarding any difficulties encountered. Exhibit IV-8 summarizes the responses provided to this question. As shown in this exhibit, close to half of the successful applicants reported experiencing some difficulty with the funding mechanism. Most of these reported difficulties arose from a lack of clarity as to how the process works. It is also easier

in some organizations than others to ‘cash manage’. To some degree, this approach (‘cash management’) is made more complicated by the frequent need to continue project funding from one fiscal year to the next.

Exhibit IV-8

Counts and percentages of funding recipients reporting that the mechanism used by the Fund to transfer money to their organizations posed any difficulties.

	1998		1999	
	Funded	Funded	Funded	Funded
	#	%	#	%
Yes	9	39	6	60
No	13	57	4	40
Don't Know/Not Sure	1	4	0	0
Total	23	100	10	100

It was the view of the Fund’s administrator (as well as some respondents) that the current payment mechanism leads to delays and frustrations all around. Perhaps a better way would be for Treasury Board to give the money to Justice. The funds could then be distributed directly to recipients in a more timely fashion.

4.6 Notification to Refused Applicants

Unsuccessful applicants for funding should be informed of the reasons for the Committee’s decision regarding their submissions. To shed some light on this issue, applicants denied funding in 1999 were asked whether or not they had been provided sufficient information on the reason(s) for the decision in their cases. Of those interviewed, 8 of 10 reported that they had been informed of the Committee’s reason for not supporting their application. Many of these refusals were based on the Committee’s decision not to support workplace-related projects in 1999. The large number of applications was also cited as a reason for these decisions.

4.7 Effect of Reductions in Funding Relative to Amounts Requested

Of the 23 projects approved for funding in 1998, four were awarded the full amount of support for which they applied. Of the 29 awards in 1999, eight were for the full amount requested. With one exception, the remainder were awarded reduced amounts. The reductions ranged from a few percent to close to 85% of the initial request. In individual cases, the reductions were based on detailed review by the Committee of project budgets, and the

application of ‘rules of thumb’ as to what amounts were reasonable for particular types of expenditures, e.g., consultant fees and training costs. There was also a general intent to distribute some funding to as many deserving applicants as possible.

The Committee’s practice in regard to amounts awarded raises a question of the effect on the conduct of the projects, of these frequent decisions to reduce the amount of funding granted below the amount requested. Recipients of support from the Fund were asked about any such impacts in the course of our interviews with them. Many reported that the reductions would have little or no impact. In some cases, the shortfall would be made up from other internal sources. In others, the reductions would lead to some scaling back of the project. Some recipients also commented that the delay in notification of their award meant that they would not have been able to spend the full amount in the scheduled fiscal year anyway, meaning that the reduction had no practical effect in the first year.

This general finding of little or no impact of what were, in some cases, significant reductions in funding below requested amounts, prompts consideration of the reasonableness of the proposed budgets in the first place. Setting aside cases where the initial budgets included types of expenses ineligible for support by the Fund, it seems clear that the amounts requested for some types of eligible costs were substantially out of line with the Committee’s expectations (certainly) and with what should reasonably be allocated for these purposes. One solution to this problem would be for the Committee to provide some guidelines to potential applicants on what amounts would be deemed reasonable and acceptable for frequently-requested cost items. We will return to this point in the final chapter of this report.

4.8 Recipients’ Contributions

The Fund’s *Terms and Conditions* stipulate that the contribution from the Fund shall not exceed 20% of total cost of a project. In their proposals, applicants are to indicate the nature of this 20% contribution. In most proposals, these contributions took the form of salary costs, capital expenditures and partial payment for other project-related payments to external consultants, especially DR experts and trainers.

Given the often significant reductions in the amounts awarded by the Committee, relative to the amounts requested in proposal budgets, it seems clear that recipients are often contributing more than the formal requirement of 80% of project costs.

4.9 Incrementality

The issue of incrementality refers to the extent to which projects would have proceeded regardless of whether or not they received support from the DR Fund. In order to address this issue, both successful and unsuccessful applicants were asked a series of questions as follows:

- Would your project have proceeded/will your project proceed without DRF funding?
- What form would it have taken/will it take without DRF support?
- Will this project continue after the DRF support ends (asked only of 1998 recipients)?

Exhibit IV-9 summarizes the responses given to the first question. As shown in this exhibit, 26 of the 43 projects covered by these interviews would have proceeded in some form without the support of the DR Fund. Based on these responses, only about one project in three (13 of 43) can be considered fully incremental, meaning that they would not have gone ahead without the support provided by the DR Fund.

Exhibit IV-9

Counts and percentages of respondents whose projects would have proceeded/will proceed without DRF funding

	1998		1999		1999	
	Funded		Funded		Denied	
	#	%	#	%	#	%
Would have proceeded/will proceed	15	65	4	40	7	70
Would not have proceeded/will not proceed	5	22	6	60	2	20
Don't Know/Not Sure	3	13	0	0	1	10
Total	23	100	10	100	#	%

Those respondents who indicated that their project would have gone ahead or will go ahead without DR support were also asked about the likely form of their project without this support. The most frequent answers made reference to scaling back the size or scope of the projects, extending the schedule of the projects and greater use of staff as opposed to contracted resources. In a very few cases, the conduct of the projects would have been completely unaffected by the lack of DR funding.

The final question to be discussed in this section concerns the sustainability of the projects funded in 1998. Funding recipients from that year were asked whether or not their project will continue after DR support ends. Of the 23 projects funded that year, 18 are expected to continue, while the fate of the remaining five is uncertain.

4.10 Project Monitoring and Evaluation

By way of introduction to this section, it will be useful to describe two important components of the context in which DRF project monitoring and evaluation are situated. The first of these concerns the objectives of the Fund. As noted above, the objectives of the Fund are:

- To encourage organizations to manage disputes more effectively, creatively and with less litigation.
- To reduce the costs of managing and litigating disputes among funded organizations and the Department of Justice. This would be reflected in a reduction in the average costs of dispute management and litigation. It may or may not lead to a reduction in the total costs of managing and litigating disputes if the average cost reduction allows organizations to manage more disputes within the same resource envelope.

The second important component of the background to this discussion is the listing of reporting obligations established by the Fund's *Terms and Conditions*. For convenience, these obligations are repeated below.

Proposals to the Fund are to include:

- A project evaluation design that describes how the applicant intends to monitor the project and to assess or evaluate its success against the project's objectives and goals and includes project outputs and applicable performance indicators; a commitment to report to the Dispute Resolution Committee on such monitoring, assessment or evaluation at the end of the project's duration;
- A commitment to provide for regular status reports to be submitted to the Dispute Resolution Committee to ensure that the project continues to be feasible and that progress in implementation is being made (Note: Evidence of significant delay in implementation or of lack of commitment to the project may result in a review of the original funding commitment and a possible withdrawal of funding.);
- A commitment to submit a financial report to the Committee at the end of each fiscal year and/or upon completion of the project; the report should outline how the resources were expended, the project surplus/deficit, and provide an explanation of any variances from the original budget;

Successful applicants are also to comply with the following “Monitoring and Evaluation Procedures”:

- Recipients will be required to submit detailed report(s) on various aspects of the project in order that the Committee can assess the viability, impact and utility of funded activities. Also, Committee members or their designates may conduct on-site visits or request additional information reports as they deem appropriate, to monitor the progress of funded activities.

In order for the Committee to monitor and report on its achievement of its own objectives, it requires access to information on project implementation and outcomes. The *Terms and Conditions* clearly state what is expected of funding recipients in terms of monitoring and evaluation. The Memoranda of Agreement signed by funding recipients reinforce these expectations. Given this background, the key evaluation issues which can be addressed at this time are:

- Is the DR Fund collecting information that is needed for monitoring and evaluation purposes?
- Are the project evaluations reporting results in a way that is consistent, useful and can be generalized? Are they contributing to our knowledge of what works?

We begin by examining the level of awareness of funding recipients of the Fund’s requirements for ongoing progress reports. Exhibit IV-10 summarizes the responses of funding recipients to a question on the existence of **any** progress reporting requirements. As shown in this exhibit, the number of recipients who were either unaware of any requirements, or were not sure, exceeded the number of recipients who were aware of such requirements. Those who reported being aware of some reporting requirement were also asked to describe it. Most made general reference to quarterly and/or final progress reports without reference to specific content. A few regarded the requirements as solely financial in nature.

Exhibit IV-10

Counts and percentages of funding recipients reporting awareness of any requirements for ongoing progress reporting imposed by DRF

	1998		1999	
	Funded #	%	Funded #	%
Aware of some requirements	10	43	4	40
Not aware of any requirements	13	57	2	20
Don't Know/Not Sure	0	0	4	40
Total	23	100	10	100

Recipients of funding from the first year (1998) were asked whether or not they had, in fact, provided any ongoing progress reports to the Fund. Of the 23 projects, 13 reported that one or more such reports had been submitted.

Recipients of funding in both years were also asked about their understanding of the Fund's **final** reporting requirements. Again, many were unaware of any specific expectations beyond financial accounting for the funds received. Several recipients, however, are undertaking detailed and sophisticated evaluations of their projects, mostly for internal purposes. They generally plan to provide copies of their evaluation reports to the DR program.

Of the 23 projects funded in 1998, six reported that their projects had been completed as of the time of our interviews. Of these six, four indicated that they had submitted a final report. Consistent with the perception of what was expected noted above, the final reports submitted to date are largely financial in their content and have little if anything to say about achievement of objectives as defined by the Fund.

The general lack of rigorous, quantitative data on project impacts raises a question as to the availability of these types of data within the recipient organizations. In order to examine this issue, all applicants were asked about the availability of statistical information on the numbers and costs of the types of disputes targeted by their projects. Exhibit IV-11 summarizes the responses given to this question. As shown in this exhibit, more than half of the organizations represented collect both count and cost data relevant to their projects. A further five maintain only counts and not costs.

Exhibit IV-11

Counts and percentages of applicant organizations which collect statistical information on the numbers and costs of disputes targeted by their projects

	1998		1999		1999	
	Funded		Funded		Denied	
	#	%	#	%	#	%
Collect count and cost data	13	57	7	70	3	30
Collect neither count nor cost data	7	30	3	30	5	50
Collect only counts, not costs	3	13	0	0	2	20
Total	23	100	10	100	10	100

The availability of some data on counts and costs within at least half of the recipient organizations suggests that the often incomplete reporting practices described above are not entirely attributable to a lack of relevant data. To some significant degree, the problem lies with a poor understanding of the Fund's reporting requirements, and the minimal enforcement of these requirements by the program.

In an effort to hone in on this point, applicants were asked whether or not it would have been feasible, for the purposes of project evaluation, to track changes in the numbers and/or costs of the disputes targeted by their projects. Exhibit IV-12 summarizes the responses given to this question. Again, about half of the projects could provide information of this type. When asked whether or not they planned, in fact, to provide the available information as part of their final reports to the Fund, only 11 of the 17 projects possessing the information in question answered in the affirmative. When asked why they were not planning this level of reporting, many expressed concerns about the validity or interpretation of the data. A few also simply stated that the information had not been asked for.

Exhibit IV-12

Counts and percentages of applicants reporting it would be/have been feasible to track changes in the numbers and/or costs of the disputes targeted by their projects for evaluation purposes

	1998		1999		1999	
	Funded		Funded		Denied	
	#	%	#	%	#	%
Feasible	12	52	5	50	4	40
Not feasible	5	22	1	10	3	30
Other/Not stated	6	30	4	40	3	30
Total	23	100	10	100	10	100

Our final finding related to reporting concerns the dissemination of the results of individual projects to others interested in ADR. Recipients of support from the Fund were asked whether or not they were aware of such plans. Exhibit IV-13 summarizes the answers received on this issue. More than half of the recipients interviewed were aware of some plan to disseminate the results of their projects. In only a few cases, however, did this plan involve the DR Committee or program. Most plans were internally-focussed, or directed at organizations similar to the recipients.

Exhibit IV-13

Counts and percentages of recipients aware of plans to disseminate the results of their projects to others interested in ADR

	1998		1999	
	Funded		Funded	
	#	%	#	%
Aware	13	57	5	50
Not aware	10	43	5	50
Total	23	100	10	100

We see a number of important audiences for information on the results of individual projects. The most immediate audience is the DR program and Committee. The program is responsible for ensuring that the recipients' reporting obligations under the MOUs are being met. The program is also accountable to Treasury Board to report on the achievement of the Fund's objectives. Logically, reports on the individual projects are a necessary underpinning of any higher-level report on the Fund itself. At a more practical level, the Committee would be well-served by having access to information on the successes and failures of projects funded to date.

In the same vein, even preliminary information on projects funded in 1998 would likely have been of assistance to potential applicants in 1999. They could have found out what the 1998 projects entailed, and what success they had achieved since being funded. This would have enabled them to build on the experience to date of the earlier projects, and to ensure that they were not duplicating previous efforts.

The final audience we see for the individual project reports is the broader ADR community, both within government and beyond. This is an active and growing field. Easy access to the experience accumulated by the recipients of support from the DR Fund will likely be of general interest to this community, and will represent an important contribution by the DR Fund to this growth.

On this last point, we were informed that the DR Committee has already discussed how best to disseminate project-related information to the larger DR community. In this regard, the issue of moving prematurely is one of concern to the Committee; they want to have useful and relevant information before disseminating it. A number of successful applicants have been approached to see if they would be willing to share information on their projects, as it becomes available. One of the Committee members is working to organize a symposium/conference to bring together some of the DR Fund success stories to share "lessons learned" with others.

To recap, our findings with respect to monitoring and reporting are as follows:

- Many recipients of DR funding are not aware of the requirements for ongoing progress reporting.
- Actual progress reporting is inconsistent, and often limited to financial content.
- Many recipients of DR funding are not aware of the requirements for final project reports.
- Few final reports have been submitted to date. Of these, there was a tendency focus primarily on financial matters, and provide little understanding of project impacts.
- The lack of impact-related data in previously-submitted and planned final reports is not always due to a fundamental lack of relevant data. Many organizations possess at least some relevant data but have no plans to include it in their reports to the Fund.
- Preliminary plans (only) are in place by the Fund to disseminate the results of the individual projects to the broader ADR community.

To some degree, we regard the monitoring and reporting inadequacies noted in this section as a consequence of the fact that an evaluation framework was not prepared for the Fund when it

was first introduced. Had such a framework been developed and accepted by the program, accountability for project monitoring and reporting would have been clearly established. Knowledge of the types of information required to evaluate the Fund would have enabled the administrator to clearly identify those types of information which would be required from individual projects. It is this critical capacity to ‘roll up’ project-level data on the achievement of the Fund’s objectives which is currently lacking.

4.11 Costs and Benefits

The costs incurred to date in administering the Fund and making payments to successful applicants have taken two forms. These are the approximately \$4.6M distributed to successful applicants, and the provision of .25 PY for the legal counsel responsible for administration of the Fund and chairing the DR Committee. The time provided by the other Committee members is unpaid, although some of the work of the Committee occurs during regular business hours. In that sense, their employers are contributing this resource to the Committee.

In terms of the objectives of the DR Fund, an important question is whether or not the Department, in the short term, has been able to realize cost savings as a result of the program to offset the department’s costs in managing the Fund.

While the cost side of this question is relatively straightforward, insofar as Justice is concerned, the benefit side in terms of realized cost savings is not. Data on realized cost savings would have to come from the final reports of completed projects. These reports would have to provide reliable data on project impacts, including costs and benefits. As noted above, the current approach to final project reporting is, with few exceptions, unlikely to provide the data needed for an appraisal of the relative costs and benefits of the Fund.

4.12 Views on Program Design

With few exceptions, applicants to the Fund interviewed for this evaluation believe the Fund is well-designed to meet its objectives. They generally regard the contribution approach as the best way for Justice to structure the program. The main benefit of this approach cited in the interviews involved the concept of “seed money”. The availability of funding often provided a catalyst for recipient organizations to move forward with concepts which lacked immediate management support and/or resources.

At the same time, applicants to the DR Fund suggested a number of potential improvements to the program as follows:

- Adjust the schedule of the program so that the call letters are sent earlier in the fiscal year, and the proposal review process is accelerated. This will enable some projects to be completed within a single fiscal year. To the extent that some recipient organizations find ‘cash management’ of project costs difficult, simplification of the mechanism used by Treasury Board to transfer approved funds might also expedite project schedules.
- Make information on previously-funded projects more readily available to other potential proponents and project managers so that all can benefit from the experience of these projects.
- Based on the Committee’s experience over the first two years of operation of the Fund, provide clear guidelines to potential proponents of any priorities established by the Committee for the upcoming year so that they can respond accordingly.
- Provide support to organizations as they develop their proposals, both in term of DR expertise and the expectations of the Committee for proposal content.
- Provide direct DR training to organization staff, including LSU staff.

The foregoing suggestions for program improvement notwithstanding, the applicants interviewed for this evaluation were generally very positive in their assessment of the program. This is revealed both in their comments as described above, and in the fact that 31 of 43 (72%) indicated that they might seek the Fund’s support for a future project. Among those denied in 1999, 80% indicated that they might reapply.

On a final program design note, no applicant identified any significant overlap between the activities of the Fund and any other agency of government.

4.13 Perceptions of Program Impacts

Any attempt to assess program impacts at this time is greatly hindered by the fact that most projects have not been completed. Even among those which have been completed, the reporting of results is so limited that general conclusions can not be reached. As discussed above, the lack of clarity and enforcement of the Fund's reporting requirements does not engender confidence that many of the projects currently underway will yield better information.

There are, however, some signs of progress among the projects. Some foresee significant changes in the way their organizations do business coming as a result of the projects. Others see more immediate benefits from the training supported by the Fund. Most, however, report that it is too early to tell whether or not their projects will lead to either increased use of DR or cost savings. Unfortunately, the plans in place in most projects to address these questions are unlikely to provide clear and reliable answers.

At a more general level, the applicants interviewed for this evaluation perceive awareness of ADR within the federal government as increasing. To a modest extent, they attribute some of this to the activities related to the Fund.

4.14 Findings of the Case Studies

As indicated in Chapter 3 above, this evaluation employed a qualitative case study approach to review any results available to date on a sample of six projects funded in 1998. The projects studied were selected, in part, for their advanced state of progress. The questions we hoped to address by this approach were as follows.

- To what extent has the DR Fund resulted in an increase in the use of DR within federal organizations? Has it increased DR beyond those projects that were directly funded?
- Are there measurable cost savings that have accrued to federal organizations and to the Department of Justice litigation budget? Has it reduced costs or allowed for larger caseloads within the same budgets?
- To what extent can any of these results be attributed directly to the DR Fund?

Unfortunately, our review of the cases selected was not successful in addressing these issues of the impacts of the Fund. For reasons discussed earlier in this chapter, data relevant to these issues are not generally available. In some cases, it is too early to consider these impacts. For example, the final report of the Fisheries and Oceans project will not be completed until the end of next fiscal year. Similarly, the Canadian Transportation Agency was only just identifying potential pilot cases for its ADR project in November of 1999, and is not planning to report its findings to the DR Fund before April of 2000. The Office of the Commissioner of Official Languages is also not planning to report to the Fund until the fall of 2000.

The remaining three projects chosen as case studies are either completed, or close to completion. The Canadian Human Rights Tribunal project has submitted its final report. The Tribunal has been tracking the results of its Test Mediation Project since 1996. Twelve cases received from the Canadian Human Rights Commission in 1996 were referred to mediation. The comparable figure for 1997 was 17. (The Tribunal normally hears only 25-30 cases per year.) The Tribunal reports a 70% success rate (meaning, settlements) for these referrals. These settlements resulted in cost savings to both the Tribunal and the parties to the dispute. Notably, mediation normally takes one or two days, compared to the 12 to 15 days required for a full hearing. For purposes of estimating the costs saved, the Tribunal values each hearing day at approximately \$5,400.00, exclusive of cash expenses.

The Canada Pension Plan Disability Dispute Resolution Project has laid the groundwork for a detailed evaluation of its operations and impacts. The evaluation, which is to encompass both qualitative and quantitative data, will not be completed before the end of the current fiscal year. This timetable cannot be accelerated due to the need to wait for cases included in the pilots to proceed through the various stages of the process (including statutory appeal periods). Project officials are confident that the evaluation will yield useful information for both internal decision-making and broadening the knowledge base about the ADR approaches tested.

The Canadian Human Rights Commission normally receives about 1,800 complaints a year which both fall within its jurisdiction and qualify as human rights violations (as defined in the *Canadian Human Rights Act*). As of the end of December of 1999, 227 of these cases had been referred to mediation. Of these cases, mediation had been completed in 103. Approximately 60% of these referrals to mediation were regarded as 'successes' by the Commission. Similarly, of all new complaints signed in 1999, 11% were resolved through mediation. The evaluation of this project planned by the Commission is not expected to finish

before April of 2000, with a report available in May. Although comparative data on non-mediated cases is not currently available, these data are to be included in the final evaluation report.

The foregoing description of the state of reporting of project impacts in the case studies echoes the more general discussion above. In some projects, it is simply too early to assess these impacts. In others, the necessary data are not being collected. Even where these data are being collected, there are often no clear plans to analyze and report them to the Fund. This suggests that unless project evaluation and reporting practices are strengthened, future attempts to evaluate the extent to which the Fund has achieved its objectives will also be unsuccessful.

As things stand, we have included the case study reports in this document primarily so that interested readers can gain an understanding of what was done and accomplished in the projects studied.

5. SUMMARY AND LESSONS LEARNED

The main findings and lessons learned from this evaluation of the Dispute Resolution Fund are as follows.

- The Fund's efforts to raise awareness of its availability have been sufficient to generate interest from enough applicants to fully commit its resources. A question remains as to the level of awareness of the Fund among organizations which did not submit proposals.
- In spite of the general satisfaction with the *Terms and Conditions* reported by most applicants, they may not be serving either applicants or the Committee as well as they might. This is demonstrated by the diversity of the proposals in terms of their length, detail and completeness. Clearer guidelines on proposal length, content and especially acceptable costs for common types of project activities (training, consultants) might produce more readily comparable proposals.
- Based on the experience of the first two years of operation of the Fund, the Committee might consider providing clear guidelines to potential proponents of any priorities established for the upcoming year so that they can respond accordingly.
- Ideally, the schedule of events for the program should allow for the Call Letters to be sent early in the calendar year, with the deadline for proposals at least four weeks thereafter, and notification to applicants as early in the new fiscal year as possible. This will assist one-year projects to be completed in a single fiscal year.
- Consideration should be given to funding some projects beyond one year depending on the particular requirements of each project. This would also facilitate reporting and evaluation within the life-cycle of each project.
- The payment mechanism is confusing for many applicants. It may also be effectively excluding some organizations, in which 'cash managing' is difficult, from participating in the program.

- Most successful applicants were awarded significantly less funding than they applied for. To some degree, they made up the shortfall from internal resources, or scaled back on their projects. Most also did little in terms of formal project evaluation and reporting. This may be coincidental. However, it seems plausible that when their proposed budgets were sharply cut by the Committee, their plans for evaluation (if any) were cut disproportionately as being of secondary importance to the organization and/or primarily of interest to the Fund.
- The level of reporting to date by funded projects has, with a few exceptions, been insufficient to enable the Fund to monitor either the individual projects or the program's progress against its objectives. This component of the program needs to be strengthened.
- Information on previously-funded projects should be made readily available to interested parties both within government and in the broader ADR community. This could most efficiently be accomplished through a combination of a symposium of project representatives and judicious use of the Internet.
- Based on the very limited evidence available to date and collected as part of this evaluation, information from a few case study projects suggests that positive impacts are starting to be realized through the increased use of more cost-effective settlement mechanisms. The DR Fund therefore appears to offer relevant support to the ongoing transition toward a new framework for the funding of judgements in the federal government.
- A number of the foregoing findings and lessons learned imply a more actively-administered DR Fund. Given the very limited resources committed by Justice to this enterprise, much has been accomplished. If, however, the objectives of the Fund are to be realized, more resources will be needed for administration. It is unreasonable to expect that the progress of the more than 50 currently-funded projects can be monitored by one individual in 33% of his available workhours.

On this final point, it should be noted that DR Services has been, since this past summer (when the administrative demands increased in response to the rising volume of applications) looking at bringing in a senior clerk or paralegal to provide program administration assistance. As DR Services has a number of programs to administer at this point, it has become necessary to look at more cost-effective means of program administration. As of this writing no decisions have been made on this issue.

APPENDIX A

Terms and Conditions of the Dispute Resolution Fund

The Dispute Resolution Fund

Terms and Conditions

The following terms and conditions will apply to resources provided through the Dispute Resolution Fund.

1. Purpose of Fund

The purpose of the Fund is:

- to provide, through a newly created pool of operating monies, encouragement and assistance to departments in managing disputes effectively, with innovation and without resorting to litigation; and
- to assist departments in their transition to doing business differently, as they are called upon to be responsible for the payment of both settlement amounts and court judgements.

2. Objectives of the Fund

All requests for financial assistance must be consistent with the following overall objective of the Dispute Resolution Fund:

- to support the development, implementation, monitoring, evaluation, within departments, of dispute resolution programs and processes that provide for non-litigious means of dealing with disputes, and of training in dispute resolution.

3. Types of Funding

Funding will be provided for:

- projects which focus on “early intervention” with respect to disputes; and
- dispute resolution for litigation that is already underway (in situations where dispute resolution will streamline the issues that eventually proceed to trial).

Note: Only new proposals are eligible for resources from the Fund (as opposed to those proposals already underway as at the time of Treasury Board approval of these terms and conditions). Resources will not be provided to departments to assist them in covering out of court settlements. Also, resources are to be used for operating expenses only (i.e. capital expenditures are not eligible expenses).

4. Funding Profile

The funding profile on a year-by-year basis is as follows. The Operating Reserve will provide \$4.0 million over two years. The Department of Justice will contribute \$0.6 million over the same period.

	1998-99	1999-00	Total
Operating Reserve	2.0	2.0	\$ 4.0 M
Department of Justice	0.3	0.3	\$ 0.6 M
TOTAL	\$ 2.3	\$ 2.3	\$ 4.6 M

Note: Resources can be reprofiled, subject to TBS and Department of Finance approval, to a subsequent year through the Annual Reference Level Update (ARLU).

5. Classes of Recipients

Resources may be provided to the following classes of recipients in support of the objectives of the Dispute Resolution Fund:

- a) departments and agencies of the Government of Canada;
- b) Crown corporations;
- c) federal tribunals and administrative agencies; and
- d) federally constituted courts.

Note: Throughout the text, the term “departments” refers to all recipients noted above. Joint-departmental proposals are eligible

The Fund will not be used to resource the ongoing activities of the Dispute Resolution Project, Department of Justice.

The Department of Justice will not be eligible to apply directly to the DR Fund *per se*, but the Department of Justice may be identified as a provider of specialized services at an arms-length to the applicant. In these cases, resources for the Department of Justice shall not exceed 20% of the overall cost of the proposal. The remuneration of the Department of Justice for services rendered will be immaterial to the decision to approve resources from the Fund.

6. Supporting Material Required for an Application

Applications should include:

- a) name, address, telephone and facsimile number, applicant's representative, names of principal personnel and program/project administrators;
- b) a detailed funding proposal including: the amount and timing of financial assistance required, aims, goals and objectives of the proposed activity;
- c) time frame, work plan including activities to be undertaken in support of objectives, as well as activity management structure;
- d) detailed budget of the project including: amount being requested from the Fund and a detailed list of expenditures, including timing;
- e) a commitment that the applicant will cost share (either through direct funding or through in-kind contribution) at least 20% of the total costs;
- f) an identification of any benefits and/or risks associated with the project, both in the short and long terms;
- g) an outline of the tangible results expected from the application of non-litigious dispute resolution - proposals that aim at study or research exclusively will not be eligible for support;
- h) project evaluation design that describes how the applicant intends to monitor the project and to assess or evaluate its success against the project's objectives and goals and includes project outputs and applicable performance indicators; a commitment to report to the Dispute Resolution Committee on such monitoring, assessment or evaluation at the end of the project's duration;
- i) a commitment to provide for regular status reports to be submitted to the Dispute Resolution Committee to ensure that the project continues to be feasible and that progress in implementation is being made (Note: Evidence of significant delay in implementation or of lack of commitment to the project may result in a review of the original funding commitment and a possible withdrawal of funding.);
- j) a commitment to submit a financial report to the Committee at the end of each fiscal year and/or upon completion of the project; the report should outline how the resources were expended, the project surplus/deficit, and provide an explanation of any variances from the original budget;

- k) indication of any previous financial support received from the Dispute Resolution Fund including the amount, how and to what purpose the funds were used and the results achieved; and
- l) a statement that any funds used to retain the services of former Public Servants must be in accordance with the Federal Government's policy entitled *Conflict of Interest and Post-Employment Code for Public Office Holders*.

7. Dispute Resolution Committee

The mandate of the Dispute Resolution Committee will be to:

- review proposals received, assess the relative merits of each, decide on the allocation of funds and recommend to Treasury Board, via the ARLU, the provision of a Final Supplementary Estimate and/or an increase to reference levels to recipients;
- promote principles of dispute resolution within the federal government through formal and informal means; and
- evaluate the overall effectiveness and impact of the Dispute Resolution Fund.

Committee members will be selected by the Deputy Minister of Justice and will include at least one non-public servant expert in dispute resolution, at least one member of the federal dispute resolution network (from a department other than the Department of Justice) and one employee from the Dispute Resolution Project, Department of Justice. The committee will consist of a minimum of five (5) members. The selection of committee members will be based on knowledge of traditional and alternative dispute resolution mechanisms. To address conflict of interest concerns where a committee member is associated with an organization involved directly in an application for funding, provision will be made for that member to abstain from the committee's selection process.

The Committee will meet on an ad hoc basis, as needed, but at least twice per fiscal year. The Department of Justice will be responsible for the provision of administrative support for the Committee. The Committee will be accountable to the Deputy Minister of Justice.

8. Committee Review Process

A call letter will be sent to all interested parties, requesting proposals. The Committee will meet within 30 days of the call letter being sent to review proposals received.

In reviewing proposals, the Committee will take decisions to fund those proposals that hold out the most promise to improve the handling of disputes with a view to avoiding litigation, saving time, saving costs and providing a higher degree of satisfaction to those involved in the resolution of the disputes in issue. The Committee will also take into account the potential

of the proposal to lead to long-term change in the way the stakeholder deals with disputes. Proposals should be geared, therefore, toward altering the way the stakeholder does business - to improve its effectiveness and efficiency and to institutionalise such change. It is hoped that the proposals approved will lead to better management of disputes by government. See (sub) Appendix A for some examples of projects that might be proposed.

Specifically, the Committee will take into consideration the following factors:

- i) a project must be in keeping with and directly support and advance the objectives of the Dispute Resolution Fund;
- ii) the applicant's financial request for funding assistance;
- iii) whether the applicant has committed to cost-share (either through direct funding or through in-kind contribution) at least 20% of the costs;
- iv) the ability of the applicant to carry out the activities within a specific time frame and budget;
- v) the innovative nature of the project, as well as its cost-effective aspects;
- vi) whether the proposal has close similarities to or duplicates previous projects;
- vii) the previous funding provided by the Fund and the recipient's experience and background with respect to its ability to successfully complete and document the proposed project;
- viii) the manner in which the project will be developed, implemented and monitored, as well as its accessibility to be documented for information purposes;
- ix) proposals which demonstrate the potential for further advancing the government's knowledge base with respect to dispute resolution; and
- x) the level of resources remaining in the Dispute Resolution Fund.

The terms and conditions of the Dispute Resolution Fund will be made available to potential applicants. The process by which decisions are made will be transparent, and the decisions themselves will be a matter of written record.

If, after the initial call letter and review, there are remaining resources in the Fund, a second call letter will be distributed to interested parties, the timing of which will be at the discretion of the Committee.

9. Authority to Approve Resources and Sign Agreements

The Dispute Resolution Committee will prepare and approve agreements. The Deputy Minister of Justice will sign the agreements which will then be forwarded to applicants for review and signature by their deputy-heads.

The agreement will:

- i) identify the recipient;
- ii) state the purpose of the resources;
- iii) state the resources approved from the Fund and the resources to be contributed by the recipient;
- iv) indicate the effective date of the agreement and duration of the agreement;
- v) include a detailed budget;
- vi) identify the financial responsibilities of the recipient;
- vii) include a description of the evaluation work that will be conducted;
- viii) describe the type and frequency of reports that will be provided to the Committee;
- ix) state the responsibilities of both parties and all conditions attached to the funding;
- x) include a 30-day written notice of termination clause; and
- xi) include provisions for written acceptance of the terms and conditions and signing by both parties.

10. Maximum Amount of Funds

A maximum amount of \$500,000 in any one year shall apply for any one recipient, based on the amount available in any given fiscal year.

11. Monitoring and Evaluation Procedures

Recipients will be required to submit detailed report(s) on various aspects of the project in order that the Committee can assess the viability, impact and utility of funded activities. Also, Committee members or their designates may conduct on-site visits or request additional information reports as they deem appropriate, to monitor the progress of funded activities.

In order to determine the overall effectiveness and impact of the Dispute Resolution Fund, an evaluation framework will be developed and an evaluation study of the Fund undertaken. The Committee will be accountable for the preparation of the framework and study.

The evaluation framework will identify the performance indicators and data collection elements to be captured to support the on-going monitoring of the objectives of the Fund.

The evaluation study will assess the overall utility of the DR Fund approach and the achievement of its objectives. The study will draw upon status reports, assessments and evaluations provided for each funded proposal (see above).

A final report assessing the effectiveness of the Fund in relation to its objectives will be prepared by the Committee and forwarded to the Deputy Minister of Justice and Treasury Board Secretariat at the end of fiscal year 1999/00. This report will include a description of “best practices”.

The cost of the evaluation framework and study will be borne by the Department of Justice.

12. Method of Payment

Once a project is successfully selected, payment(s) will be recommended by the Committee to Treasury Board (via Treasury Board Secretariat) through the ARLU of each year. The Committee’s recommendation will include a list of the projects, the funds to be allocated to departments and a short description of the projects. In order to be included in the ARLU, the Committee’s recommendation must be received by Treasury Board Secretariat prior to September 30th of each year.

13. Recovery of Surpluses

If the project fails to be implemented or is implemented such that a surplus of funds results, Treasury Board Secretariat can recommend to Treasury Board Ministers that a frozen allotment equal to the surplus amount be frozen in that department’s reference levels. This information must be confirmed to Treasury Board at the time of confirming year-end allotments.

14. Number of Years over which Terms and Conditions will Apply

The terms and conditions shall apply over the period of the Dispute Resolution Fund, commencing in 1998/99 until such time as approved resources are available under the Fund. Revisions to the terms and conditions must be approved by the Treasury Board.

(sub) Appendix A

Examples of projects that might be proposed, include:

- providing a mediation programme to deal with disputes, as an alternative to the courts;
- instituting a service to help disputants, within a judicial or quasi-judicial process, to resolve their disputes without the necessity of a trial or hearing;
- establishing a programme to resolve disputes early (e.g. grievances or complaints) thereby avoiding a protracted dispute and possibly court proceedings;
- providing for the streamlining of cases in litigation with a view to reducing the number of issues that must proceed to trial; and
- training and communications activities in support of a specific programme to promote non-litigious dispute resolution.

APPENDIX B

**List of Federal Organizations Submitting Proposals to the DR Fund
by Year and Outcome**

Applicant	AppDate	Result
1998		
Canadian Environmental Assessment Agency	31-Jul-98	Y
Canadian Human Rights Commission	30-Jul-98	Y
Canadian Human Rights Tribunal	25-Jun-98	Y
Canadian Radio-television and Telecommunications Commission	31-Jul-98	Y
Canadian Transportation Agency	31-Jul-98	Y
Correctional Service of Canada (Ontario Region) Joyceville	09-Jun-98	Y
Correctional Services Canada	09-Jun-98	Y
Environment Canada	01-Jul-98	Y
Fisheries and Oceans Canada	07-Aug-98	Y
Health Canada—Learning Center Plus	31-Jul-98	Y
HRDC-Labour Program	03-Jun-98	Y
HRDC-NB	31-Jul-98	Y
Human Resources Development Canada - Income Security Programs	22-Jul-98	Y
Immigration and Refugee Board	28-May-98	Y
Indian and Northern Affairs Canada	31-Aug-98	Y
Indian and Northern Affairs Canada	01-Sep-98	Y
Indian and Northern Affairs Canada	08-Sep-98	Y
National Farm Products Council	30-Jul-98	Y
Office of the Commissioner of Official Languages	24-Jul-98	Y
Public Service Staff Relations Board	31-Jul-98	Y
Revenue Canada	13-Aug-98	Y
Royal Canadian Mounted Police - E Division BC	31-Aug-98	Y
Royal Canadian Mounted Police, OIC Learning & Development	17-Aug-98	Y
Veterans Affairs Canada	04-Jun-98	Y
Canadian Food Inspection Agency	03-Jun-98	N
1999		
Canada Industrial Relations Board (successor to the Canadian Labour Relations Board)	17-May-99	Y
Canadian Environmental Assessment Agency	18-May-99	Y
Canadian Food Inspection Agency	09-Aug-99	Y
Canadian Human Rights Commission	30-Jul-99	Y
Canadian Human Rights Tribunal	14-Jun-99	Y
Canadian International Development Agency	29-Mar-99	Y
Canadian International Trade Tribunal	25-Jun-99	Y
Canadian Radio-Television and Telecommunications Commission	12-May-99	Y
Correctional Services Canada		Y
DND Claims and Civil Litigation	23-Sep-99	y
Environment Canada	20-Jul-99	Y
Fisheries and Oceans Canada	19-May-99	Y
Fisheries and Oceans Canada (continuation of B18)	01-May-99	Y
Hazardous Materials Information Review Commission	19-May-99	Y
HRDC-Labour Program	28-May-99	Y
HRDC-NS Region	18-May-99	Y
Human Resources Development Canada - Income Security Programs	31-Mar-99	Y
Immigration and Refugee Board	19-May-99	Y
Indian and Northern Affairs Canada	01-Jul-99	Y
National Energy Board	12-May-99	Y
Patented Medicine Prices Review Board	19-May-99	Y

Applicant	AppDate	Result
Public Service Commission of Canada – Recourse Branch	21-May-99	Y
RCMP Public Complaints Commission	19-May-99	Y
Revenue Canada - Appeals Branch	19-May-99	Y
Revenue Canada - International Tax Directorate	20-May-99	Y
Revenue Canada - SR & ED Program	12-May-99	Y
Revenue Canada (CONTINUATION OF B42)	01-May-99	Y
Royal Canadian Mounted Police - E Division BC	17-May-99	Y
Royal Canadian Mounted Police, OIC Learning & Development	11-Mar-99	y
Citizenship and Immigration Canada	01-May-99	N
Consulting and Audit Canada (Public Works and Government Services Canada)	12-May-99	N
Department of Foreign Affairs and International Trade	28-Apr-99	N
Fisheries and Oceans Canada	28-Jun-99	N
Fisheries and Oceans Canada - Canadian Coast Guard	13-May-99	N
Fisheries and Oceans Canada - Laurentian Region	12-May-99	N
Fisheries and Oceans Canada - Maritimes Region	20-May-99	N
Health Canada—Health Protection Branch	11-May-99	N
Health Canada—Health Protection Branch, Legislation Renewal	07-May-99	N
Health Canada—Learning Center Plus	02-Jun-99	N
Heritage Canada	18-May-99	N
HRDC-Ontario Region, Income Security Programs	12-May-99	N
HRDC-Quebec Region	23-Feb-99	N
Human Resources Development Canada - CESGP	13-May-99	N
National Archives and National Library of Canada	19-May-99	N
National Farm Products Council	21-Jul-99	N
National Parole Board	11-May-99	N
Office of the Commissioner of Review Tribunals – Canada Pension Plan/Old Age Security	12-May-99	N
Office of the Secretary to the Governor General	12-May-99	N
Parks Canada	25-May-99	N
Public Works and Government Services Canada - Supply Policy Dir.	28-Jun-99	N
RCMP Central and Northwest regions - Workplace Conflict	12-May-99	N
Revenue Canada - Information Technology Branch	07-May-99	N
Royal Canadian Mounted Police - G Division NWT	04-May-99	N
Royal Canadian Mounted Police - V Division Nunavut	12-May-99	N
Royal Canadian Mounted Police, H Division (Atlantic)	06-May-99	N
Transport Canada	19-May-99	N

APPENDIX C
Interview Guides

Interview Guide For 1998 Funding Recipients

Questions for project respondents will supplement descriptive data from DRF project files.

My name is ____ and I'm calling from ARC Applied Research Consultants. We have been retained to conduct an evaluation of the Department of Justice's Dispute Resolution Fund. I understand your organization received funding from the DRF, and I would like to ask you some questions about your experience with the Fund. These questions pertain to the funding you received for your 1998 proposal and do not include the results of any 1999 application your organization might have submitted.

ASK ALL

01 How did you first become aware of the Fund?

- From an interdepartmental memo
 - From a Letter of Call from the fund/Justice Department
 - Other [SPECIFY]
-
-

02 Did the Fund's materials and other communications (i.e. the *Letter of Call*, and the *Terms and Conditions*) provide you with a clear understanding of the program's mandate, objectives and criteria for project funding?

YES NO

03 How do the objectives of the project you proposed fit with the Fund's objectives? The Fund's objectives are:

- *encouraging and assisting organizations to manage disputes more effectively, innovatively and with less litigation, and*
 - *reducing the costs of managing and litigating disputes among funded organizations and the Department of Justice?*
-
-
-

04a Did the timetable for preparation and submission of proposals to the Fund allow you sufficient time to prepare your proposal?

YES NO

04b Was there enough time available between your receiving notification of support from DRF and the end of the fiscal year for you to complete your project according to the schedule in your proposal?

YES NO

IF 04b NO ASK 04c. IF 04b YES ➡ SKIP TO 05a

04c What were the implications of this for your project?

ASK ALL

05a Did you require assistance from DRF staff to prepare your application for project funding?

YES NO

IF 05a YES ASK 05b TO 05d. IF 05A NO ➡ SKIP TO 06.

05b What kind of assistance did you need?

05c Was the assistance you received helpful?

YES NO

IF 05c NO

05d Why not? What would have been more helpful?

ASK ALL

06 Was the review process carried out in a reasonable timeframe?

YES NO

07a Do you feel that the actual selection process was fair?

YES NO

IF 07A NO

07b What was unfair about it?

ASK ALL

08 Did the Committee find it necessary to ask you any questions to clarify your proposal before reaching a decision on funding?

YES NO

IF 08 YES

09 If so, what was asked?

ASK ALL

10 Did your project receive the full amount of funding for which you applied?

YES NO

IF 10 NO

11 What impact did the reduction in total project funding imposed by the program have on your project?

ASK ALL

12a Were any requirements for ongoing progress reporting imposed on your project by DRF?

YES NO

IF 12a YES ASK 12b TO 12d. IF 12a NO ➡ SKIP TO 13

12b What progress reporting requirements were imposed?

12c Were these DRF reporting requirements reasonable?

YES NO

IF 12c NO

12d Why not?

ASK ALL

13 Have you provided any ongoing progress reports to the Fund administrator?

YES NO

14 What results, if any, has your project achieved to date in terms of increased use of ADR and/or reductions in the amount or costs of litigation?

15 Would your project have proceeded without DRF funding?

YES NO

IF 15 YES

16 What form would it have taken without DRF support?

ASK ALL

17 What support (financial, in-kind or otherwise) did your project receive from your organization?

18a Did DRF support enable you to leverage funding or in-kind support from any other sources?

YES NO

IF YES AT 18A ASK 18B

IF NO AT 18a ➡ SKIP TO 19

18b Please indicate what additional funding you received and from which sources:

ASK ALL

19a Did the mechanism used by the Fund to transfer money to recipient organizations pose any difficulties for your organization?

YES NO

IF YES AT 19A

19b Please describe these difficulties.

20 What requirements for final reporting and financial accountability did the Fund impose on your project?

21 Were these requirements, in your view, reasonable?

YES NO

22 Has your project been completed?

YES NO

IF 22 YES ASK 23 TO 24b IF 22 NO ➔ SKIP TO 25.

23 Have you submitted a report on its results?

YES NO

24a Did your project take longer than planned to complete?

YES NO

IF YES IN 24a ASK 24b. IF NO IN 24a ➔ SKIP TO 27

24b Why did your project take longer than planned?

NOW ➔ SKIP TO 27

25 When do you expect to submit a final report to DRF on your project?

26a Has your project taken longer than planned to complete?

YES NO

IF YES IN 26a ASK 26b.

IF NO IN 26a ➡ SKIP TO 27

26b Why is your project taking longer than planned?

NOW ➡ SKIP TO 27

ASK ALL

27a What types of disputes was your project intended to address?

27b Will this project continue after the DRF support ends?

YES NO

IF NO AT 27b ASK 27c AND 27d.

IF YES in 27a ➡ SKIP TO 28a

27c Why not?

27d Are there any lasting impacts of the project you foresee for your organization?

28a Is there any statistical information available on the numbers and costs of these disputes in past years?

YES NO

IF YES AT 28a ASK 28b TO 29a.

IF NO in 28a ➡ SKIP TO 30

28b Please describe this information.

28c May we have access to this information now?

YES NO

IF YES AT 28c ARRANGE FOR FAX OR PICKUP
RECORD ADDRESS FOR COURIER:

29a For the purposes of evaluating your specific project, would it be feasible to track changes in the numbers and/or costs of the disputes targeted by your project?

YES NO

IF YES AT 29a ASK 29b. IF NO AT 29a ASK 29c

29b Are you planning to do this as part of your final report to DRF?

YES NO NOW ➡ SKIP TO 30

29c Why not?

ASK ALL

30 Are you aware of any plans to disseminate the results of your project to others interested in ADR?

YES NO

IF 30 YES

31 Has or will DRF program staff contribute to this process?

YES NO

More Generally

ASK ALL

32 Do you think that the DRF is ‘on the right track’ in its efforts to meet its objectives? If not, what should the program do differently?

33 Do you think that a contribution program is the best vehicle available to Justice to meet its objectives for these resources? What alternative (if any) approach would work better?

34 Do the DRF’s efforts overlap with those of any other government agency? If so, where are these overlaps occurring?

35 Do you see evidence of increased awareness and use of Alternative Dispute Resolution within the federal government?

YES NO

IF 35 YES

36 To what extent do you think this increase might be attributable to the DR Fund?

ASK ALL

37 If the DR Fund continues to operate in the future, are there potential projects for which your organization might seek financial support?

YES NO

IF 37 YES

38 What general types of projects do you foresee which might qualify for DRF support?

Thank you for assisting us with this evaluation.

Interview Guide For New 1999 Funding Recipients

Questions for project respondents will supplement descriptive data from DRF project files.

My name is ____ and I'm calling from ARC Applied Research Consultants. We have been retained to conduct an evaluation of the Department of Justice's Dispute Resolution Fund. I understand your organization recently got word of approved funding from the DRF, and I would like to ask you some questions about your experience with the Fund this far.

ASK ALL

01 How did you first become aware of the Fund?

From an interdepartmental memo
From a Letter of Call from the fund/Justice Department
Other [SPECIFY]

02 Did the Fund's materials and other communications (i.e. the *Letter of Call*, and the *Terms and Conditions*) provide you with a clear understanding of the program's mandate, objectives and criteria for project funding?

YES NO

03 How do the objectives of the project you proposed fit with the Fund's objectives? The Fund's objectives are:

- *encouraging and assisting organizations to manage disputes more effectively, innovatively and with less litigation, and*
- *reducing the costs of managing and litigating disputes among funded organizations and the Department of Justice?*

04a Did the timetable for preparation and submission of proposals to the Fund allow you sufficient time to prepare your proposal?

YES NO

04b Will there be enough time available between your receiving notification of support from DRF and the end of the fiscal year for you to complete your project according to the schedule in your proposal?

YES NO

IF 04b NO ASK 04c.

IF 04b YES ➡ SKIP TO 05a

04c What will be the implications of this for your project?

ASK ALL

05a Did you require assistance from DRF staff to prepare your application for project funding?

YES NO

IF 05a YES ASK 05b TO 05d.

IF 05A NO ➡ SKIP TO 06.

05b What kind of assistance did you need?

05c Was the assistance you received helpful?

YES NO

IF 05c NO

05d Why not? What would have been more helpful?

ASK ALL

06 Was the review process carried out in a reasonable timeframe?

YES NO

07a Do you feel that the actual selection process was fair?

YES NO

IF 07A NO

07b What was unfair about it?

ASK ALL

08 Did the Committee find it necessary to ask you any questions to clarify your proposal before reaching a decision on funding?

YES NO

IF 08 YES

09 If so, what was asked?

ASK ALL

10 Did your project receive the full amount of funding for which you applied?

YES NO

IF 10 NO

11 What impact will the reduction in total project funding imposed by the program have on your project?

ASK ALL

12a Are any requirements for ongoing progress reporting imposed on your project by DRF?

YES NO

IF 12a YES ASK 12b TO 12d. IF 12a NO ➡ SKIP TO 13

12b What progress reporting requirements are being imposed?

12c Are these DRF reporting requirements reasonable?

YES NO

IF 12c NO

12d Why not?

13 Do you think that your project would have proceeded without DRF funding?

YES NO

IF 13 YES

14 What form might it have taken without DRF support?

ASK ALL

15 What support (financial, in-kind or otherwise) will your project be receiving from your organization?

16a Will DRF support enable you to leverage funding or in-kind support from any other sources?

YES NO

IF YES AT 16A ASK 16B

IF NO AT 16a ➡ SKIP TO 17a

16b Please indicate what additional funding you may receive and from which sources:

ASK ALL

17a Has the DRF indicated to you the mechanism that will be used to transfer money to your organization?

YES NO

IF YES AT 17A

17b Do you think this fund transfer procedure will cause difficulties for your organization?

YES NO

IF YES AT 17b

17c Please describe these potential difficulties.

18 What requirements for final reporting and financial accountability did the Fund impose on your project?

19 Are these requirements, in your view, reasonable?

YES NO

ASK ALL

20 What types of disputes is your project intended to address?

21 Are there any lasting impacts of the project you foresee for your organization?

22 Is there any statistical information available on the numbers and costs of these disputes in past years?

YES NO

IF YES AT 22a ASK 22b TO 23a.

IF NO in 22a ➡ SKIP TO 24

22b Please describe this information.

22c May we have access to this information now?

YES NO

IF YES AT 22c ARRANGE FOR FAX OR PICKUP
RECORD ADDRESS FOR COURIER:

23a For the purposes of evaluating your specific project, will it be feasible to track changes in the numbers and/or costs of the disputes targeted by your project?

YES NO

IF YES AT 23a ASK 23b. IF NO AT 23a ASK 23c

23b Are you planning to do this as part of your final report to DRF?

YES NO NOW ➡ SKIP TO 30

23c Why not?

ASK ALL

24 Are you aware of any plans to disseminate the results of your project to others interested in ADR?

YES NO

IF 24 YES

25 Has or will DRF program staff contribute to this process?

YES NO

More Generally

ASK ALL

- 26 Do you think that the DRF is ‘on the right track’ in its efforts to meet its objectives? If not, what should the program do differently?**

- 27 Do you think that a contribution program is the best vehicle available to Justice to meet its objectives for these resources? What alternative (if any) approach would work better?**

- 28 Do the DRF’s efforts overlap with those of any other government agency? If so, where are these overlaps occurring?**

- 29 Do you see evidence of increased awareness and use of Alternative Dispute Resolution within the federal government?**

YES NO

IF 35 YES

30 To what extent do you think this increase might be attributable to the DR Fund?

ASK ALL

31 If the DR Fund continues to operate in the future, are there potential projects for which your organization might seek financial support?

YES NO

IF 31 YES

32 What general types of projects do you foresee which might qualify for DRF support?

Thank you for assisting us with this evaluation.

Interview Guide For Refused Applicants

Questions for refused applicants will supplement descriptive data from DRF project files.

My name is ____ and I'm calling from ARC Applied Research Consultants. We have been retained to conduct an evaluation of the Department of Justice's Dispute Resolution Fund. I understand your organization made an unsuccessful proposal for funding from the DRF, and I would like to ask you some questions about your experience with the Fund.

ASK ALL

01 How did you first become aware of the Fund?

From an interdepartmental memo
From a Letter of Call from the fund/Justice Department
Other [SPECIFY]

02 Did the Fund's materials and other communications (i.e. the *Letter of Call*, and the *Terms and Conditions*) provide you with a clear understanding of the program's mandate, objectives and criteria for project funding?

YES NO

03 How do the objectives of the project you proposed fit with the Fund's objectives? The Fund's objectives are:

- *encouraging and assisting organizations to manage disputes more effectively, innovatively and with less litigation, and*
- *reducing the costs of managing and litigating disputes among funded organizations and the Department of Justice?*

04a Did the timetable for preparation and submission of proposals to the Fund allow you sufficient time to prepare your proposal?

YES NO

05a Did you require assistance from DRF staff to prepare your application for project funding?

YES NO

IF 05a YES ASK 05b TO 05d. IF 05A NO ➡ SKIP TO 06.

05b What kind of assistance did you need?

05c Was the assistance you received helpful?

YES NO

IF 05c NO

05d Why not? What would have been more helpful?

ASK ALL

06a Did the Committee find it necessary to ask you any questions to clarify your proposal before reaching a decision on funding?

YES NO

IF 06a YES

06b If so, what was asked?

ASK ALL

07 Was the review process carried out in a reasonable timeframe?

YES NO

08a Do you feel that the actual selection process was fair?

YES NO

IF 08A NO

08b What was unfair about it?

ASK ALL

09a Did you find out from the DRF why your project was denied funding?

YES NO

IF 09a YES

09b What reasons were you given why funding was denied?

IF 09a NO

09c Will you be following-up to get more information?

YES NO

ASK ALL

10a Do you expect that your project will proceed without DRF funding?

YES NO

IF 10 YES

10b What form will it take without DRF support?

ASK ALL

11 What types of disputes was your project intended to address?

12 Is there any statistical information available on the numbers and costs of these disputes in past years?

YES NO

IF YES AT 12 ASK 13 to 15.

IF NO in 12 ➡ SKIP TO 16

13 Please describe this information.

14 For the purposes of evaluating your specific project, would it have been feasible to track changes in the numbers and/or costs of the disputes targeted by your project?

YES NO

15 Had you offered to do this as part of your final report to DRF?

YES

NO

NOW ➡ SKIP TO 16

More Generally

ASK ALL

16 Do you think that the DRF is ‘on the right track’ in its efforts to meet its objectives? If not, what should the program do differently?

17 Do you think that a contribution program is the best vehicle available to Justice to meet its objectives for these resources? What alternative (if any) approach would work better?

18 How could the program change its priorities or processes to better achieve its objectives for these contribution payments?

19 Do the DRF’s efforts overlap with those of any other government agency? If so, where are these overlaps occurring?

20 Do you see evidence of increased awareness and use of Alternative Dispute Resolution within the federal government?

YES NO

IF 20 YES

21 To what extent do you think this increase might be attributable to the DR Fund?

ASK ALL

22 If the DR Fund continues to operate in the future, are there potential projects for which your organization might again seek financial support?

YES NO

IF 22 YES

23 What general types of projects do you foresee which might qualify for DRF support?

Thank you for assisting us with this evaluation.

APPENDIX D
Case Study Reports

FISHERIES AND OCEANS

Profile of the Proponent Organization

The proposal to the Dispute Resolution Fund was prepared by officials of the Office of Early Conflict Resolution (ECR) of Fisheries and Oceans Canada. The department had been considering and planning the establishment of the ECR for approximately a year prior to the announcement of the DR Fund. It was scheduled to begin operation by the early fall of 1998. The aim of the ECR was to 'fill the gap' between EAP services and traditional, formal grievance procedures to resolve workplace disputes more effectively.

What Was Proposed

The proposal by the Office of Early Conflict Resolution called for two years of DRF support to operate a decentralized program of staff-delivered services intended to intervene in workplace disputes among Fisheries and Oceans personnel across Canada. The basic services provided by the ECR were described as "a confidential, voluntary and informal early dispute resolution service to provide employees with the skills, techniques and knowledge to handle conflict in everyday life." Its major cost elements are salaries for a Director, a National Coordinator, a secretary, six Regional Advisors, training for these program staff, as well as related training for other departmental employees and managers, capital costs, and other O&M.

The formal objective of the ECR program was to decrease the number of formal complaints (those reaching the third level of the grievance process) by 50%, within two years of implementing the proposed model. Expected outcomes included improving employer/employee/union relationships by creating an environment where discussion is used to resolve disputes in an environment of informality, trust, fairness and timeliness, and making optimal use of the department's dispute resolution resources by building a structure that will direct disputes along a low-cost path. It was estimated in the proposal that the cost in terms of staff time to resolve formal complaints and grievances in 1996-97 was approximately \$1.6M.

The budget submitted with the proposal in 1998 requested DRF support in the amount of \$298,705.00 for fiscal 1998-99, and \$500,000.00 for fiscal 1999-2000. These budget amounts included salary and O&M costs.

The proposed evaluation of the project called for the department to systematically and regularly collect data on a range of measures of the processes, outcomes and costs of the different forms of dispute resolution available to staff, including the ECR. The cover letter which accompanied the proposal indicated that a detailed program evaluation was being designed for the ECR and would be forwarded to Justice on completion.

Perceptions of the Proposal Process

Officials of the Office of Early Conflict Resolution first became aware of the DR Fund through contacts in the department's Legal Services Unit and HR function. Interest in the Fund was immediate as the department had been thinking about establishing the Office for some time.

The proponents reported that the Fund's Terms and Conditions could be more clearly spelled out, although their questions were more concerned with the proposal process than about how to prepare their proposal. DR officials were described as helpful in answering these questions.

The objectives of the Fund meshed well with those of the ECR.

The time available to prepare the proposal was reported to be adequate, in part because it extended work already done in developing the model for the ECR. The same could not be said of the review process, which was seen as lengthy. The Memorandum of Understanding for the first year of DRF support was only signed by the department in November of 1998, and by Justice in February of 1999.

What the Project Actually Entailed

The DR Committee awarded \$105,292.00 to the ECR project for fiscal 1998-99. This amount represented 80% of the non-salary O&M requested in the proposal, and reflected the Committee's decision to not, as a rule, cover salary costs. A further \$75,000.00 was awarded to this project for the 1999-2000 fiscal year. Despite the reduction in DR funding below the amounts requested, the project has largely been implemented as described in the proposal, with the exception that mediation training for Canadian Coast Guard staff, which would have had to be outsourced, has been scaled back.

If the project had not received any DR funding, it would likely have proceeded with fewer than the current six regional advisors, and with restricted travel.

The mechanism used by the Fund to transfer money to DFO posed no real problem for the department, although it was noted that an immediate transfer would remove any uncertainty related to the current year-end process.

Progress Reporting

ECR officials were aware that ongoing progress reporting was required by the Fund, but did not know precisely what was expected in these reports. In terms of the first year of DR funding support, the progress report consisted of a brief letter from the Deputy of Fisheries and Oceans to the Deputy of Justice. More recently, a brief deck on the status of the ECR Office as of November 1999 was prepared for internal use.

Final Reporting and Evaluation

ECR officials were not clear on the final reporting and accountability requirements related to the DR funding received for their project. However, in addition to being prepared to “show how the money was spent”, they also plan to provide the Fund with a copy of an internal report on the ECR which is to be prepared next year for internal reporting purposes. While ECR officials recognize that some form of reporting to the Fund on the expenditure of its funding is reasonable and necessary, they suggested that the Fund should develop a format for these reports, and make adherence to this format an explicit element of the Terms and Conditions of the Fund.

No formal evaluation of the ECR is planned beyond the internal report referred to above. It is expected that this report will make use of currently available statistical data on ECR Office activities, and indicators of the use of formal processes such as counts of grievances and harassment investigations, as well as EAP usage. However, it was recognized that the reliability of some of these measures is insufficient to assess the program. Additional indicators will, therefore, be used.

ECR officials were not aware of any plans by the DR Fund to disseminate the results of their project to other interested parties. They did indicate, however, that they were already doing this themselves to some extent through the distribution of materials and through presentations on program implementation to, for example, union officials and members.

Achievement of DR Fund Objectives

ECR officials regard the Fund’s objectives and the means chosen to pursue these objectives as reasonable. They value the fact that a contribution program leaves control of the pilot program with the recipient organization. However, they are not yet in a position to report in detail on the precise degree of achievement of the Fund’s objectives by their project. It is hoped that some hard data on case types, volumes and costs will be available for analysis and reporting at the end of the next fiscal year. Feedback on the ECR process is also to be gathered from employee participants.

In the meantime, a number of important impacts of the ECR program are foreseen, including a fundamental change in the way DFO handles workplace conflicts, and reductions in the costs associated with the current approach (for example, in the costs of harassment investigations, most of which are contracted out).

Recommendations for Improvement of the DR Fund

ECR officials interviewed for this evaluation suggested the following improvements to the operation of the DR Fund:

- Make decisions on funding earlier in the fiscal year.

- When a proposed budget is reduced, make clear what the approved funding is for.
- Specify a schedule and format for progress reporting.
- Specify a format for final reporting, including financial reporting.
- Sponsor a workshop for funding recipients so that all can learn about each other's projects.
- Post information of general interest about funded projects on a DR Fund website.

Assessment of DR Fund Impact

DFO efforts to develop and implement the Office of Early Conflict Resolution were well underway when the DR Fund was introduced. This eased the burden on DFO of preparing their proposal to the Fund.

Full support of the DFO proposal would have enabled the ECR model to be extended to the Canadian Coast Guard Service. The reduced support actually awarded to DFO for the program served to increase the affordable number of regional advisors and to enable them access to increased O&M funding, especially for travel. The project is considered an investment in productivity and a cost-avoidance initiative which would, however, have proceeded largely as it did even without any DR Fund support.

ECR officials will be providing a detailed report on the achievements of the program to DFO senior management at the end of the next fiscal year. It is expected that this report will be made available to the DR Fund upon completion. This report will likely present some hard data on program impacts, costs and benefits. As such, it may reflect on the degree to which the DR Fund has met its own objectives. The uncertainty in this prediction underlines the need for the Fund to be more explicit about its expectations regarding project evaluation and reporting.

CANADIAN TRANSPORTATION AGENCY

Profile of the Proponent Organization

The Canadian Transportation Agency (hereafter, the Agency) is a quasi-judicial tribunal created by Parliament with a mandate in Canada's federal transportation sector (air and rail) as an economic regulator, licensing authority, accessibility facilitator and aeronautical authority. The Agency also makes and enforces decisions in response to complaints brought before it, including those made by shippers, carriers, consumers, and third parties such as municipal, provincial and federal government departments and agencies. The Agency also hears complaints regarding the accessibility of air and rail transportation services to persons with disabilities, as well as complaints of poor service and abuse of market power.

As a quasi-judicial tribunal, the Agency has the powers of a superior court for matters within its jurisdiction. These powers are exercised through formal hearings which proceed orally, in writing or both. Agency proceedings can be substantively as well as procedurally complex, as well as protracted and costly. The demanding nature of these proceedings notwithstanding, Agency decisions must be rendered within 120 days of the receipt of an application.

The Agency typically receives approximately 1,000 complaints per year.

What Was Proposed

Since being established in its current form in 1996, the Agency has been aware that some proceedings continue to a final Agency determination even though the parties could likely have resolved their disputes without this formal process. Face-to-face encounters being disputants have been successful in resolving or minimizing the issues in dispute. In some cases, the complaints may be withdrawn when the complainant becomes aware, through direct discussion with the opposing party and with the assistance of Agency officials, of the poor prospects of a favourable Agency decision.

This experience with what are called 'pre-hearing conferences' encouraged the Agency to consider extending this general model of negotiated solutions and giving disputants an early indication of possible decision outcomes. Importantly, the pre-hearing conferences were specifically for situations in which litigation was pending. It was not designed for mediation or for efforts to achieve compromise solutions which avoided litigation altogether.

The Agency recognized that pursuit of this 'progressive alternative' model would require amendment of its General Rules and training of Agency member and staff. Accordingly, when the Agency became aware of the availability of the Dispute Resolution Fund, it decided to apply for support to deliver mediation and related ADR training to Agency members and

staff, and to develop and implement a communications plan to inform Agency constituents who might be effected by the new procedures.

The budget submitted with the proposal in 1998 requested DRF support in the amount of \$76,000.00 for fiscal 1998-99, primarily for the development of a dispute resolution mechanism and for the training of Agency members and staff.

The proposed evaluation of the program was to include assessment of constituent reactions to the proposed and actual changes, tracking of the number of meetings held and the frequency of use of the conference procedure by the Agency.

Perceptions of the Proposal Process

Officials of the Agency became aware of the DR Fund through the formal call letter from the Deputy Minister of Justice. Interest in the Fund was immediate as the Agency had been pursuing a general interest in mediation for some time.

The proponents found the Fund's Terms and Conditions to be clear. They had no need to pose any questions to DR Fund officials about the Fund or their proposal. The objectives of the Fund meshed well with those of the proposed project.

The time available to prepare the proposal was reported to be short, but not through any fault on the part of the DR Fund. The project was always scheduled to be completed over a two-year period.

What the Project Actually Entailed

The DR Committee awarded a total of \$42,000.00 to the Agency's project. This amount was paid at the end of 1998-99. It represented 55% of the amount requested in the proposal, and was to be spent on the development of the conference mechanism and the training of Agency members and staff.

If the project had not received any DR funding, it would have proceeded more slowly, or might not have proceeded at all. In any event, DR Fund support was described as a 'very big help'. The mechanism used by the Fund to transfer money to the Agency posed no real problem for it.

Progress Reporting

Agency officials were aware that ongoing progress reporting was required by the Fund, and have been diligent in providing these reports. To date, two progress reports have been submitted: the first in April of 1999, the second in November of 1999. Both reports were narrative in nature, with descriptions of key milestones attained, and projections of phases to come. The November identified several quantitative indicators of performance, but did not

provide actual data. Plans to initiate pilot projects within the Agency's operations were outlined, along with an expression of the need to evaluate these pilots.

Final Reporting and Evaluation

Agency officials regard their final reporting obligation to the Fund as encompassing financial reporting, and quantitative data on numbers of successful mediations and reductions in the numbers of formal disputes. The Agency expects to submit a final report to the Fund in April of 2000.

Agency officials were not aware of any plans by the DR Fund to disseminate the results of their project to other interested parties. The Agency does, however, have its own communications plan for this information.

Achievement of DR Fund Objectives

Agency officials regard the Fund's objectives and the means chosen to pursue these objectives as reasonable.

The use of mediation to resolve disputes before the formal process is invoked represents a fundamental change in the way the Agency operates. Significant benefits are expected in terms of both the efficiency and cost of resolving these disputes.

Recommendations for Improvement of the DR Fund

Agency officials interviewed for this evaluation suggested the following improvements to the operation of the DR Fund:

- Make decisions on funding earlier in the fiscal year.
- Sponsor a workshop for funding recipients so that all can learn about each other's projects.
- Post information of general interest about funded projects on a DR Fund website.

Assessment of DR Fund Impact

Canadian Transportation Agency interest in mediation as a means of improving its service to its constituents and reducing the costs of resolving disputes referred to it were well underway when the DR Fund was introduced.

The Fund provided full support to the Agency's proposal. This support was used to pay for development of the conference mechanism and for mediation training for Agency members and staff. The project might not have proceeded had DR Fund support not been approved.

Agency officials have been diligent in providing ongoing progress reports to the Fund. These reports have provided useful information on the progress of the project. While it is yet too early to be looking for quantitative data on project outcomes, the Agency recognizes the need to collect this type of data as it mounts pilot projects to test the new procedures. These data will be provided to the Fund by the Agency in its final report to be submitted in April of 2000.

THE OFFICE OF THE COMMISSIONER OF OFFICIAL LANGUAGES (OCOL)

Profile of the Proponent Organization

In 1969, the Liberal government, under Pierre Elliott Trudeau's leadership, adopted the *Official Languages Act*. This *Act* provided that English and French have "equality of status and equal rights and privileges as to their use in all the institutions of the Parliament and Government of Canada." In 1973, the *Act's* scope was broadened to apply to languages of work in the federal government. In 1984, increased emphasis was placed on the need for provincial and territorial minorities to have access to educational, social and cultural services in their own languages. The new *Official Languages Act* in 1988 gave the Commissioner new tools to implement the Office's objectives.

The Office of the Commissioner of Official Languages's (OCOL) mandate is to:

- Ensure recognition of the status of English and French, Canada's two official languages.
- To ensure respect for the Official Languages Act.
- To provide information about the services of the Office of the Commissioner, aspects of the Official Languages Act and its importance to Canadian society.

OCOL's activities, among other things, include:

- Investigating complaints and making recommendations.
- Reporting on its activities to the Governor in Council or on appeals to the Federal Court on the complainant's behalf when all other recourses have been exhausted.
- Conducting studies, research and analyses to evaluate the performance of federal institutions and recommending appropriate corrective measures.
- Evaluating the advancement of English and French in Canadian society and the vitality of the official language minority communities.
- Providing information and advice to assist institutions in implementing the *Act*.

What Was Proposed

The proposal submitted to the DR Fund on July 24, 1998 requested funds to assess the Commissioner's current practices with regard to complaint handling, to better appreciate their nature, strengths and limitations, and to identify improvements to these practices by using dispute resolution techniques.

The project would involve three phases. External DR systems design consultants were to be engaged to work with OCOL staff to design, develop and present a proposal for DR system improvements. The intent of the project was to contribute to more timely and effective resolution of complex cases, preferably without litigation.

The budget submitted with OCOL's proposal requested DRF support in the amount of \$95,000. The project was to commence towards the last quarter of 1998 and continue on to the end of the first quarter in 1999. Funds would be utilized to cover the costs of DR systems design consultants and of professional training.

With respect to the monitoring and evaluation of this project, the OCOL agreed in its proposal to monitor the development and implementation of the project and to submit reports as required by DRF. Actual plans for an evaluation of the project were not made on the basis that an evaluation framework would be provided by DRF.

Perception of the Proposal Process

The OCOL became aware of the DR Fund through the formal call letter from the Deputy Minister of Justice. Interest in the fund was immediate. On June 19, only two days after having received the letter, the Commissioner wrote to the Deputy Minister of Justice expressing interest in DR methods and advising that a proposal would be forthcoming.

Overall, OCOL respondents found the Fund's Terms and Conditions to be clear. Clarification was sought on one issue only, i.e., the nature of the workplan and schedule to be submitted. The time available to prepare the proposal was reported to be adequate. With regard to the OCOL's proposal, the DR Committee sought clarification on three points related to the focus and conduct of the project.

The review process was perceived to be overly lengthy; they submitted their proposal in July and only heard the Committee's decision in October. There was not enough time available between receiving notification of DR funding and the end of the fiscal year to complete the project according to the proposed schedule: "They asked us to provide a detail schedule of activities, but it was like they never read it." OCOL requested and was awarded an extension for its project and has carried the funding over to this fiscal year (1999/2000).

What the Project Actually Entailed

The DR Committee awarded the OCOL the full amount that it requested for its project, \$95,000. The essence of the project has remained the same as initially proposed. The project, as it is currently unfolding, involves:

A detailed review of the OCOL DR practices and those of several other ombudsmen offices. This includes a review of pertinent literature and the development of questionnaires to be used in interviews with various parties (internal and external) and of an analytical grid for the review of about 100 complex files. These instruments are designed to enable OCOL to more fully understand current DR processes and how staff and other external parties view them. This phase is complete and has resulted in a draft Internal OCOL Report (IOR)¹.

The design, development and presentation of a proposal for DR system improvements based on the findings of the IOR. This proposal among other things will: focus on the types of obstacles identified in the IOR, indicate the strengths and weaknesses of OCOL's current DR practices, and suggest appropriate DR approaches.

A detailed training program for Headquarters and regional OCOL managers and investigators based on findings from previous phases. Content and/or nature of the training package is currently being considered but has not yet been decided.

OCOL's three-part project has or will rely on DR consultants for both systems design and professional training. A total of \$40,000 has been set aside for these purposes. The remaining \$55,000 will be used for DR professional training of OCOL staff (about 50). The project is currently between phases two and three and will ultimately result in the future establishment of a DR function within the OCOL and its five regional offices.

This project would not have gone ahead without DR funding. The Fund provided the motivation and the necessary resources to examine practices, develop policy and implement improvements to DR systems.

Progress Reporting

OCOL officials were aware that ongoing progress reporting was required by the Fund. They reported that they expected to receive in writing the requirements for on-going progress reporting. These, however, were never received. Instead, they were informed by DRF that given the uniqueness of each DR project, these requirements would not be forthcoming. Projects would be accorded flexibility in this regard.

¹ This report identifies and comments on the OCOL's current dispute resolution practices and will serve as the bases for the development of a policy and procedures manual and training module.

OCOL reported they would have appreciated receiving a written memorandum regarding this change; instead of having to call. On the other hand, they appreciated the manner in which DRF has managed its relation with the OCOL. One official stated: “DOJ trust us, they know we are serious about our work, we feel supported, and we are treated like adults.” DRF was also perceived as always being responsive to OCOL’s questions and need for assistance.

To date, the project has submitted one interim progress report, in July 1999. This report was prepared on the basis of what OCOL considered important. It is a two-page document that describes the project’s phases, identifies internal resources for the project and speaks of the forecasted use of remaining funds. The next interim progress report (e.g., the IOR final document) will be submitted sometime in January.

It is still premature to comment on the effects of the project in terms of increased use of DR methods and/or reductions in the amount or cost of litigation. Changes are planned to the OCOL’s Complaints Information Management System to better track the use of DR approaches. Currently the system contains information on the nature of the allegation, the results of the investigation and follow-up. Information is not collected on specific DR practices.

The current objective is to: “have a consistent DR approach which will be of benefit not only to external complainants, but also to the resolution of internal disputes on linguistic matters.” It is hoped that the project will lead to fundamental changes in the corporate culture and move from “enforcement to prevention and facilitation.”

Final Reporting

The Fund imposed no specific requirements on the project with regard to final reporting and financial accountability. Although no formal plans have been made to evaluate the project, OCOL does plan to share with the Fund all of the documentation that is produced as a result of the various project activities. With regard to financial accountability, OCOL will provide a final report to DRF in accordance with established federal government standards. This will be done at the end of the project.

Achievements of DR Fund Objectives

OCOL officials regard the Fund’s objectives and the means chosen to pursue these objectives as reasonable. This was thought to be: “the best thing that has happened to the investigation function. This has given us the opportunity to look long and hard at what we’re doing by way of DR and what we could be doing.” Significant benefits are expected from this new approach to the handling of complaints in terms of efficiency, cost, client satisfaction, and in **how** complaints are resolved.

Recommendation for Improvement of the DR Fund

OCOL officials explained it was difficult to find DR specialists with experience in linguistic disputes. Moreover, the cost of these consultants was quite high - from \$1,600 to \$2,000 a day. They felt it would be cheaper for the DRF to have a roster of DR consultants on staff with DOJ from which projects could choose. This would save time and money.

Respondents also felt that the focus of the program should be more on prevention, on building healthy relations. It was felt that framing the program within a dispute context limits the scope of the program. Instead more attention should be placed on avoiding disputes, creating a better, more favourable environment.

Assessment of the DR Fund Impact

DR Funding provided the Commissioner's Office the opportunity to examine and assess how it handles complaints and develop clear and consistent approaches to dispute resolution. In the future the OCOL may establish a DR function within the organization and shift its focus from enforcement to facilitation. It is expected that this new and improved way of functioning will enable the OCOL to provide better services to its clients, at a reduced cost to the public.

CANADIAN HUMAN RIGHTS TRIBUNAL

Profile of the Proponent Organization

The Canadian Human Rights Tribunal (hereafter, the Tribunal) is a quasi-judicial body created by Parliament to inquire into complaints of discrimination, and to decide if particular cases have contravened the *Canadian Human Rights Act*. The *Act* applies to federal government departments, agencies and Crown Corporations, as well as federally-regulated private sector employers. Its purpose is to protect individuals from discrimination, and to promote equality of opportunity.

The Tribunal may only inquire into complaints referred to it by the Canadian Human Rights Commission. The Tribunal then conducts an independent inquiry through public hearings and renders a decision, either substantiating or dismissing the complaint. The Tribunal typically hears 25-30 cases per year.

Until mid-1998, the Tribunal was an ad hoc, rather than a standing, body, meaning that when a complaint was referred to it by the Commission, it was adjudicated by part-time members selected from a panel. In order to strengthen this process and increase the consistency of Tribunal decisions, a smaller standing Tribunal was created in mid-1998. Under this new model, the Tribunal is composed of up to 13 members plus a full-time Chairperson and Vice-Chairperson.

What Was Proposed

In 1996, the Tribunal implemented a project to test mediation as a means to resolve complaints referred to the Tribunal by the Commission. The main goals identified for mediation in this context were: to reduce the costs of resolving disputes within the jurisdiction of the Tribunal, and to assist parties to these disputes to jointly reach a settlement with a minimum of stress.

In the test mediation project, parties to a case were offered, at the case planning stage, the opportunity to have a member of the Tribunal serve as a mediator in an attempt to resolve the complaint without a formal hearing. Results of the test project were encouraging, with 12 cases referred in 1996, and 17 cases referred in 1997, going to mediation. Of these cases, 70% were resolved through mediation, with cost and time savings to both the Tribunal and the parties to the complaint.

Based on the Tribunal's positive experience with the test project, it was decided to further develop and implement mediation as a service to be provided by the Tribunal. In light of the changes to the Tribunal's composition noted above, it was recognized that an important element of the Tribunal's adoption of this approach would be the provision of mediation

training to the members. Accordingly, when the Tribunal became aware of the availability of the Dispute Resolution Fund, it was decided to apply for support to develop and deliver the necessary mediation training to the members of the Tribunal.

The budget submitted with the proposal in 1998 requested DRF support in the amount of \$89,880.00 for fiscal 1998-99, primarily for the services of DR training consultants, and the expenses associated with delivering the training (per diem expenses for part-time Tribunal members, and travel costs. Due to the later-than-anticipated appointment of the members of the Tribunal, the training had to be delayed until April of 1999. As a result, only \$13,200.00 of the approved budget was spent by the Tribunal prior to the end of fiscal 1998-99. This necessitated an amendment to the funding agreement with the DR Fund to allow its support to be given in fiscal 1999-2000. The budget for 1999-00 submitted by the Tribunal requested only \$50,790.00, an amount which, when added to the 1998-99 expenditure, was less than the total initially requested in 1998.

The proposed evaluation of the test mediation project is effectively an extension of data collection and reporting already in place for the project prior to DR Fund support. It entails monitoring of individual cases referred to mediation, including estimates of time and direct cost savings to the Tribunal for each case. Feedback questionnaires were also designed and administered to users of the Tribunal's mediation services.

Perceptions of the Proposal Process

Officials of the Tribunal were generally aware of the DR Fund through various contacts within other federal quasi-judicial tribunals. They also received the formal call letter from the Deputy Minister of Justice. Interest in the Fund was immediate as the Tribunal had been developing and assessing the test project for some time.

The proponents found the Fund's Terms and Conditions to be clear. They had no need to pose any questions to DR Fund officials about the Fund or their proposal. The objectives of the Fund meshed well with those of the test mediation project.

The time available to prepare the proposal was reported to be adequate, in part because it extended work already done on the test mediation project. The time available to complete the project in fiscal 1998-99 would have been sufficient but for the delay noted above in the appointment of Tribunal members..

What the Project Actually Entailed

The DR Committee awarded a total of \$63,990.00 to the test mediation project. As noted above, this amount was paid over a two-year period. This amount represented 80% of the non-salary costs requested in the proposal, and was fully responsive to the Tribunals request for DR support.

If the project had not received any DR funding, it would likely have been unaltered by this decision. The mechanism used by the Fund to transfer money to the Tribunal posed no real problem for it.

Progress Reporting

Tribunal officials were aware that ongoing progress reporting was required by the Fund. In terms of the first year of DR funding support, the progress report consisted of a financial report submitted as part of the application for funding renewal in 1999-00. Currently available data on cases referred to mediation was neither requested by Fund officials nor provided by the Tribunal.

Final Reporting and Evaluation

Tribunal officials regard their final reporting obligation to the Fund as limited to financial reporting. No formal evaluation of the test mediation project is planned beyond collection and reporting of cases-level referred to above. There are no plans to provide these data to the Fund, as information of this nature was not seen as having been asked for.

Tribunal officials were not aware of any plans by the DR Fund to disseminate the results of their project to other interested parties.

Achievement of DR Fund Objectives

Tribunal officials regard the Fund's objectives and the means chosen to pursue these objectives as reasonable. They value the fact that a contribution program allows the Tribunal to clearly maintain an arm's-length relationship with the Department of Justice.

The use of mediation to resolve disputes referred to the Tribunal represents a fundamental change in the way its affairs are handled. Significant benefits have been documented (although not reported to the Fund) in terms of both the efficiency and cost of resolving these disputes.

Recommendations for Improvement of the DR Fund

Tribunal officials interviewed for this evaluation support the consolidation of DR expertise within Justice. Their only suggestion for improvement to the operation of the DR Fund was that it would be useful to sponsor a workshop for funding recipients so that all can learn about each other's projects.

Assessment of DR Fund Impact

Canadian Human Rights Tribunal efforts to develop and test its mediation project were well underway when the DR Fund was introduced. This eased the burden on the Tribunal of preparing their proposal to the Fund.

The Fund provided full support to the Tribunal's proposal. This support was used to pay 80% of the non-salary costs of mediation training for Tribunal members. The project would, however, have proceeded largely as it did without any DR Fund support.

Tribunal officials have been collecting evaluative data on the test mediation project since before DR funding commenced. These data, which would be useful to the Fund, have neither been requested by the Fund nor provided by the Tribunal. This situation underscores the need for the Fund to be more explicit about its expectations with respect to project evaluation and reporting.

CANADIAN PENSION PLAN DISABILITY

Profile of the Proponent Organization

The Income Security Program (ISP) of Human Resource Development Canada (HRDC) administers Old Age Security (OAS) and Canada Pension Plan (CPP) benefits. The *CPP Act* covers four benefits: Retirement, Survivor's, Children's and Disability. Disability benefits are provided on a monthly basis to people who have made sufficient contributions to the plan and are disabled as defined in the legislation.

Adjudication of claims for CPP Disability benefits requires consideration of both medical and non-medical factors, as well as eligibility criteria based on contributions. At the initial application stage, applicants are assessed against the eligibility, medical and non-medical, and entitlement criteria, leading to a decision to "grant" or "deny" the application. Applicants who are dissatisfied with this initial decision may request a "Reconsideration" by the Minister (involving an administrative review by someone other than the original adjudicator). This leads to a decision to "reverse" or "maintain" the initial decision. Applicants who remain dissatisfied may then appeal to the Office of the Commissioner of the Review Tribunal (RT), a body which operates at arm's-length from the CPP administration and has the authority to confirm or vary the prior decision. Where the applicant, or CPP administration, is dissatisfied with the RT decision, either party may seek "Leave to Appeal" to the Pension Appeals Board (PB), an independent body that also operates at arm's length. Final recourse is to the Federal Court of Appeal for judicial review and ultimately the Supreme Court of Canada.

Regional offices of ISP are responsible for the adjudication of applications at the Initial and Reconsideration levels. The RT and PAB administrations are located in Ottawa.

Approximately 79,000 new applications for CPP Disability benefits were received in 1997-98. At that time, about two-thirds of new applications are denied at the initial level, of which about half request a Reconsideration. At Reconsideration, about 75% of initial decisions are upheld. Of applicants denied at this stage, approximately 45% request a hearing from the Review Tribunal. Applicants currently wait from four to twelve months for an RT hearing, about one year to be granted "leave to appeal" and a further one year for an actual PAB hearing. ISP has been the subject of unfavourable media coverage and complaints from applicants as a result of both these delays and the decision-making process itself.

What Was Proposed

In recognition of the need to address mounting public concern, as well as the high appeal rates and backlogs, the Department undertook to identify short, medium and long-term remedies. One remedy expected to show medium-term impacts was the introduction of DR mechanisms to allow for early and ongoing dialogues between applicants and front-line

decision makers. These contacts were expected to reduce misunderstandings and to ensure that the reasons for decisions are clearly and carefully explained. DR mechanisms were also seen as having an important role to play in resolving disputes already underway.

ISP examined the suitability of DR techniques and processes at various levels of the disability work process. A review of the experience with DR of organizations similar to CPP Disability was also carried out. These activities convinced ISP officials that DR approaches held considerable promise for the Disability program. Accordingly, when ISP became aware of the availability of the Dispute Resolution Fund, it was decided to apply for support to test and evaluate DR techniques at several stages in the CPP Disability program.

The budget submitted with the proposal in July of 1998 requested DRF support in the amount of \$700,000.00 for the period of September 1998 to March 2000. ISP was to contribute an additional \$250,000.00 to the project, for an overall budget of \$950,000.00. This budget was to cover the costs of research on the use of DR in other quasi-judicial organizations, pilot testing of DR processes in two (expanded to three) regional sites, and staff training in DR techniques. Also covered were an evaluation of the pilots and the training, and the preparation of recommendations to incorporate the experience of the pilots into the CPP Disability program. At the PAB level, the project included piloting the use of DR techniques, and related evaluation activities.

Introduction of DR processes into the program is expected to result in better service to the program's clients, improved job satisfaction among staff and more efficient service delivery.

The proposed evaluation of the pilots was to be based on an evaluation framework developed early in the project. Development of this framework included consideration of the availability of existing data that could be used in evaluating the pilots, and identification and collection of potentially useful data not currently available. Several databases were also developed specifically to support the pilots and the research on them.

Perceptions of the Proposal Process

ISP became aware of the DR Fund through the formal call letter from the Deputy Minister of Justice. Interest in the Fund was immediate, as the view was developing within ISP that there was a need to review how the CPP Disability program handled its relationships with its clients.

The proponents found the Fund's Terms and Conditions to be clear, if somewhat broad. A number of general clarifications were sought from the Fund. The objectives of the Fund meshed well with those of the proposed project. ISP's goals for the DR approach included improved service to clients and perhaps a reduction in the numbers of appeals at each level.

The time available to prepare the proposal was reported to be adequate. The review process itself is seen as overly lengthy; they submitted their proposal in July of 1998 and only heard

the Committee's decision in October of that year. During the intervening period, the Committee sought a number of clarifications from the proponents. Consideration by the DR Committee of the request for continued funding for 1999/2000 also took a long time; the proposal was submitted in March of 1999 and the decision revealed in October.

Despite the delay in notification, the time allowed to complete the project is adequate. It is on schedule for completion by March of 2000.

What the Project Actually Entailed

The DR Committee awarded a total of \$400,000.00 to the CPP Disability project, \$200,000.00 in each of 1998-99 and 1999-2000. This amount represents 57% of the total amount requested in the initial proposal, and covers some salary costs. At least partial coverage of salary costs is seen by the proponents as essential when the DR approach is being tested in an operational environment. The DR Committee's decision to award less than the full amount requested led to some scaling back of the project and 'arm-twisting' with the regions to make up the shortfall.

If the project had not received any DR funding, it would not have proceeded, except perhaps in a small way at some later date. The specific project funding provided by the Fund enabled ISP to overcome some internal resistance to the changes tested in the pilots. The mechanism used by the Fund to transfer money to ISP posed no real problem for it.

Progress Reporting

ISP officials were aware that ongoing progress reporting was required by the Fund. In terms of the first year of DR funding support, progress reporting consisted of brief status reports submitted in January and March of 1999, along with copies of internal documents describing the development of the pilots. At fiscal year end, copies of two reports prepared by consultants were also supplied to the Fund: one described the development of the DR approach, the other presented the framework for evaluating the pilots. Regular telephone contact was also maintained with the administrator of the Fund.

Final Reporting and Evaluation

ISP officials reported being less than entirely clear on their final reporting obligations to the Fund. Even so, they plan to conduct a detailed evaluation of the pilots and research activities (based on the framework noted above) and submit copies of the evaluation reports in March of 2000. This report is to present intermediate data on case volumes, and client and staff reactions. Complete data on costs will not be available until later due to the protracted nature of the appeals process.

ISP officials plan to share the results of their evaluation with their colleagues at, for example, the Quebec Pension Plan. They also receive enquiries about the pilots from other outside

agencies, both within government and NGOs. They are not aware of any plans by the DR Fund to further disseminate the results of their project to other interested parties.

Achievement of DR Fund Objectives

ISP officials regard the Fund's objectives and the means chosen to pursue these objectives as reasonable. They suggest that a potentially useful enhancement to the contribution program would be the provision of in-house DR training to Justice lawyers. ISP officials regard the advice provided by their Legal Services Unit to be, in some instances, so "client-unfriendly" as to be the source of complaints and problems with individual clients.

The use of DR approaches to client relations represents a fundamental change in the way services are provided to CPP Disability claimants. Significant benefits are expected from this new service delivery model in terms of efficiency, cost, client satisfaction and job satisfaction among participating employees of ISP.

Recommendations for Improvement of the DR Fund

ISP officials interviewed for this evaluation suggest that the DR Committee consider covering salary costs for projects which involve direct client service (i.e., in operational areas). As noted above, they also support provision of DR training within Justice, and provision of assistance in DR system design. Finally, they would encourage the Fund to sponsor a workshop for funding recipients so that all can learn about each other's projects.

Assessment of DR Fund Impact

The CPP Disability project supported by the DR Fund represents an attempt to significantly alter a process which affects a large number of program clients. If successful, it will enable ISP to provide better service to its clients, at a reduced cost, and with improved job satisfaction for participating employees. This project would not have gone ahead without DR funding, including the support provided for salary costs.

ISP has been diligent in providing ongoing progress reports to the Fund. To some degree, these reports would have been prepared for internal purposes even without the Fund's requirements.

ISP is planning a sophisticated evaluation of its pilot projects and research activities which should yield useful and reliable information about the success of DR approaches as applied to the CPP Disability program. The resulting evaluation reports will be provided to the DR Fund for information, despite the lack of clarity as to the specific final reporting requirements of the Fund.

CANADIAN HUMAN RIGHTS COMMISSION

Profile of the Proponent Organization

The Canadian Human Rights Commission (the Commission) was established in 1978 pursuant to the *Canadian Human Rights Act* (the *Act*). The three main objectives of the Commission are:

- To promote knowledge of human rights in Canada and to encourage people to follow principles of equality.
- To provide effective and timely means of resolving individual complaints.
- To help reduce barriers to equality in employment and access to services.

More specifically, the *Act* protects persons living in Canada against discrimination in or by federal departments, agencies and Crown Corporations, as well as federally-regulated industries. This is accomplished in part through the resolution of individual complaints of human rights violations which occur in employment and service-related contexts.

Complaints filed with the Commission are currently afforded one formal opportunity for alternative dispute resolution (referred to as *conciliation*) before being referred to the Canadian Human Rights Tribunal. In a typical case, the conciliation process is only used after the case is investigated for the Commission. As a result, conciliation may not commence for up to a year, pending the completion of the investigation.

The parties to a complaint are free, at any time, to engage in voluntary mediation or settlement discussions at their own cost. If the parties agree to a settlement, the investigator assigned to the file recommends a course of action to the Commission which may involve adoption of the settlement (and closing the Commission's file) or continuation of the investigation.

The Commission normally receives about 1,800 complaints a year which both fall within its jurisdiction and qualify as human rights violations as defined in the *Act*.

What Was Proposed

Prior to the establishment of the DR Fund in 1998, the Commission had put in place a limited process for early dispute resolution **prior to investigation**. However, it was restricted in its availability due to its limited funding. Under this process, the parties to a complaint were made aware of their right to settle the matter up front. Regional staff and investigators provided limited assistance in identifying potential remedies. This process was not equivalent to mediation.

The proposal to the DR Fund requested support to more fully develop a mediation process for human rights complaints to be invoked prior to the investigation stage. Project stages were to include the initial conceptualization of the mediation initiative, staff training, comprehensive model development, monitoring and evaluation.

The proposed process was intended to promote dispute resolution before the full spectrum of Commission processes are engaged (investigation, conciliation or litigation). Anticipated benefits of this change included cost savings to all parties, more timely resolution of complaints, preservation of options for mediation at a later stage, improved public confidence in the Commission's processes and, most importantly, a reduction in the backlog of cases in the system at that time.

The budget submitted with the proposal in July of 1998 requested DRF support in the amount of \$865,100.00 for the 24 month period of September 1998 to August of 2000. Of this total budget, \$476,100.00 was requested for the first year, and \$389,000.00 was requested for the second year. This budget was to cover the salary and other operating costs of developing, operating and evaluating the mediation project, as well as providing mediation training for Commission counsel.

The proposed evaluation of the mediation model was to be based on an assessment of the competency of trainees, perceptions of users of the mediation service, cost and timeliness indicators, and analysis of statistical data. The initial budget submitted to the Fund allowed \$25,000.00 in consultant fees for the evaluation.

Perceptions of the Proposal Process

The Commission became aware of the DR Fund through the formal call letter from the Deputy Minister of Justice. Interest in the Fund was immediate, as the Commission was planning to initiate the mediation project out of its own resources.

The proponents found the Fund's Terms and Conditions to be clear, except for how much funding was reasonable to request. They indicated having the impression that, to some extent, the DR Committee was developing the rules for the Fund as they went along. Clarification was sought concerning the deadline for proposal submission and the amount of funding available. Representatives of the Commission also met with an official of the Fund to discuss the expectations of the Committee. The objectives of the Fund meshed well with those of the proposed mediation model. The Commission's goals for the model included more timely service to clients, and savings for both the Commission and parties to the disputes which it handles.

The time available to prepare the proposal was reported to be inadequate. The Commission was not initially seeing the project as a stand-alone initiative. Receipt of the call letter encouraged them to think in more concrete terms about the project. The review process itself is seen as overly lengthy; they submitted their proposal in July and only heard the Committee's decision in October.

The amount of funding received will make it difficult to complete the project according to the schedule in the proposal. As a result, there will be less evaluation data available at the conclusion of the project than would otherwise have been the case.

What the Project Actually Entailed

The DR Committee awarded a total of \$212,000.00 to the Commission's mediation project, \$121,000.00 in 1998-99 and \$91,000 in 1999-2000. This amount represents 24.5% of the total amount requested in the initial proposal. The main reason for this reduction was the Committee's decision not to fund either salary or capital costs for this project. The DR Committee's decision to award less than the full amount requested led to some reallocation of internal resources to make up the shortfall.

If the project had not received any DR funding, it would nonetheless have proceeded. The Commission would have approached Treasury Board for the necessary funding. Nevertheless, the funding provided by the DR Fund did affect the conduct of this project. The mechanism used by the Fund to transfer money to the Commission posed no real problem for it.

Progress Reporting

Commission officials were aware that ongoing progress reporting was required by the Fund. In terms of the first year of DR funding support, progress reporting consisted of a financial report submitted in June of 1999, and an interim report on the project submitted in July of 1999. This latter document was prepared for internal use in planning for the second year of the project, and was copied to the Committee. It provide some summary statistics on the use of the mediation service, and indicated that work was underway to develop and implement an approach to formally evaluating the project. No attention has as yet been directed to the issue of the comparative costs of the mediation service. Questions of cost are, however, to be addressed in the final project evaluation.

Final Reporting and Evaluation

Commission officials do not see the Fund as expecting much in terms of final reporting, beyond the provision of financial data. Even so, they plan to conduct a detailed evaluation of the project for their own purposes and will submit a copy of the evaluation report in April of 2000. They are not aware of any plans by the DR Fund to further disseminate the results of their project to other interested parties, although they would not be opposed to this in principle.

Achievement of DR Fund Objectives

Commission officials regard the Fund's objectives and the means chosen to pursue these objectives as reasonable. The use of mediation approaches to dispute relations represents a fundamental change in how Commission resources are deployed. Significant benefits are expected from this new service delivery model in terms of efficiency, cost, and client satisfaction.

Recommendations for Improvement of the DR Fund

Commission officials interviewed for this evaluation suggest that the DR Committee could more clearly indicate its expectations regarding budget amounts and allocations. More timely review of proposals would also assist projects to adhere to their planned schedules.

Assessment of DR Fund Impact

The Canadian Human Rights Commission mediation project supported by the DR Fund represents an attempt to significantly alter the way in which the Commission performs one of its central roles. If successful, it will enable the Commission to provide better service to its clients, at a reduced cost, which should help to improve the public image of the Commission. This project would have gone ahead without DR funding.

The Commission has provided one substantial progress report (prepared for internal purposes) to the Fund.

The Commission is planning an evaluation of its mediation project which should yield useful and reliable information about the success of mediation offered prior to the investigation stage. The resulting evaluation report will be provided to the DR Fund for information, despite the lack of clarity as to the specific final reporting requirements of the Fund.