



EVALUATION DOCUMENT

DISPUTE RESOLUTION FUND

Summary

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**Evaluation Division
Policy Integration and Coordination Section**

BACKGROUND

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 no longer differentiates 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.

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.

EVALUATION OBJECTIVES AND METHODS

There were two key objectives for the 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.

Three primary methods were used to carry out the evaluation. First, an in-depth file review for all projects funded under the initiative was conducted. Second, a series of interviews with key participants involved in the DR Fund was carried out. These interviews covered Justice officials responsible for administering the Fund, all current members of the DR Selection Committee, representatives of all projects receiving funding in the first year of the Fund (1998/99), and samples of both successful and unsuccessful project applicants from the second year of the Fund (1999/00). The third evaluation method involved conducting a series of case studies of six first-year projects in an effort to uncover any available data on preliminary project outcomes.

FINDINGS AND LESSONS LEARNED

Overall, the DR Fund was found to be well-designed to meet its objectives and the contribution approach is seen by program participants as the best way to structure the program. The main benefit of this approach was the way it contributed “seed money”, providing a catalyst for recipient organizations to move forward with concepts that might have lacked immediate management support and/or resources. The support provided by the DR Fund was found to be largely incremental in that the projects carried out could be generally attributable to the funding projects received.

The general lack of reporting on results by projects together with the early conduct of this evaluation generally precluded our ability to confidently measure program outcomes. However, some preliminary evidence collected as part of this evaluation suggests that positive impacts are starting to be realized through the increased use of more cost-effective dispute settlement mechanisms. Given the very limited resources committed to the initiative, much has been accomplished. The initiative therefore appears to offer relevant support to the new framework for the funding of judgements in the federal government.

Some of the specific findings and lessons learned from this formative 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.