

Contributions under the Indigenous Justice Program Terms and Conditions

The following terms and conditions apply to financial contributions made under the Department of Justice's ("the Department") Indigenous Justice Program ("IJP"), which will subsequently be referred to as the "Program". These terms and conditions are drafted in accordance with Treasury Board's *Policy on Transfer Payments*.

1. Program and Legislative Authority

The *Department of Justice Act* (R.S.C., 1985) confers federal powers to the Minister of Justice, related to the superintendence of all matters connected with the administration of justice in Canada, not within the jurisdiction of the governments of the provinces and to the administration of public affairs to ensure that it is in accordance with law. The Minister has the legislative authority to manage funds relevant to the administration of justice.

2. Description, Purpose and Objectives of the Indigenous Justice Program (IJP)

2.1 Purpose and Objectives

Generations of colonization and its detrimental effects have led to the disproportionate incarceration and victimization of Indigenous people in Canada. Redress calls for the increased use of Indigenous justice, based on Indigenous laws and healing practices. The Indigenous Justice Program aims to advance this work by supporting Indigenous community-based justice programs and partnerships between Indigenous communities and the mainstream justice system.

The overall objectives of the IJP are:

- to assist Indigenous people in assuming greater responsibility for the administration of justice in their communities;
- to reflect and include Indigenous values within the justice system; and,
- to contribute to a decrease in the rate of victimization, crime and incarceration among Indigenous people in communities with community-based justice programs funded by the IJP.

2.2 Description of the Funding Components

Community-Based Justice Fund

The Community-Based Justice Fund provides support to community-based justice programs, which are cost-shared with provincial and territorial governments.

The Fund supports Indigenous communities in delivering justice programs based on their own needs and priorities that advance the overall objectives of the IJP.

Capacity-Building Fund

The Capacity-Building Fund supports capacity-building efforts in Indigenous communities, particularly as they relate to building increased knowledge and skills for the establishment and management of community-based justice programs. Other priority areas include developing partnerships with justice system stakeholders; and, improving mainstream justice processes.

Indigenous Engagement Fund

The Indigenous Engagement Fund supports recipients to actively participate in engagement activities on topics and issues related to the justice system.

2.3 Alignment with Departmental and Government Objectives

The IJP is in line with the Department of Justice’s strategic outcome to provide a fair, relevant and accessible Canadian justice system.

The federal government holds the policy mandate for Indigenous justice, while the administration of justice largely is the responsibility of the provinces and territories. The IJP is delivered in a manner consistent with this constitutional division of powers, as this federally-led program funds the establishment and delivery of community-based justice programs in the area of Indigenous justice.

2.4 Expected Outcomes and Indicators for Monitoring and Reporting

The effectiveness of the IJP will be monitored on an ongoing basis, in cooperation with the provinces and territories. The program will continue to be evaluated on a five-year cycle.

The short-term outcomes and indicators for the IJP are:

Expected Outcomes	Indicators
<ul style="list-style-type: none"> Indigenous communities deliver local justice programs. 	<ul style="list-style-type: none"> Number of community-based justice programs.
<ul style="list-style-type: none"> Indigenous persons in contact with the criminal justice system are provided culturally relevant information, services and programming. 	<ul style="list-style-type: none"> Number of participants accessing community-based justice programs (including for Gladue Aftercare/Post-sentence supports). Number of communities served by community-based justice programs.
<ul style="list-style-type: none"> IJP community-based programs partner with local criminal justice system actors and other community partners. 	<ul style="list-style-type: none"> Percentage of IJP programs that have criminal justice system and community partners. Percentage of programs that are receiving referrals from criminal justice system and community partners.
<ul style="list-style-type: none"> Increased capacity to deliver community-based justice programs. 	<ul style="list-style-type: none"> Number of IJP programs that receive funding for a capacity building project. Percentage of programs that indicate knowledge and skills to deliver community-based justice programming.
<ul style="list-style-type: none"> Increased capacity of Indigenous community programs and organizations to participate in Indigenous justice related engagement activities. 	<ul style="list-style-type: none"> Number of Indigenous recipients receiving funding for justice-related engagement activities.

3. Eligibility Criteria

3.1 Eligible Recipients

Community-Based Justice Fund

Any of the following may be eligible for contribution funding under the Community-Based Justice Fund:

- a. Inuit, Métis, First Nations, bands, Tribal Councils, local, regional and national Indigenous organizations;
- b. regional/municipal governments including their agencies and institutions;
- c. non-profit community organizations, societies, and associations which have voluntarily associated themselves for a non-profit purpose; and,
- d. provincial and territorial governments (in the case of flow-through agreements).

Capacity-Building Fund

Any of the following may be eligible for contribution funding under the Capacity-Building Fund:

- a. Inuit, Métis, First Nations, bands, Tribal Councils, local, regional and national Indigenous organizations;
- b. regional/municipal governments including their agencies and institutions;
- c. non-profit community organizations, societies, and associations which have voluntarily associated themselves for a non-profit purpose;
- d. provincial and territorial governments;
- e. individuals;
- f. for-profit corporations, as long as these corporations will not make a profit on the work performed; and,
- g. Academic institutions (colleges, universities, including faculties of law and Indigenous Law Institutes).

Indigenous Engagement Fund

Any of the following may be eligible for contribution funding under the Indigenous Engagement Fund:

- a. Inuit, Métis, First Nations, bands, Tribal Councils, local, regional and national Indigenous organizations.

3.2 Eligible Initiatives or Activities

Community-Based Justice Fund

Initiatives or activities that support the Community-Based Justice Fund can fall at any point along the justice continuum, including but not limited to, prevention, pre-charge, post-charge and reintegration. To be eligible for funding, all initiatives or activities must have a clear link to the objectives of the IJP.

Initiatives or activities that are eligible for funding under the Community-Based Justice Fund include, but are not limited to:

- Public awareness and prevention;
- Diversion;
- Dispute resolution or mediation, including civil and family mediation;
- Sentencing options;
- Gladue Aftercare/Post-sentence supports;
- Support to victims; and,

- Offender reintegration.

Capacity-Building Fund

Initiatives or activities that are eligible for funding under the Capacity-Building Fund include those that:

- supplement the ongoing training and capacity needs of current community-based justice programs, including supporting evaluation activities, data collection, and the development and sharing of promising practices and useful models;
- support one-time or annual events and initiatives (as opposed to ongoing projects and programs) that build bridges, trust and partnerships with the justice system and Indigenous communities;
- support one-time projects that focus on changing policies, practices and systems to remove barriers and/or improve outcomes for Indigenous people in the criminal justice system;
- support the training and/or developmental needs of Indigenous communities that currently do not have community-based justice programs; and,
- support the development of new justice programs.

Based on Departmental priorities and resources, emphasis may be placed on certain eligible initiatives or activities over others.

Indigenous Engagement Fund

Time-limited initiatives or activities that are eligible for funding under the Indigenous Engagement Fund include activities focused on the organization, development and implementation of engagement activities such as:

- workshops, conferences, meetings, interviews and surveys on Indigenous justice related issues or topics.

3.3 Eligible Expenditures

Funds may be used only for expenditures directly related to the activities of the project/program identified in either the original budgetary submission or a subsequent budget approved by the Department. When required, the recipient must budget for audits of financial statements.

Eligible expenditures include:

- a. fees and disbursements;
- b. salaries and Employee Benefit Plans;
- c. honoraria including Elder Fees;
- d. liability insurance;
- e. fees for professional services;
- f. rent, utilities, maintenance of offices and other buildings, and taxes;
- g. office equipment and minor capital acquisitions net of disposal (Less than \$5,000 per acquisition);
- h. insurance on buildings, equipment and materials and fidelity bonds;
- i. supplies and materials, shipping charges, stationery, postage, printing, licenses and other fees;
- j. culturally relevant expenditures, including, but not limited to, gifts, community feasts, and ceremonial meals;
- k. travel and living expenses related to IJP projects or IJP funded engagement activities;
- l. training;
- m. computer services, library expenses, research costs and collection and analysis of statistics;

- n. advertising the availability of IJP project services or IJP funded engagement activities;
- o. continuing legal education, training and professional development for staff;
- p. facility and audio visual rental expenses (including technology costs for hosting virtual events); and,
- q. administration costs (limited to no more than 20% of the total value of the funding agreement).

The following expenditures are ineligible:

- a. costs or debts incurred prior to the effective date of the agreement, unless agreed to by the parties;
- b. capital costs such as buildings, land and vehicles; and,
- c. purchase of capital assets with a market value in excess of \$5,000 per acquisition (such as, but not limited to: videoconference equipment, tools to facilitate virtual court, temporary structures like healing cabins, tipis, and ceremonial structures), unless pre-authorized in writing, and excluding vehicles.

4. Funding Applications and Assessment Criteria

4.1 Where appropriate, applications for funding should include:

- a. name, address, telephone, and e-mail address of the applicant's authorized representative(s), and legal status;
- b. background history of the applicant including its mandate and a description of the programs and services it provides;
- c. demonstrated links to the objectives of the IJP and/or clear alignment with the criteria of the funding opportunity;
- d. detailed project/program description including title, identified need, goals and objectives, identification of the target groups (beneficiaries), anticipated impacts, results (service or product) and deliverables, and demonstrated community support;
- e. detailed project/program budget including: amount requested from the Department, other proposed sources of revenue including in-kind support (if applicable) and a detailed list of proposed expenditures;
- f. plan for evaluating and/or monitoring performance of the project/program at the community level, including performance indicators;
- g. any disclosure of the involvement of prospective recipients who are subject to the Post-employment Measures of the *Values and Ethics Code for the Public Service*, the *Conflict of Interest Code for Members of the House of Commons*, and the *Parliament of Canada Act*, and,
- h. any additional material deemed relevant, as requested by the Department.

4.2 Criteria Used to Assess Funding Applications

In reviewing and recommending applications under the Community-Based Justice Fund, the Capacity-Building Fund and the Indigenous Engagement Fund, the Department will take into consideration the following factors, where appropriate:

- a. The *Canadian Charter of Rights and Freedoms* and criminal law will apply;
- b. The applicant has demonstrated that the goals, objectives and anticipated results outlined in their application can be met;
- c. The applicant has demonstrated that their application links to the objectives of the IJP and the specific priorities of the component (i.e., Fund) from which it is requesting funding;
- d. Reasonableness of overall budget and costs given proposed activities and the specific circumstances of the community, including remoteness, available infrastructure, etc.;

- e. The applicant has demonstrated how their project/program links to other programs and services in the community;
- f. The project/program is distinctive from ongoing implementation of a governance agreement;
- g. The applicant has clearly demonstrated the need for the requested funding;
- h. The capacity of the applicant to deliver the project/program;
- i. Previous performance and previous experience with funding agreement management; and,
- j. The applicant has provided all additional material deemed relevant and requested by the Department.

Community-Based Justice Fund

For the cost-shared Community-Based Justice Fund, where appropriate, assessments will be conducted in collaboration with the respective provincial or territorial government.

Capacity Building Fund and Indigenous Engagement Fund

As the IJP's Capacity-Building Fund and Indigenous Engagement Fund are federally funded initiatives, funding may be awarded on the basis of geographic location in order to provide representation across Canada, when feasible and reasonable.

5. Total Canadian Government Funding and Stacking Limits

When reviewing proposals, Departmental officials will ensure that contributions made under the Fund will not cover expenses already covered through another federal funding program or strategy. When applying for funding, applicants will be required to indicate what, if any, other funds a project is expected to receive.

Total government assistance (TGA) (federal, provincial and municipal assistance for the same eligible expenditures) will not exceed 100% of eligible expenditures. This stacking limit must be respected when funding is provided. In the event that the actual TGA to a recipient exceeds the stacking limit, it will be necessary for the Department to adjust its level of funding (and seek reimbursement, if necessary) so that the stacking limit is not exceeded. The Department will require all potential recipients to disclose all sources of funding.

Community-Based Justice Fund

Total federal IJP funding for the Community-Based Justice Fund will be limited to a maximum of 50% of eligible expenditures for all programs in each province and territory over the mandate of the IJP. Memorandums of Understanding or other such administrative arrangements will be negotiated between the federal and the respective provincial/territorial governments to recognize new and existing provincial/territorial expenditures. In the interim to providing 50% fiscal contribution, existing provincial/territorial expenditures of goods or services or in-kind may be recognized.

Capacity-Building Fund

The federal government may cover up to 100% of the eligible expenditures for the Capacity-Building Fund.

Indigenous Engagement Fund

The federal government may cover up to 100% of the eligible expenditures for the Indigenous Engagement Fund.

6. Methods to Determine the Amount of a Contribution

The method for determining the amount of funding is based on the review of funding applications and proposed budgets.

In determining the appropriate level of funding, the Department will also be guided by the following principles:

- a. potential risks associated with the awarding of funding;
- b. level of expertise of the recipient in relation to the project/program;
- c. scope and duration of project/program;
- d. reasonableness and fair market value of proposed expenditures;
- e. reasonableness of overall costs given projected outcome(s);
- f. amount of funding from other funders; and
- g. level of available resources under the component (i.e., Fund).

7. Redistribution of Contributions by a Recipient

When contributions are to be further distributed by a territorial government, to one or more persons or entities, the Recipient will have independence in the choice of those persons or entities, with minimal guidance from the Department, and will not be acting as an agent of the government in making distributions.

8. Maximum Amount Payable

Contributions under the Community-Based Justice Fund shall not exceed \$1,500,000 per fiscal year, per recipient.

Contributions under the Capacity-Building Fund shall not exceed \$500,000 per fiscal year, per recipient.

Contributions under the Indigenous Engagement Fund shall not exceed \$2,000,000 per fiscal year, per recipient.

9. Basis of Payments

Payments will be made to recipients in accordance with the terms and conditions of the IJP and the funding agreement. Payments will be based on claimed expenditures or made through advance payments based on cash-flow forecast as outlined in the approved budget. Payments will be made in accordance with the Treasury Board *Policy on Transfer Payments*, and section 6.4 (Cash Management) in the *Directive on Transfer Payments*.

Progress payments will be provided to recipients on the basis of written claims supported by substantiating documentation, as may be required by the Department.

For advance payments, an initial payment will be made to recipients based on cash-flow forecast as outlined in the approved budget. Where appropriate, subsequent advance payments will be calculated by taking the cash-flow forecast amount for the next period minus any excess amount the recipient has on hand from previous payments.

The Department may withhold a portion of the contribution (based on risk level), not exceeding 20% of the total contribution until after the recipient's final reports have been received and approved. Final payment will be made following receipt and approval of the final claim and any other required final deliverables.

As the Community-Based Justice Fund is cost-shared with provinces and territories, Canada will pay the Recipient its respective percentage of the approved eligible expenditure up to the maximum amount identified in the agreement.

Any interest earned by a recipient on advance payments paid by Canada shall be accounted for by the recipient. The interest may be retained by the recipient and used by it to defray program funding costs to meet IJP objectives, as outlined in section 2, and as related to Eligible Expenditures, as outlined in section 3.3.

Where appropriate, payments may be based on pre-determined amounts as per Appendix K of the Treasury Board *Directive on Transfer Payments*.

9.1 Retroactive Payments

Retroactive expenditures incurred during the fiscal year (April 1st to March 31st) in which the agreement was signed (i.e. eligible expenditures incurred prior to an application for financial assistance, or prior to the signature or authorization/commencement of the agreement) may be considered, subject to the Department's approval. This applies to all funding components.

10. Repayments

A provision for repayment is to be included in the funding agreement covering the contribution, in the event a recipient receives more funding than anticipated from other sources. Where a recipient has failed to provide an accounting or has not used the contribution for authorized purposes, a demand for an accounting or repayment may be issued pursuant to sections 76(1)(b) and (c) respectively of the *Financial Administration Act*.

The Department will negotiate specific terms of repayment to suit the particular capacities and concerns of recipients within the context of the Treasury Board *Policy on Transfer Payments*. The Department is accountable for ensuring that reasonable recoveries are made.

11. Reporting

The Departmental Project Risk Assessment Tool for discretionary Grants and Contributions will be used to guide reporting requirements. Recipients of contributions may be required to submit interim financial statements and any other additional supporting documentation required under the funding agreement at such intervals during the course of the agreement as may be agreed upon for review and acceptance by the Department.

The Department will review and assess all reports (financial, activity and statistical) for compliance with the objectives, priorities and terms and conditions of the IJP.

Reports on evaluations, audits and other reviews related to funding agreements may be made available to the public.

11.1 Financial Reporting

Recipients will be required to submit financial statements that include revenues received and expenditures incurred, as well as any other required final reports and/or deliverables. The Department will review the statements and reports to ensure that spending was aligned with the approved budget and expected results have been achieved, prior to the issuance of final payment.

To ensure proper scrutiny of the disbursement of public funds, the Department will conduct site audits (as necessary) in accordance with paragraph 6.5 of the *Directive on Transfer Payments*. Audits will ensure that recipients have complied with the terms and conditions of the IJP and the funding agreement. As part of the process of selecting recipients for site audits, projects/programs will be reviewed against established Departmental criteria.

11.2 Performance Monitoring and Reporting

The Department will ensure that Recipients clearly indicate whether they are meeting the project/program objectives and obtaining expected outcomes. The Department will monitor to ensure that recipients fulfil all conditions of the funding agreement, which may include on-site visits, as needed, to monitor projects/programs activities and progress.

12. Official Language Minority Communities

All materials and services for applicants and recipients are available in the official language of their choice. The program will ensure that all necessary measures are put in place to support the development of official language minority communities in Canada, as well as to promote the full recognition and use of English and French in Canadian society.

Applicants will be required to provide information on whether the project/activity will lead to services being provided in both official languages and the impact the project/activity may have on official language minority communities. Recipients receiving funding will be required to respect the spirit and intent of Canada's *Official Languages Act* when providing services to the public as part of a funding agreement.

The Program also supports recipients who deliver community programming and services in Indigenous languages or the language of their choice.

13. Intellectual Property

Intellectual property created by a Recipient under a transfer payment normally remains with the Recipient. A standard clause will continue to be included in the contribution agreement, which provides the Minister with a royalty-free, permanent and exclusive license to produce, reproduce or publish, in any way, the original work or an adaptation, in any language, for use within the federal public service and for non-commercial distribution. In the event that shared rights are negotiated with the Recipient, the understanding will be articulated in the transfer payment agreement.