

ACTION PLAN IMPLEMENTATION STATUS UPDATE
REPORT TO THE EVALUATION, PERFORMANCE MEASUREMENT AND REVIEW COMMITTEE - AS OF SEPTEMBER 30, 2011

Treaties and Aboriginal Government			
<i>Implementation Evaluation of the Specific Claims Action Plan</i>			
APPROVAL DATE: 04/19/2011			
PROJECT RECOMMENDATIONS	ACTION PLAN	EXPECTED COMPLETION DATE	PROGRAM RESPONSE
1. Consider modifying the current operational model for negotiation and settlement, in order to extend the expected period of negotiation beyond three-years if required.	<p>Recommendation considered. No action will be taken as a three-year operational model was adopted by SCB in response to the primary objective of the Action Plan - to accelerate the resolution of specific claims.</p> <p>Notwithstanding this, it is expected that some First Nations will opt to continue negotiating past the three-year point, when claims are especially complex and the parties agree that a negotiated settlement is a near-term likelihood.</p>	<p><i>Completion Date:</i> <i>completed</i></p>	<p>Status: Completed</p> <p>Update/Rationale: As of 30/09/2011:</p> <p>No action required</p> <p>AES: Closed</p>
2. Review the procedures relating to the initial review of claims against the minimum standard to ensure that appropriate feedback is provided to any First Nation whose claim has been deemed not to meet the minimum standard.	<p>The responsibility for the development of a specific claim rests with the First Nations. There needs to be a balance in the level of feedback provided to FNs. SCB will further review the type and level of feedback provided to the First Nations to ensure that First Nations receive meaningful feedback when a claim submission is deemed not to have met the Minimum Standard and is not filed with the Minister.</p>	<p><i>Completion Date:</i> <i>June 2011</i></p>	<p>Status: Completed</p> <p>Update/Rationale: As of 30/09/2011:</p> <p>SCB has completed a review of the type and level of feedback provided to First Nations in respect to the Minimum Standard. The sources which informed the review include: (1) all files where the claim was returned as not meeting Minimum Standard, including 'return letters', between October 16, 2008 and March 31, 2011; (2) the Research database; (3) the Business Centre database; (4) Early Review Process (ERP) Committee records of returned files; (5) ERP guidelines, in various forms; (6) examples of e-mail communications sent to claimants; (7) and interviews with officials directly connected with ERP during the period covered by the Formative Evaluation.</p> <p>The review found that the feedback provided to First</p>

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			<p>Nations by officials typically occurs soon into ERP. The feedback is often comprehensive and, since most claims as received do not meet the Minimum Standard, is instrumental in achieving an 80% filing rate within six months of submission. The feedback occurs according to policies and checklists which require substantial and clear communication of deficiencies. The feedback includes e-mails and telephone communications to First Nation representatives, initiated by SCB officials.</p> <p>The review examined all 21 'return letters' sent to First Nations or their representatives between October 16, 2008 and March 31, 2011, the period covered by the Formative Evaluation. These letters were detailed in specifying deficiencies in the claim submissions. The one exception is a letter to an experienced First Nation legal counsel who had submitted a claim containing no historical evidence whatsoever.</p> <p>It is noted that the amount and nature of feedback, and other assistance, that can be provided is, by necessity, and on legal advice, limited. The Minimum Standard requires First Nations to provide clear allegations and evidentiary proof in support of their claims. The feedback now provided to First Nations respects the boundaries of engagement required by Justice at Last and is consistent with the Government's direction to avoid conflict of interest situations, in particular, Canada must avoid any perception that it provides counsel to a First Nation.</p> <p>AES: Closed - Fully Implemented</p>
3. Communicate to all stakeholders on how activities under the mediation services pillar will be used and what process will be followed to offer these services. This	The process for mediation was discussed with the Assembly of First Nations and they were also invited to participate at various stages of the process. Once the standing	<i>Completion Date:</i> <i>December 2011</i>	Status: Underway

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process should be developed with First Nations.	offer is in place and the roster of mediators has been established, INAC will publish on its website the steps for accessing mediation services. As well, hard-copy information packages will be developed.		<p>Update/Rationale: As of 30/09/2011:</p> <p>As an interim step, when the request for proposals from prospective mediators was issued, a letter introducing the upcoming service was sent to all First Nations with specific claims accepted for negotiation. This letter included a fact sheet and a "Frequently-Asked-Questions" sheet which provided additional information on the new approach to mediation services.</p> <p>AES: Underway</p>
4. Communicate more effectively with all stakeholders the process for claims over \$150 million.	INAC will provide further clarification by publishing information on the INAC website that clarifies the process for claims over \$150 million.	<p><i>Completion Date:</i> <i>December 2011</i></p>	<p>Status: Underway</p> <p>Update/Rationale: As of 30/09/2011:</p> <p>A draft "bulletin" has been developed explaining that the process for accepting / settling specific claims with a value in excess of \$150 million is beyond the authority of the department and must be decided on by the Government. Further consultation is required in order to confirm messaging. It is expected that the target completion date of December 2011 will be met.</p> <p>AES: Underway</p>