

**ACTION PLAN IMPLEMENTATION STATUS UPDATE
REPORT TO THE EVALUATION, PERFORMANCE MEASUREMENT AND REVIEW COMMITTEE
AS OF MARCH 31, 2010**

POLICY AND STRATEGIC DIRECTION - BRANCH			
Evaluation of the Test Case Funding Program (200767) AEC APPROVAL DATE: 26/FEB/2009			
PROJECT RECOMMENDATIONS	ACTION PLAN	EXPECTED COMPLETION DATE	PROGRAM RESPONSE
1. The evidence presented in this evaluation supports continued funding of the Test Case Funding Program.	No action required	N/A	Status: Program authority on-going Update/Rationale: As of 31/03/2010: The combined effect of the 2008 TB Policy on Transfer payment and 2009 favourable evaluation of the TCF program is that program authority is on-going on an as is basis to 2014. AES: Close
2. Evidence indicates that the eligibility conditions for funding relating to the 1985 amendments to the Indian Act (Bill C-31) should remain in the Program criteria.	The eligibility conditions will be reviewed and recommendations formulated on whether they should be retained, modified or eliminated in light of the Supreme Court of Canada decision in Jules v. The Queen (2002).	31/01/2010	Status: Not Yet Addresses Eligibility restrictions on-going Update/Rationale: As of 31/03/2010: Eligibility restrictions for such funding continue under the ongoing as is authority. AES: Close
3. Enhance program transparency by: a) placing information on the Program on the Department's website; and	a) The desirability of placing program information on the Departmental website will be analysed and recommendations formulated.	31/03/2010	Status: a) Recommendations rejected b) Under consideration Update/Rationale:

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b) better documenting files.	b) The feasibility of preparing ongoing/final case summaries for program files will be analysed and recommendations formulated.	31/03/2010	As of 31/03/2010: <ul style="list-style-type: none"> a) Directed to use very sparingly. Putting the program on the website would be counter productive b) Necessity of recommendations not clear source funding process results in a court judgement AES: Close
4. As part of the program renewing process, INAC should review and update the current program's terms and conditions to establish clearer funding parameters.	In connection with recommendation 2, and the possible preparation of program renewal documents on the renewal or not of the Test Case Funding Program (currently to terminate March 31, 2010), the program will review all program terms and conditions for legal/policy feasibility, relevance and clarity, and make recommendations	31/01/2010	Status: Not yet addressed Update/Rationale: As of 31/03/2010: Updating the current terms and conditions would constitute major modifications requiring the approval of treasury Board Secretariat. The current terms and conditions are sufficient to address funding requirements that DIAND may confront AES: Close
5. Given the current program budget of \$750,000/annum, funding should be restricted to test cases at the appeal level.	As with actions pursuant to recommendation 4, the program will analyse and formulate recommendations on the desirability/feasibility of	31/01/2010	Status: Not yet addressed Recommendations rejected

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	restricting funding to appeal level cases.		Update/Rationale: As of 31/03/2010: <p>The program has the authority to fund trials. DIAND may on occasion decide that it is in it's strategic interest to fund trial level proceedings.</p> AES: Close
6. Any future renewal of the TCFP should consider indexing the hourly rates paid to legal counsel to inflation.	As with actions pursuant to recommendations 4 and 5, the program will analyse and make recommendations on the desirability/feasibility of indexing the hourly rates paid to legal counsel to inflation.	31/03/2010	Status: Not yet addressed <p>Recommendations rejected</p> Update/Rationale: As of 31/03/2010: <p>The current hourly rate paid under the program (\$150) while below market rates, is comparable the rates paid by the Department of Justice to it's agents and is reasonable, given the nature of the program.</p> AES: Close