

# **SPECIFIC CLAIMS RESEARCH FUNDING**

## **Emerging Challenges and Principles for Collaboration**

A Report by the National Claims Research Directors

July 6, 2020

### **EXECUTIVE SUMMARY**

From the mid-2000s to 2016, Canada and the directors of claims research units (CRUs) worked together via the CRU-Funding Services Working Group to develop approaches to funding and reporting that support the research and development of specific claims. In recent years, however, the working group has ceased to meet, due in part to multiple pressures and limited funding. In May 2020, Shelie Laforest, Acting Senior Director at Indigenous Services Canada, agreed to reconvene the CRU-Funding Services Working Group.

The National Claims Research Directors (NCRD) supports the working group as a key mechanism for a collaborative and transparent approach to making decisions about research funding. We formally request that a first meeting of the working group be planned as soon as is feasible.

This report is intended as a backgrounder to support and advance discussions at the working group when it reconvenes. The report articulates the principles of the group, as developed over years of dialogue: open communication, flexibility, autonomy, and less onerous reporting. It then describes six challenges identified by research directors in an online survey and follow-up emails:

1. In the templates attached to call letters, Funding Services is now asking people to account for travel in advance and in onerous detail.
2. In the letters of offer, certain eligible line items are excluded.
3. In the letters of offer, flexibility to support essential training is curtailed.
4. In the letters of offer, the disbursement schedule appears to differ for different organizations.
5. Canada applies a funding formula that prescribes a maximum of \$25,000 per claim, regardless of the stage of the claim.
6. Funding applications face delays at Funding Services and the schedule of applying for/receiving funds is confusing and causes challenges for planning and administration of CRU work.

We also describe survey respondents' views on communications and the need for a more systematic approach to dialogue and information sharing with CRUs. This approach will include – but not be limited to – the ongoing discussions of the working group.

## Introduction

From the mid-2000s to 2016, Canada and the directors of claims research units (CRUs) worked together via the CRU-Funding Services Working Group to develop approaches to funding and reporting that support the research and development of specific claims. The working group’s aim was to jointly develop funding and reporting procedures that reflected the real process of research, which is often non-linear, affected by contingencies related to communities and materials.

In recent years, however, the working group has ceased to meet, due in part to multiple pressures on CRUs, staff turnover, and cuts to research funding of 40 to 60 percent, starting in 2014. Dialogue and engagement on funding processes has become fragmented and limited – funding-related news travels among the claims research community mostly by word of mouth.

In 2020, directors of CRUs receiving call letters and offers of funding were concerned to see changes to requirements and guidelines. They had not been consulted on these changes, some of which would result in significant demands on their time or present barriers to carrying out planned research programs. They were also concerned that Canada was making changes unilaterally. “What happened to the federal government commitment to consult First Nations and their organizations!” wrote one director.

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The National Claims Research Directors (NCRD) supports the working group as a key mechanism for a collaborative and transparent approach to making decisions about research funding. With this report, the NCRD would like to formally request that a first meeting of the working group be planned as soon as is feasible. We hope that the working group will be able to address barriers faced by the claims research community, including those created by Canada’s recently imposed changes.

The NCRD has undertaken a survey of its members across Canada to identify key challenges related to the administration of funding; we also followed up with research directors via email on the specific topics that arose in the survey. We record our findings in this report, which we hope will support the efforts of the working group when it reconvenes.<sup>1</sup> As we describe below, respondents identified six immediate challenges they face in the research funding process; four of these challenges were created by Canada’s recent changes. We explore each of these six issues and include direct quotes from survey respondents. We also describe respondents’ views on the current state of communication and information sharing with Funding Services.

First, however, we provide a brief background on the working group and the principles it established for collaboration: open communication, flexibility, autonomy, and less onerous reporting. These principles were often implicit in the way the group worked together and its approach to decisions about the administration of funding. They arose as a result of dialogue regarding the need to work jointly and the

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<sup>1</sup> The National Claims Research Directors (NCRD) is a national body of specialized technicians who manage over 30 CRUs across Canada. These CRUs are mandated to research and develop evidence to support the advancement of specific claims for hundreds of First Nations. A priority in our work is to ensure that claims resolution practices are fair, timely, and informed by the experience and expertise of First Nations and the CRUs who work to research and develop claims on their behalf. See Appendix A for the survey questions.

need for Canada to listen to CRU perspectives. While the drive for the working group came from CRUs pushing back against structural bias in the system, we understand that the outcomes have also proved beneficial for Funding Services.

Here we articulate these principles explicitly to support the working group’s approach and agenda when its work resumes.

## The CRU-Funding Services Working Group: Principles of Collaboration

Transparency and dialogue around research funding procedures is essential, as CRUs have the expertise regarding what will and will not work for claims research funding procedures. The CRU-Funding Services Working Group created a space for dialogue on specific claims to occur in an open, systematic way.

The working group met annually (more often if issues arose) and corresponded and held conference calls regularly. It also engaged a broader network of research directors in ongoing dialogue: it held joint sessions at the National Claims Research Workshop (NCRW) and members attended annual research directors meetings. At these meetings, working group members collected feedback from research directors from across Canada; these concerns were then used as the basis for discussions when the working group met.

As the group is now set to reconvene, we wish to emphasize the principles that made it effective in order to support discussion around a common view of the working group’s approach. Many of these principles were based on shared understanding that developed over time; not all were explicitly articulated. We built this list based on review of past working group documents, including emails, meeting agendas and summaries, and the stages of research document.

1. **Open communication and a joint approach:** The working group seeks to build a relationship that supports ongoing dialogue and collaborative decision-making regarding research funding processes. Unilateralism, poor communication, and a failure to solicit or even accept feedback from First Nations are problems that have plagued specific claims processes since their inception. Such problems have been repeatedly identified by the claimant community but also by government reviews (such as the 2016 study by the Office of the Auditor General<sup>2</sup>).
2. **Flexibility:** Research directors need to be able to move money to meet the changing demands specific to their unit and work plans. The administration of CRUs is complex and dynamic, and rigid rules about the allocation and use of funds constitute a major barrier.
3. **Autonomy:** Research directors need the authority to oversee their operations and make decisions that will best advance claims research on behalf of First Nations. Micromanagement or controlling intervention by an outside agency unfamiliar with the context and practical

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<sup>2</sup> Office of the Auditor General, 2016. *Report 6—First Nations Specific Claims—Indigenous and Northern Affairs Canada*. Available at [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201611\\_06\\_e\\_41835.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_201611_06_e_41835.html). The report notes, for example, that INAC was aware of the barriers faced by First Nations in the specific claims process, but “was unable to demonstrate that it had a formal process to gather information and feedback about these concerns and make the required improvements.”

considerations of claims work creates barriers and delays, as well as feelings of frustration and distrust.

4. **Less onerous reporting:** Approaches to planning and reporting need to be streamlined and reflective of the actual processes of research, which is often non-linear. Research directors run busy operations with many tasks running concurrently, and their work in the administration of funding must be efficient and clear. We have been told that reducing the burden of reporting is a benefit to staff at Funding Services, too.

Past working group dialogue has resulted in several constructive and collaboratively generated outcomes. The group was an effective mechanism to communicate and address ongoing or emerging concerns; these changes reflect the four principles (table 1).

<b>Outcome</b>	<b>Principles</b>
The working group developed approaches to support research directors in moving funds (10 percent movement within budget categories) without prior approval. In 2015, as a direct result of working group collaboration, Funding Services informed research directors that they can “move money however [they] need in order to support claims research without approval.” (In this latter stage, the 10 percent limit for moving funds across categories was removed; research directors could move the money as needed to meet program needs, without prior approval.)	Flexibility, autonomy, a joint approach
The working group organized joint CRU-Canada sessions at the annual National Claims Research Workshop. These included topics such as “Working with Cash Flow,” “The Development of Work Plans,” and “The Reporting System.”	Open communication, a joint approach
The working group created the stages of research document, which standardized reporting methods, allowing CRUs to report on all activities and revise the work plan to reflect and accommodate the stages of research. This also allowed for easier and standardized review by funding officers. This document was jointly created and was reviewed as needed to make sure that it accounted for the work being done. Reviews were done jointly with input from CRUs, Funding Services, and the Specific Claims Branch (SCB).	Flexibility, less onerous reporting, open communication, a joint approach
The working group reduced reporting from four times per year to two times, drastically reducing the burden on CRU directors and funding officers alike.	Autonomy, less onerous reporting
The working group engaged in ongoing dialogue regarding multi-year funding; CRUs have long advocated for a multi-year approach. While this approach has not yet been formally developed, some CRUs do receive multi-year funding and CRUs continue to request this change (in our survey, 82 percent of respondents said that this change was a way in which Canada could better support claims research and development).	Autonomy, flexibility, less onerous reporting

**Table 1. Outcomes of work by the CRU-Funding Services Working Group**

The NCRD looks forward to continuing its participation in this important work with the working group to collaboratively advance funding approaches that support CRUs in overseeing and administering their research programs in keeping with the principles outlined above.

## Challenges Identified by NCRD Members

The NCRD surveyed its members about recent changes to research funding and about what would most help research directors in their management of CRUs. We identify six key issues here, noting that these are just starting points for ongoing discussion about what funding approaches will continue to work best for all parties. As well, we include a brief discussion on the need for better communication; lack of information was a key challenge identified by survey respondents.

### Recent changes

1. **In the templates attached to call letters, Funding Services is now asking people to account for travel in advance and in onerous detail.** This includes anticipating the number and costs of individual flights, hotels, and meals for each employee for each trip and anticipating the number of days/hours each researcher will work on each claim. For larger organizations whose work plans include between 20 and 180 claims and whose researchers carry between 5 and 20 claims, this kind of planning work would take considerable time away from producing claims. Further, travel arises in response to research and is not always foreseeable. “The expectation is unrealistic – and not really possible,” wrote one research director in the survey. “The funding justification is very tedious (travel, you have to account for every expenditure),” wrote another.
2. **In the letters of offer, certain essential and formerly eligible line items are excluded or reduced.** Certain items necessary for the production of claims and that had previously been allowed were no longer supported. Eligible items that respondents reported removed included document orders, storage for off-site documents, and document printing. Other respondents reported salary costs being reduced. Funding Services removed or reduced the amounts requested in these categories without discussing the changes with the CRUs involved. “There were amounts removed or revised... (with no explanation or communication),” wrote one survey respondent. “It’s mystifying why this item was removed from the budget,” wrote another. Another was told that particular adjusted amounts were the “maximum NSD could support.” Previously, any reductions or changes to funding of specific categories would be done in conversation with the CRU; further, if the CRU did receive less money, the unit would still have the authority to decide how to allocate the funds. Deleting whole categories or reducing funds without conversation are examples of the kind of unilateral, top-down approach CRUs have long sought to change.
3. **In the letters of offer, flexibility to offer and support essential training is curtailed.** Research directors have fought hard to have the flexibility to spend money where it needed to be spent to fulfill their work plans. In the past, some research directors spent money on training and funding officers accepted these costs; this year, training costs were cut. “I can’t even begin to imagine how training could be an ineligible expense,” wrote one research director. (This respondent noted that government employees are regularly provided with necessary training opportunities and CRUs should have the discretion to support staff learning as needed if the principle of fairness is to apply.) Training is “a long overdue gap that needs to be assessed and addressed,” wrote another respondent. In an email follow-up, research directors described the specific needs for capacity building at their CRUs. For example, they said that researchers need training in using new technologies and tools, building and updating skills on accessing information via ever-changing

ATI processes, and managing growing archives of research materials that continue to have vital evidentiary importance for multiple claims. Dialogue on costs to support training is needed; fairness and the ongoing working relationship should be priorities.

4. **In the letters of offer, the disbursement schedule appears to differ for different organizations.** Some CRUs receive monthly payments, others quarterly. Some receive lump sums up front and then a second, later payment. (One CRU expressed concern regarding the monthly disbursement schedule. “Given the history of delays in getting funds, how are we to have faith that this [disbursement schedule] is of value to us,” wrote one respondent. “Additionally, how are we to cover our costs with much smaller monthly disbursements?”) Our survey indicates a lack of clarity regarding disbursement schedules that needs to be addressed. This highlights a related, but ongoing issue that was raised: regardless of disbursement schedule, the first payment is late. One reason is that funding approval does not occur until the new fiscal year has already started (sometimes not until summer or fall). Funds do not flow until after offer is made. As a result, the CRU has to cash manage sometimes for months; this issue of delay is discussed further below.

#### Ongoing issues

5. **Canada applies a funding formula that prescribes a maximum of \$25,000 per claim, regardless of the stage of the claim.** One respondent observed: “It is not favorable to have such a rigid formula of a maximum amount as there is no merits or consideration given then towards what is in fact actually required to do the research needed. Each claim’s research and path can be very different.” Another noted, “Capping per claim at the very low end doesn’t do justice, it prevents First Nations from filing their claims and we simply cannot do our work with the low budget amounts they are offering.” Another wrote: “our First Nation Specific Claims history goes back to 1850... with many overlapping federal and provincial transactions during the period and transactions that continue to this day that need to be researched. Obviously, \$25,000 to research one of our specific claims is not sufficient.” This is an issue related to autonomy and flexibility, as described above, as it raises questions about CRU’s ability to make decisions about moving funds to best fulfill their work plans. It also raises questions regarding access to justice if Nations receive insufficient funds to develop claims.
6. **Funding applications face delays at Funding Services and the schedule of applying for/receiving funds is confusing and causes challenges for planning and administration of CRU work.** In the survey, 91 percent of respondents said that earlier review and response by Funding Services to CRU proposals would better support claims research and development. (This issue of delays predates COVID-related challenges; CRUs have faced these problems for decades.) “The calendar in which the funding operates is very unsustainable,” wrote one respondent. The call letters go out in December, Directors of CRUs submit funding proposals in January, wait until April or May to receive a funding offer (often after having repeatedly prompted funding officers), and then wait until July/August before the money flows to their accounts. “A full research year or the full fiscal year is 12 months but we really only have half a year,” noted a respondent. Past work of the working group resulted in CRUs being given the ability to carry over funding to help “bridge the gap” between when the offer is received and when funding flows. Not all organizations, however, can cash manage until funding flows

because they do not have alternate revenue sources to do it. Further, this carry-over does not address the significant delay between when the proposals are due and when offers are sent out. “Ultimately, the timelines and turnaround on responses and execution of funding offers needs a complete overhaul so the exaggerated delays in getting funds is eliminated,” wrote one survey respondent.

## Communications

The survey asked respondents about their experiences with communications regarding the new requirements and templates. In total 73 percent said that they were “not informed about the changes” (9 percent said they were “well-informed”; 9 percent said they were “partly informed” and 9 percent were “unsure”). “I did not find out about new templates until I reviewed the call letter about a month after I received it,” wrote one respondent. “It did not occur to me to review the budget templates because in the past changes to these have been made collaboratively. I was not expecting changes.”

Several survey respondents expressed dismay that Funding Services had failed to provide basic information on these changes:

- “I would expect that substantive reporting expectations would be officially introduced to us rather than changing templates without notice – there wasn’t even a reference made within the call letter.”
- “I want to be fully informed rather than continuing to be put in a position of posing questions.”
- “It doesn’t make any sense to me that every time they decide something, they do it without letting anyone know and then don’t provide anyone with the changes”
- “There have been no communications about any changes to our offer. Usually when they provide less than what we ask for, it is up to us to adjust our budgets to best accommodate our work plan. These imposed changes are unilateral, paternalistic and a backwards step.”

Lack of communications between Funding Services and CRUs is a systemic and ongoing problem, particularly since the working group has stopped meeting. Survey respondents identified communication issues related to collaborating with and informing CRUs of changes to funding procedures, templates, and allowable costs. Respondents who reached out to their funding officers with questions about these changes describe their interactions as unclear. One wrote: “our communications with our funding officers have been nothing short of confusing ... we have heard widely disparate directives on funding matters this fiscal year ... despite NSD suggesting in the proposal letters that there has been a consistent methodology employed in the allocation of funds this fiscal year, it has not been applied uniformly.”

Overall, respondents expressed concern with Canada’s unilateralism and the lack of a fair and equal process for making changes. “What is concerning is that [Funding Services] is implementing changes unilaterally without consultation via the established working group,” wrote one respondent. Another respondent noted that this was a pattern, a much-too-familiar issue that goes unaddressed: “Each time changes are made without consulting the CRUs, we raise this as an issue in INAC’s communication problems, yet they never take any of this into consideration.”

Respondents identified (in a multiple-choice list) four ways that Funding Services could better support CRU efforts to apply for and report on funds:

- Opportunities for feedback from research directors before new procedures are implemented (91 percent)
- Regular briefings/updates on current activities related to research funding (73 percent)
- Notices of all changes to policies of procedures (73 percent)
- Presentations by Funding Services or the CRU-Funding Services Working Group at research director meetings or workshops (73 percent)

While these CRU-identified means of communication could be part of an approach, Funding Services needs to develop a comprehensive communications strategy (in conversation with CRUs, including at working group meetings).

## Summary

Moving forward, a fair, collaborative, and transparent process is required for decision-making related to research funding. Research funding has an established (if lapsed) mechanism for collaborative work. The NCRD supports the call for the reconvening of the CRU-Funding Services Working Group and asks for Canada to set a date to host the first meeting. Several of these recent changes will need to be undone, so that CRUs can continue to make the necessary decisions regarding their programs of work. Other challenges are more significant, cross-cutting issues that must be addressed by the working group over time. All actions, both immediate and long-term, must be taken via a process of real and sustained dialogue.

## Appendix A: CRU survey on research funding (with responses)

**May 14–19, 2020**

1. Have you received your 2020-2021 letter of offer?
2. If yes, did your CRU receive adequate funding to carry out its planned activities? Please explain. If possible, please estimate what percentage of funds you received versus the amount you requested.
3. The 2020–2021 call letters and letters of offer contain new funding templates and reporting requirements. Were you aware that changes to research funding processes and templates were planned? If so, when and how did you learn about these changes?
4. Do these new requirements and templates make things easier or more difficult for you to carry out or report on your work? Please explain.
5. With these new requirements and templates, will your reporting take
6. With these new reporting requirements, will budgeting and work planning be
  - Easier
  - More difficult
  - The same
  - Unsure
7. With these new requirements and templates do you have
  - More flexibility
  - Less flexibility
  - The same amount of flexibility
  - Unsure
8. A key principle of the CRU–Funding Services Working Group has been that CRUs should have the authority and autonomy to make decisions related to using funds as needed to support the research and development of claims. Do these changes to budget templates provide your CRU with
  - Greater autonomy
  - Less autonomy
  - The same amount of autonomy
  - Unsure
9. Some CRUs have reported that, in their letters of offer, dollar limits have been placed on certain budget amounts. Did your letter of offer include any limits on specific budget categories or other changes to allowable expenses?
  - Yes

- No
10. Another key principle of the CRU-Funding Services Working Group is open communication. Given your experiences with the new requirements and templates, would you say you were
- Well-informed about the changes
  - Partly informed about the changes
  - Not informed about the changes
  - Unsure
11. What changes to funding or reporting would you like to see to better support claims research and development at your CRU? Please select all that apply.
- Multi-year funding
  - Earlier review and response by Funding Services to CRU proposals
  - More collaboration on changes to funding procedures
  - Less involvement by Canada in administering our budgets
  - More involvement by Canada in administering our budgets
  - Other ideas for changes (please explain)
12. What types of communication from Funding Services would support your efforts to apply for and report on funds? Please select all that apply.
- Regular briefings/updates on current activities related to research funding
  - Opportunities for feedback from research directors before new procedures are implemented
  - Notices of all changes to policies of procedures
  - Regular online “town hall”-type updates”
  - Presentations by Funding Services or the CRU-Funding Services Working Group at research director meetings or workshops
  - Other ideas for change (please explain)
13. Please provide any additional comments.