

Funding Guidelines

Official Language Rights

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This document sets out the funding guidelines of the Court Challenges Program (CCP).

1. Maximum funding

1.1. The CCP's Official Language Rights Expert Panel has established a scale of maximum amounts that may be granted in each funding category:

1.1.1. **Development of test cases** \$15,000

1.1.2. Litigation

Trial	\$125,000
Motion for leave to appeal	\$10,000
Appeal	\$35,000

1.1.3. Legal interventions

Application for leave to intervene	\$10,000
Intervention	\$40,000

1.2. The maximum amounts provided for litigation and legal interventions are applied separately to each level of judicial proceedings. Accordingly, separate applications for funding must be presented at each judicial level.

2. Effective date of funding

2.1. Recipients may request reimbursement of expenses incurred on or after the date on which the CCP received the funding application.

2.2. When circumstances require, only the expert panel in charge of the funding application has the discretionary power to set another effective date of funding.

2.3. The guideline at 2.1 does not apply to funding applications of individuals, groups, or organizations that took part in a case instituted after March 31, 2017 and before January 14, 2019.

3. Approved budget

The CCP acknowledges that the approved budget contains an estimate of costs and that actual costs may differ. Funding applicants must disclose all other proposed sources of funding, whether contributions in cash or in kind, including any funding from all levels of government, towards any activity targeted by the applicant that concerns the case funded by the CCP.

4. Additional funding

4.1. In all funding categories, recipients who initially received an amount less than the maximum for the category in question (see section 1, "Maximum funding") and who, during the course of the project, encounter needs requiring greater financial resources, may apply for additional funding, up to the set maximum.

4.2. Applications for additional funding must be submitted in writing and must contain: (1) a detailed explanation of the application, and (2) a draft budget for the additional amount requested. Such

modifications to the total amount of funding granted must be approved by the expert panel in charge of the funding application.

5. Review of funding

CCP staff may request that the expert panel in charge of the funding application review the funding granted to a recipient when:

- the case no longer constitutes a test case;
- the recipient has failed to comply with the funding agreement or the funding guidelines; or
- the recipient has failed to comply with the funding conditions imposed by the expert panel.

Should the CCP staff request the expert panel to review the funding, the recipient will be notified and informed of the reasons. The recipient will have a reasonable amount of time to respond in writing to the CCP's concerns. The recipient's response will be forwarded to all members of the expert panel before they examine the request for review.

6. Eligible expenses and maximum billable amount

6.1. Expenses that are eligible for funding from the CCP include the following:

- 6.1.1. in the case of **development of test cases** that have the potential to clarify rights covered by the Program: costs related to legal research and drafting, consultation and evidence development;
- 6.1.2. in the case of test case **litigation**: legal fees, research and drafting costs, and other costs related to presenting the case in court; and
- 6.1.3. in the case of **legal intervention**: legal fees, costs related to research and drafting, consultation, and other costs related to presenting arguments in court.

6.2. The CCP has set the maximum billable amount for which the recipient may apply for reimbursement at \$250 an hour. The CCP does not pay for lawyers' or consultants' travel time. The CCP may pay for the time of recipients or in-house legal counsel employed by recipients who are licensees in good standing with a law society in Canada, if the recipient can demonstrate that the recipient or the employee has not already been paid by another source of funding.

7. Submission of invoices to the CCP

7.1. Development of test cases

7.1.1. Recipients must submit the development of the test case and a detailed invoice to the CCP within six months of signing the funding agreement. Funds granted by the CCP and deposited in the trust account of a recipient's lawyer must not be withdrawn until the CCP has approved the development of the test case and the invoice.

7.2. Litigation and legal interventions

7.2.1. Recipients must submit proof of expenses incurred to the CCP. Funds granted by the CCP and deposited in the trust account of a recipient's lawyer are considered amounts owed to the CCP, until proof of such expenses has been received and approved. Only expenses approved by the CCP will be paid from CCP funds held in the trust account.

7.2.2. Proof of expenses must be submitted to the CCP as follows:

- 7.2.2.1. The CCP invoice form must be completed and submitted with the invoices.
- 7.2.2.2. An invoice for services rendered, prepared by the lawyer or a consultant, must be submitted and must show the types of eligible expenses.
- 7.2.2.3. A copy of receipts for travel costs in accordance with the Travel Directive of the Treasury Board of Canada (see CCP Guidelines on Travel Expenses).
- 7.2.2.4. A copy of the invoice or receipt for any other cost related to presenting the case in court.

8. Reporting to the CCP

8.1. Litigation and legal interventions

8.1.1. Progress reports

Progress reports must be submitted by the recipient every twelve months using the CCP progress report form. The first progress report must be submitted within the twelve months of the date on which the recipient signed the funding agreement. Reports must contain a summary of work accomplished since funding was approved or since the last progress report. Reports must also contain sufficient information to enable the CCP to assess progress made in the case.

If a recipient fails to deliver a progress report within these timeframes, the CCP reserves the right to withhold payment of invoices submitted by the recipient until the CCP receives the progress report.

8.1.2. Final reports

- 8.1.2.1. Recipients must submit two final reports to the CCP at the end of the case: the final progress report and the final financial report.
- 8.1.2.2. The **final progress report** must be completed using the CCP's progress report form. It must contain a summary of work accomplished in the case funded since the last progress report. It must also specify the results of the case in precise detail. A copy of every decision rendered by a court, any agreement, and any other final document concerning the case must accompany the report.
- 8.1.2.3. The **final financial report** must be completed using the CCP's final financial report form. The report indicates the total actual expenses incurred and provides updated information on funds from all other sources, whether contributions in cash or in kind, including costs awarded and any funds from any level of government, towards any activity targeted by the recipient that concerns the case funded by the CCP.
- 8.1.2.4. The last portion of funding will not be paid or released until the final reports and other documents requested in the final progress report are submitted (see section 9, "Holdback amounts").

9. Holdback amounts

9.1. The CCP may withhold part of the funding for a file until it is satisfied that the recipient has observed all the conditions of the funding and has complied with these funding guidelines.

9.2. One hundred percent holdback

Unless contrary instructions are issued by the expert panel in charge of the application for the **development of the test case**, 100% of the total amount granted by the expert panel will be held back in the trust account until:

Development of the test case is completed and a detailed invoice have been received and approved by the CCP.

9.3. Twenty-five percent holdback

Unless contrary instructions are issued by the expert panel in charge of the application, 25% of the total amount granted by the expert panel will be held back in the trust account until, depending on the case:

9.3.1. Litigation

Trial: the court has ended the hearing of the case.

Application for leave to appeal: the court has ended the hearing of the motion.

Appeal: the court has ended the hearing of the case.

9.3.2. Legal interventions

Request for leave to intervene: the court has ended the hearing of the request.

Intervention: the court has ended the hearing of the intervention.

9.4. Five percent holdback

Unless contrary instructions are issued by the expert panel in charge of the funding application, 5% of the total amount granted by the expert panel will be held back in the trust account until the final progress and financial reports, the court's decision or negotiated agreement and any other final document resulting from the case have been received.