

Terms and Conditions
Contribution Program for Participant Funding
Commission of Inquiry into Certain Allegations
Respecting Business and Financial Dealings
Between Karlheinz Schreiber and the Right Honourable Brian Mulroney

Definitions

1. For the purposes of this Contribution Program, the following definitions apply:
 - (a) **Commission** means the Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney.
 - (b) **Commissioner** means the Honourable Jeffrey J. Oliphant.
 - (c) **Participant** means a person or persons that have a substantial and direct interest in the subject matter of the Commission to whom the Commissioner has granted standing.
 - (d) **Recipient** means a Participant recommended by the Commissioner to receive funding.

Purpose

2. The purpose of the Contribution Program is to provide, in accordance with the criteria set out herein, necessary funding to ensure that any Participant has access to legal counsel, but not to indemnify Participants of all costs incurred.

Authorities

3. The Commissioner is authorized by P.C. 2008-1092 of June 12, 2008 to make recommendations to the Clerk of the Privy Council for the provision of financial assistance to a Participant, who, in the Commissioner's view, would not otherwise be able to participate in the Commission.
4. The authority to initiate expenditures, commit funds and make payments will be determined in accordance with the Delegation of Financial Signing Authorities Chart of the Privy Council Office.

Exclusion

5. The Contribution Program excludes Participants who are receiving funding for the purposes of the Commission of Inquiry under the Treasury Board *Policy on Legal Assistance and Indemnification*.

Criteria

6. Participants seeking funding shall apply to the Commissioner in writing, within the specified time frame.
7. Participants seeking funding must satisfy the Commissioner that they do not have sufficient financial resources to participate in the Commission without financial assistance for legal counseling.

Eligible Expenditures

8. Eligible expenditures are restricted solely to legal costs, subject to the maximum aggregate number of hours recommended by the Commissioner and the limits set out herein, and exclude any other types of costs incurred by a Recipient.

(a) Legal Costs

- (i) Counsel fees are paid in accordance with the fee schedule for the services of Participant Counsel set out below for services such as the preparation for and attendance at hearings, interviews, meetings and other occasions arranged or deemed necessary by the Commissioner, as well as both the preparation of submissions and the review of materials requested by the Commissioner. Inter-city travel time is paid at one-half the hourly rate.

<u>Years from Call to Bar</u> (calculated in calendar year)	<u>Maximum Hourly Rate</u> (limited daily to ten times the hourly rate)
Student / paralegal	\$ 50
0-2	\$ 75
3-4	\$ 85
5-6	\$ 95
7-8	\$ 105
9-10	\$ 115
11-12	\$ 125
13-14	\$ 135
15-16	\$ 145
17-18	\$ 155
19-20	\$ 165
20 plus	\$ 200

- (ii) Disbursements are paid in accordance with guidelines for Participant Counsel prepared by the Privy Council Office; and
- (iii) Inter-city travel expenses are paid in accordance with the Treasury Board Travel Directive.

(b) Limits

- (i) Payment of counsel fees under the Contribution Program is limited to a maximum of 10 hours per day. Inter-city travel time is not included in the daily maximum.
- (ii) Payment of counsel fees under the Contribution Program is, except in extraordinary circumstances, limited to one Senior Counsel and one Junior Counsel per Participant. For the purposes of this Program, the maximum rate allowable for Junior Counsel shall not exceed the authorized rate payable to a lawyer with 8 years of practice since becoming a member of the Bar.
- (iii) Payment of counsel fees related to attendance at hearings under the Contribution Program is limited to the hearing days involving the interest of the particular Participant as determined by the Commissioner. Participants may claim legal costs for only one Counsel to attend any particular day of hearings unless otherwise authorized by the Commissioner.
- (iv) Payment of counsel fees under the Contribution Program cannot exceed 100% of the total costs of legal services incurred by the Recipient when taking into account related funding from all sources. Recipients shall inform the Commissioner in writing as soon as possible of any other sources of funds they receive or will receive to pay for their legal costs in relation to the Commission.

(c) Application for Standing – Maximum Counsel Fees

Legal costs related to a person's application for standing may be claimed only if standing is granted. Funding shall not exceed a total of 10 hours for both preparation and attendance before the Commissioner. In extraordinary circumstances, funding may be granted to a maximum of 20 hours for both preparation and attendance before the Commissioner.

(d) Overpayments

Any overpayments are considered a debt due to the Crown and must be repaid by the Recipient. Interest will be charged on overdue repayments.

Recommendations

9. The Commissioner shall make his recommendations in writing to the Clerk of the Privy Council for review.
10. The Commissioner shall base his recommendations on the degree of participation appropriate to the Participant's interest.
11. The Commissioner shall, in making his recommendations, include the following elements to ensure that such recommendations are in compliance with the Terms and Conditions of the Contribution Program.
 - (a) A confirmation that the person or persons were granted standing;
 - (b) A confirmation that the Commissioner is satisfied that the person or persons would not be able to participate in the Commission without funding for legal counsel;
 - (c) The number of junior and/or senior counsel, the number of hours, and the type of activities authorized;
 - (d) Whether or not disbursement costs and travel costs will be reimbursed to the Participant's counsel.
12. The Commissioner shall not make his or her recommendations public before they have been reviewed by the Clerk of the Privy Council.

Contribution Agreements

13. A contribution agreement between the Privy Council Office and a Participant for whom funding has been recommended by the Commissioner must be prepared and signed prior to any payments being made.

Method of Payment

14. Prior to forwarding a claim for payment to the Privy Council Office, the Commissioner shall review accounts and certify in writing that the costs incurred are consistent with:
 - (a) The interests of Participants as identified by the Commissioner;
 - (b) The eligible expenditures;
 - (c) The contribution agreement.

15. Recipients shall meet and continue to meet the specific terms and conditions of the individual contribution agreements prior to payments being made.
16. Payments are issued, on behalf of the Recipient, directly to the relevant legal counsel based on detailed statements of account, as validated by the Recipient.
17. Payments are made in accordance with the Treasury Board *Policy on Transfer Payments*.
18. Advance payments will not be made under this Contribution Program. Contributions are paid on the basis of eligible costs already incurred by a Recipient on presentation of invoices from legal counsel.

Due Diligence

19. The Commissioner, in tandem with the Clerk of the Privy Council, is responsible for ensuring that all departmental systems, procedures and resources for ensuring due diligence in approving payments under the Contribution Program and in verifying eligibility, management and administration of the Contribution Program are in place.

Audit Arrangements

20. Contribution agreements and related payments, in accordance with the requirements of Treasury Board *Policy on Transfer Payments*, are subject to audit to ensure that all conditions, both financial and non-financial have been met. Nothing in this audit provision shall require the Recipient or his Counsel to disclose solicitor-client communications to comply with an audit. The Crown may request an assessment of all accounts related to the Recipient's representation at the Commission, pursuant to the applicable rules and/or legislation for the taxing of bills in the jurisdiction in which the legal counsel is licensed to practice law.
21. In accordance with section 7.3.7 of the Treasury Board *Policy on Transfer Payments*, an independent "similar review" will be conducted on termination of the Commission to assess the progress made further to the lessons learned and the areas for improvement that were identified following the 2006 review of the contribution programs for the Arar and Gomery commissions.
22. The payment of any money under this Contribution Program is subject to an appropriation by Parliament for that fiscal year during which payment pursuant to this Contribution Program would be made and to the continuation of the Commission. In the event that departmental funding

levels are changed by Parliament, contribution payments under this Program may be reduced or cancelled.

Cost of Managing the Program

23. The funds for the contributions and the cost of managing the Contribution Program will be charged to the budget of the Commission.

Duration

24. The Contribution Program is effective for the duration of the Commission.