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Summative Evaluation of the Workplace Dispute Prevention and Resolution Program

Final Report
November 3, 2014

***Summative Evaluation of the
Workplace Dispute Prevention
and Resolution Program***

Final Report

**Evaluation Directorate
Strategic Policy and Research Branch
Employment and Social Development Canada**

November 3, 2014

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List of Acronyms

ESDC	Employment and Social Development Canada
FMCS	Federal Mediation and Conciliation Service
HRSDC*	Human Resources and Skills Development Canada
MARS	Mediation and Arbitration Records System
WDPR	Workplace Dispute Prevention and Resolution

* As of July 2013, the official names of the minister and department are the Minister of Employment and Social Development and Minister for Multiculturalism, and the Department of Employment and Social Development Canada (ESDC).

The name of the previous department, Human Resources and Skills Development Canada (HRSDC), is used in this report in a historical context only.

Executive Summary

This report presents a summary of the findings for the Summative Evaluation of the Workplace Dispute Prevention and Resolution program. For corporate reporting purposes the activities of the Federal Mediation and Conciliation Service (FMCS) are known as the Workplace Dispute Prevention and Resolution (WDPR) program. Organizationally, the FMCS is part of the Labour Program within the Department of Employment and Social Development Canada (ESDC).

WDPR specific program activities include, but are not limited to, the appointment of mediation and conciliation officers to provide expert mediation and conciliation services to assist unions and employers in resolving collective bargaining disputes, as well as dispute prevention assistance in the form of training sessions, facilitation and grievance mediation. WDPR also conducts research and analysis to produce information and advice to the Minister of Labour on the management of high profile labour disputes affecting the public interest and on a range of industrial relations issues.

This evaluation was conducted from August 2012 to September 2013 and covers the five-year period between April 1, 2007 and March 31, 2012.

Relevance

- WDPR services support governmental and departmental priorities in promoting a strong and stable national economy. Findings from the evaluation suggest a continued and increasing need for both the dispute resolution and dispute prevention mandate of WDPR.
- WDPR is uniquely positioned as the only government organization to address the needs of private sector employers and unions in the federal jurisdiction. While the evidence suggests that the program's conciliation services program generally do not duplicate other available services, there is a greater risk of overlap and duplication between WDPR's dispute prevention services and other similar services offered by provincial counterparts and private firms.
- As the FMCS works to expand its dispute prevention services, care should be taken to ensure that the FMCS does not duplicate the work of other jurisdictions and the private sector so that these services remain complementary and collaborative.

Effectiveness

- The evaluation found that WDPR is achieving its core objectives and is effective in helping settle collective agreement disputes. During the five-year period covered by the evaluation, on average 95 percent of disputes were settled without work stoppages.
- On the provision of industrial relations policy advice, WDPR was rated as being very effective in providing high quality and relevant advice to decision makers, including the Minister of Labour in a timely manner. However, related to this finding, some challenges were noted, including resource issues and lack of data.
- There is evidence that WDPR is making progress towards achieving its intermediate outcome of having parties engaged in constructive dialogue and cooperation to address workplace issues. It was also determined, based on input from key informants and the FMCS mediation and conciliation officers, that there may be a need to revisit the inclusion of various outcomes in the logic model to better support the on-going monitoring of program results.

Design and Delivery

- The evaluation noted a number of benefits associated with the decentralized structure in which WDPR services are delivered, as well as some challenges. The regional structure is seen as important and necessary because it allows for the development of closer relationships with clients. However, communication issues exist, including difficulties in communication between and within groups and a lack of procedures or standards for which communication and information sharing may follow.
- WDPR was found to have the flexibility to meet the needs of clients, including the ability to appoint mediators before or after conciliation and the capacity to tailor workshops and training to the needs of the clients to address issues and situations that can arise during dispute resolution and prevention processes.
- Federal Mediation and Conciliation Service (FMCS) management at the National Headquarters identified issues with the organizational structure that prevented them from focusing on strategic development and creating a vision for the Directorate. Because of their dual roles as Regional Directors and mediation and conciliation officers, WDPR Regional Directors identified challenges with meeting their responsibilities to the National Headquarters and to their clients.
- There is evidence of an existing shortage of experienced mediation and conciliation officers, which was seen to be a risk to the delivery of WDPR services.
- The two major limitations identified by the evaluation included data accessibility issues related to the Mediation and Arbitration Records System (MARS) information system used in reporting and inconsistent reporting and data collection.

Efficiency and Economy

- Efforts are being undertaken by the program to eliminate unnecessary steps in order to reduce resource expenditure and make some tasks more efficient.
- As a means of reducing expenditures, the FMCS has made a number of changes to the staff structure, including merging the responsibility of two program sections under one Director and leaving a manager position vacant.
- Suggestions identified by key informants for improving the efficiency or economy of the program included: greater collaboration with provincial colleagues and better exchange of information; and charging parties for services to reduce costs.

Recommendations

There are three key recommendations:

1. Improve Data Collection and Reporting.
2. Develop a Performance Measurement Strategy.
3. Continue to Improve Workplace Efficiency and Address Resource Issues.

Further details can be found in the Management Response and in section 3 of this report.

Management Response

Introduction

The Federal Mediation and Conciliation Service (FMCS) appreciates the approach taken in conducting the summative evaluation of the Workplace Dispute Prevention and Resolution (WDPR) program. The FMCS notes that the evaluation key findings and conclusions provide evidence that the WDPR services are relevant to departmental and government priorities in promoting a strong and stable national economy. The evaluation also establishes that WDPR is meeting the majority of its goals: effectively helping settle collective agreement disputes; having parties engage in constructive dialogue and cooperation to address workplace issues; and providing high-quality and relevant industrial relations advice and information to the Minister of Labour, senior management and other decision-makers in a timely manner.

The FMCS welcomes the suggestions and recommendations provided by the evaluation to improve the program and maximize efficiency when faced with an increased demand for all WDPR services.

The management response provides the FMexCS an opportunity to respond to the evaluation recommendations related to data collection and reporting; performance measurement; and workplace efficiencies and resource issues. The management response provides information on improvements already made, identifies on-going activities that will address some of the recommendations, and outlines plans for further action.

Recommendations and Responses

Three recommendations were presented in the summative evaluation report. The FMCS agrees with the recommendations, and has developed this management response to address them. Many of the recommendations have already been addressed or activities have begun that will address them.

Recommendation 1

In consideration of the issues identified in the evaluation concerning data collection and reporting, particularly involving the Mediation and Arbitration Retrieval System (MARS), it is recommended that measures be taken by the FMCS to improve data collection and reporting to support administration of the WDPR program and decision making activities.

Actions Taken

- New and updated Weekly Reports on Conciliation and Mediation have been put in place since April 1, 2014 – Dispute Resolution Services;
- New Dispute Prevention Services Tracking Tools developed and consolidated Weekly Summary Report were implemented on April 1, 2014 – Dispute Prevention Program.

Ongoing Activities

- In partnership with the Innovation, Information and Technology Branch (IITB), a working group continues to explore ways of improving MARS – Dispute Resolution Services and Dispute Prevention Program;
- Development/drafting of operational manuals is ongoing in order to clarify processes and reduce unnecessary and redundant processes. All of these manuals are to ensure the transfer of knowledge to employees in order to support understanding and consistency – Dispute Resolution Services, Dispute Prevention Program and the IITB.

Actions Proposed

- In partnership with the IITB, the FMCS will capture additional data in support of Part I and III of the *Canada Labour Code* in order to provide accurate information to the Minister of Labour in a more efficient manner;
- The FMCS will maintain a current list of clients for use in the Regional Offices and National Headquarters;
- In partnership with the IITB, the FMCS will conduct a business analysis to identify all of the FMCS's current and future MARS needs;
- In partnership with the IITB, the FMCS will examine the possibility of replacing MARS with a new solution.

Recommendation 2

Given that issues have been identified regarding program logic and ongoing monitoring of program results, it is recommended that the FMCS develop a performance measurement strategy to support monitoring of program progress toward attainment of its objectives and to support further program evaluation.

Actions Taken

- A logic model and expected outcomes for the FMCS have been reviewed and finalized;
- The new Tracking and Reporting Mechanism for Dispute Prevention has now been implemented and will provide ample data on dispute prevention activities. The design of the various tools was aligned with performance indicators identified in the logic model.

Ongoing Activities

- Work continues on the Impact Assessment Study to assess the impacts of dispute prevention efforts.

Actions Proposed

- In collaboration with the Evaluation Directorate, a Performance Measurement Strategy is under development and will be completed in 2014;
- As part of the Performance Measurement Strategy development and ongoing updating, FMCS will engage in the identification of appropriate indicators that can be measured, along with data needed to support these indicators, and will reassess these on a regular basis;
- A process will be put in place to communicate with our clients for collecting information on dispute prevention activities/cases.

Recommendation 3

It is recommended that the FMCS should continue to explore measures to improve workplace efficiency and address resource issues.

Ongoing Activities

- We will continue our practice of having our clients pay for facilities when our training services are requested;
- We will continue our work with provincial colleagues to share information and facilities as required and will continue to consult to ensure that opportunities for collaboration with provinces are identified.

Actions Proposed

- On a quarterly basis, conference calls will be held with all regional staff to address emerging issues within the FMCS and the Labour Program;
- Regional Directors conference calls with the Director General of the FMCS will be held every two months;
- National Headquarters will continue to hold all staff meetings on a quarterly basis. A standing item will be added to the agenda: the Director General will provide information gleaned from regional colleagues for the benefit of NHQ staff;
- Once a year, depending on financial resources and approval from the appropriate levels, we plan to hold an all staff meeting at Headquarters;
- In partnership with Human Resources, we plan to undertake a review of the organizational design of the FMCS, including the performance of desk audits, the review of classifications and potential staff realignment. This is required to better align resources to the role of the Program.

1. Introduction

This report presents a summary of the findings, key conclusions and recommendations from the Summative Evaluation of the Workplace Dispute Prevention and Resolution (WDPR) program. The evidence collected for the evaluation can be found in more detail in technical reports which have been made available to the FMCS program management.¹ This document consists of the following three sections:

- **Section 1:** provides a description of the WDPR program and the scope of the evaluation.
- **Section 2:** presents the main findings regarding Relevance and Performance (Effectiveness, Design and Delivery, Efficiency and Economy).
- **Section 3:** summarizes the main conclusions, and key recommendations.

1.1 Overview of the Workplace Dispute Prevention and Resolution Program

The Parliament of Canada supports labour and management under federal jurisdiction in their cooperative efforts to develop good relations and constructive collective bargaining practices. Federally regulated workplaces include banking; telecommunications; broadcasting; air, interprovincial rail, road and pipeline transportation; shipping; uranium mining; grain handling along with workplaces in the territories, aboriginal public administration and some Crown Corporations. Federally regulated workplaces employ approximately 8.5 percent of salaried employees in Canada.² The industrial relations framework and regulation of collective bargaining practices are established in Part I of the *Canada Labour Code* and in the *Canada Industrial Relations Regulations*.

Accordingly, Section 70.1 of the *Canada Labour Code* establishes the Federal Mediation and Conciliation Service (FMCS). The FMCS advises the Minister of Labour with respect to industrial relations matters and is responsible for fostering harmonious relations between trade unions and employers by assisting them in the negotiation of collective agreements and their renewal and the management of the relations resulting from the implementation of the agreements.

Organizationally, the FMCS is part of the Labour Program within ESDC. The mandate of ESDC is to build a stronger and more competitive Canada, to support Canadians in making choices that help them live productive and rewarding lives, and to improve Canadians' quality of life. The Labour Program contributes to this mandate through its strategic

¹ This evaluation report draws on evidence collected through multiple lines of qualitative and quantitative enquiry which can be found in more detail in the extended version of the final report and in the methodology report.

² HRSDC. **Report on Plans and Priorities 2007–2008.**

outcome of safe, fair and productive workplaces and cooperative workplace relations. The FMCS supports this strategic outcome through its management of the Workplace Dispute Prevention and Resolution (WDPR) program.

WDPR activities include the appointment of mediation and conciliation officers to provide expert mediation and conciliation services to assist unions and employers in resolving collective bargaining disputes, as well as dispute prevention assistance in the form of training sessions, facilitation and grievance mediation. Research and analysis is conducted to produce information and advice to the Minister of Labour on the management of high profile labour disputes affecting the public interest and on a range of industrial relations issues (see Annex A for additional details).

1.2 Evaluation Scope

This evaluation is written in accordance with Treasury Board Secretariat (TBS) Policy on Evaluation (2009) and reports on the core issues of relevance and performance (effectiveness, efficiency and economy) as well as the design and delivery of WDPR. The evaluation was conducted from August 2012 to September 2013 and covers the five-year program period between April 1, 2007 and March 31, 2012. Since a national strategy for the dispute prevention activities was being developed during the period of the evaluation, the evaluation did not assess whether the outcomes of dispute prevention activities were fully achieved (see Annex B for further details). The primary rationale for the focus of this evaluation was to provide relevant information to the Department for program and policy development.

2. Key Findings

2.1 Relevance

Key finding WDPR services support governmental and departmental priorities in promoting a strong and stable national economy.

Program Uptake and Need

Under the *Canada Labour Code*, labour management parties in the federal private sector³ must use the conciliation services offered by the FMCS as a necessary condition to enter legally into a strike or a lock-out. In the context of dispute prevention services, WDPR is uniquely positioned to support both labour and management parties equally because mediation and conciliation officers have in-depth expertise in the industries within the federal jurisdiction. Some key informants noted the following benefits of using WDPR services: neutrality, expertise, and the ability to offer services that private agencies are not able to offer, such as conciliation services.

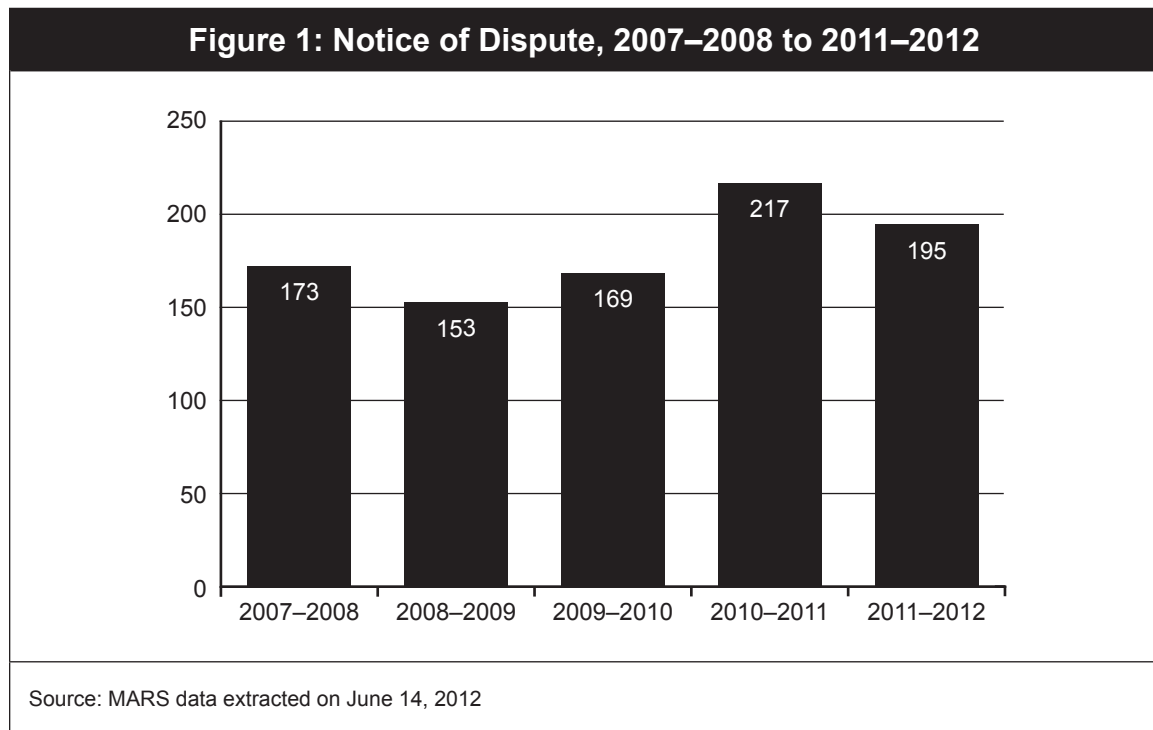
The evidence suggests that the program's conciliation services generally do not duplicate other available services. Although there are similar private services available to clients in the federal private sector, they tend to serve different clientele (for example, only employers or only unions) or they are involved with clients at different stages of the collective bargaining process. However there is a greater risk of overlap and duplication between WDPR's dispute prevention services and other similar services offered by provincial counterparts and private firms. As the FMCS works to expand these services, care should be taken to ensure that the FMCS does not duplicate the work of other jurisdictions and the private sector so that these services remain complementary and collaborative.

While this evaluation cannot report on the reach of the dispute prevention services since the program was created late in the period covered by the evaluation,⁴ evidence shows that there has been increased need and demand for both the dispute resolution and dispute prevention services provided by the FMCS as well as for information and advice for the Minister of Labour.

³ The term federal private sector is used to refer to parties regulated under **Part I of the *Canada Labour Code*** (including the territorial private sector and some Crown Corporations).

⁴ Program reach is calculated by dividing the actual number of people/entities served by the potential number of people/entities served.

For example, the number of disputes has been fairly constant during the period covered by the evaluation, except for fiscal years 2010–2011 and 2011–2012, during which the program experienced higher than average numbers of requests (Figure 1).⁵



Key informants, the FMCS management, and mediation and conciliation officers identified such factors as the state of the economy, increased global competition, competition from non-unionized workplaces, and increased complexity of the issues faced by labour-management relationships as contributing to a greater need for WDPR services both within and outside of the collective bargaining process. They also noted that the issues in collective bargaining have become more complex due to changing legislation and policies that affect collective bargaining and more complicated bargaining issues, such as pension plan issues, disability issues and job security. These issues compel unions and employers to seek all available ways to settle their disputes and avoid work stoppages, which has in turn increased the demand for WDPR dispute resolution services.

⁵ Requests for conciliation assistance each year are received by the Minister of Labour, for which the Minister of Labour may, under Section 72 of the *Canada Labour Code*, appoint an FMCS conciliation officer, a conciliation commissioner or establish a conciliation board.

2.2 Effectiveness

Key finding WDPR services to help settle collective agreement disputes were shown to be effective. However, issues have been identified regarding program logic for some outcomes and the ongoing monitoring of related results.

During the five-year period covered by the evaluation, on average 95 percent of disputes were settled without work stoppages. Approximately two-thirds of the settlements occurred in cases where parties completed conciliation and had either entered into the 21-day period before a notice to strike or lock-out can be given or were in the position where they could call a strike or lock-out if all conditions were met.⁶ The vast majority of clients and key informants rated the support provided by the FMCS as effective or very effective.

The FMCS management indicated that WDPR services have been very effective in helping them to provide high-quality and relevant industrial relations advice and information to the Minister of Labour, senior management and other decision-makers in a timely manner. The FMCS management felt their staff were able to achieve this outcome despite being hindered at times by a lack of resources and analytical capacity, insufficient time and increased volume of requests. However, the FMCS staff identified some challenges, in their ability to achieve this outcome, as a result of resource issues and data reliability, which can make requested timelines difficult to meet and may affect overall quality of their advice and information.

There are some early indications that WDPR dispute prevention services are contributing to the achievement of most of the programs immediate outcomes (see Annex C for more details on program activities and outcomes found in the logic model). Since the FMCS was in the process of developing a more comprehensive dispute prevention program during the period of the evaluation, the evaluation did not assess whether the outcomes related to their dispute prevention activities were fully realized. For the immediate outcome of providing clients with knowledge, tools and expertise to address workplace labour issues and the outcome of gaining the commitment to alter the nature of labour-management relationships, the evaluation measured outputs and client satisfaction and perception of WDPR dispute prevention services.

Overall, while the satisfaction rate among clients who used WDPR dispute prevention services was very high, input from key informants and the FMCS mediation and conciliation officers suggests that there may be a need to revisit inclusion of various outcomes in the logic model to better support the on-going monitoring of program results. For example, regarding the outcome of gaining the commitment to alter the nature of labour-management relationships, the FMCS staff indicated a need to clarify whether this outcome reflects an expected achievement of dispute prevention services or whether it is a necessary precursor to these activities. Lastly, there is evidence that WDPR is making progress towards achieving its intermediate outcome of having parties engaged in constructive dialogue and cooperation to address workplace issues.

⁶ The right to strike or lockout cannot be exercised after the 21-day post-conciliation period until a strike vote is taken and 72 hours notice is given.

2.3 Design and Delivery

Key finding Overall, the evaluation found that the design and delivery of WDPR meets the needs of clients and supports the achievement of core program objectives. While the FMCS collected and produced a large amount of information, a number of issues were identified with the current MARS information system used for reporting purposes as well as inconsistent reporting/data collection taking place.

The evaluation identified a number of benefits associated with the decentralized structure of the FMCS in which services are offered to clients through regional offices. It was found to foster stronger relationships between WDPR staff and their clients by allowing mediators to meet face-to-face with their clients even when they are not at a dispute stage and as contributing to a better understanding of the context in which issues arise between the parties. Additionally, the ability to appoint mediators before or after conciliation and the capacity of mediators to tailor workshops and training to the needs of the clients were found to provide for a degree of flexibility in meeting the needs of clients. However, a minority of mediation and conciliation officers indicated that WDPR lacked the ability to adapt quickly to change.

While seen as beneficial, the decentralized structure of the program can present difficulties in communication between the National Headquarters and the Regional Offices. The FMCS staff at both National Headquarters and regional offices identified various issues associated with communication, including issues regarding communication from management, communication within and between groups, as well as the lack of procedures or standards for communication and information sharing. The FMCS management at the National Headquarters identified issues with the organizational structure that prevented them from focusing on strategic development and creating a vision for the Directorate. Because of their dual roles as Regional Directors and mediation and conciliation officers, Regional Directors identified challenges with meeting their responsibilities to the National Headquarters and to their clients.

With regards to program awareness and accessibility of services, the vast majority of clients surveyed indicated that WDPR services are accessible. However, it was found that dispute prevention services can benefit from greater promotion. A national strategy is being developed by the FMCS in support of the expansion of preventive mediation activities.

Key informants from within the Department, the governmental mediation community in Canada, and the FMCS management identified a shortage of experienced mediation and conciliation officers as a risk to the delivery of WDPR services. The FMCS has implemented a Succession Plan to replace retiring mediators with mixed results. The FMCS management also anticipates future human resource shortages among staff in the National Headquarters and is taking steps to ensure the transfer of knowledge to staff.

Although the FMCS collects and produces a large amount of information, this information (in part captured by MARS) is not organized or accessible in a way that effectively supports accountability, performance measurement and decision-making. The two major limitations identified by the evaluation were problems with the MARS information system used in reporting and inconsistent reporting/data collection.

2.4 Efficiency and Economy

Key finding Efforts are being undertaken by the program to eliminate unnecessary steps in order to reduce resource expenditure and make some tasks more efficient.

Despite undergoing budget restrictions over the last five years, expenditures have been relatively in line with budgeted amounts while the quality and timeliness of WDPR services were rated highly by unions and employers. The quality of both the dispute resolution and dispute prevention services was seen as high by both groups of clients. The percentage of clients who agreed or strongly agreed that the services were of high quality varied from 90 percent of employer clients who received dispute prevention services to 82 percent of union representatives who received dispute resolution services. Timeliness of services also received high rankings by both dispute prevention and dispute resolution clients.

Table 1 presents the WDPR Program Budget for salaries and operation and maintenance between fiscal years 2007–2008 and 2011–2012. The overall program budget has been reduced marginally since 2008–2009, despite an ongoing budgetary increase of \$500,000 per year.⁷ In order to reduce expenditures, the FMCS has made a number of changes to the staff structure, including merging the responsibility of two program sections under one Director and leaving a manager position vacant.

Table 1: Program Budget			
Year	Salaries (in dollars)	Operation and Maintenance (in dollars)	Total (in dollars)
2007–2008	\$4,105,744	\$1,994,603	\$6,100,347
2008–2009	\$4,595,925	\$2,486,066	\$7,081,991
2009–2010	\$4,400,000	\$2,021,200	\$6,421,200
2010–2011	\$3,879,498	\$2,426,200	\$6,305,698
2011–2012	\$4,225,642	\$2,733,209	\$6,958,851
Source: ESDC Corporate Management System			

⁷ Budget 2011 identified a budgetary increase of \$1 million over two fiscal years (2011–2012 and 2012–2013) to expand the delivery of WDPR's dispute prevention function. Note, Parliament has since confirmed ongoing funding of \$500,000 annually beyond the initial two-year period.

A process mapping exercise to try to eliminate unnecessary steps has been undertaken by the program and initial steps have been taken to reduce resource expenditure and make some tasks more efficient. Other evidence that the FMCS makes an effort to maximize the outcomes of its services is shown by the development of a new workshop that allows for the participation of parties from multiple labour-management relationships. This should minimize the resource commitment needed to develop individualized training and workshops and should contribute to the FMCS being able to deliver its preventive mediation services to, and achieve its outcomes with, a wider clientele using the same level of resources. It may also result in an increased demand for further training given that labour-management parties are becoming aware of the benefits associated with this workshop.

Suggestions from key informants for improving the efficiency or economy of the program included:

- Greater collaboration with provincial colleagues and better exchange of information; and
- Charging parties for services to reduce costs.

3. Key Conclusions and Recommendations

The evaluation found that WDPR services delivered through the Labour Program's FMCS are relevant to departmental and government priorities, are effective in helping settle collective agreement disputes, generally achieve the overall objectives of the program or are making progress toward those objectives, and are being examined for ways to increase efficiency. The examination of design and delivery issues generally found that the program was supported by organizational structures and procedures in achieving its objectives; however, the findings suggest some areas for improvement, including addressing issues related to organizational structure, communication, data collection, and reporting.

Recommendations

Recommendation 1: Improve Data Collection and Reporting

In consideration of the issues identified in the evaluation concerning data collection and reporting, particularly involving the MARS system, it is recommended that measures be taken by the FMCS to improve data collection and reporting to support administration of the WDPR program and decision-making activities. Areas for improvement include:

- Identify information that is required to adequately report on activities, outputs, outcomes, and information necessary to inform the Minister of Labour and decision-makers;
- Create standardized reporting templates with the input of Regional Offices and staff at the National Headquarters;
- Ensure that data is collected consistently across Regions and across various groups;
- Explore ways of improving or replacing the data management system, MARS, with the support of ESDC's Innovation, Information and Technology Branch, particularly with a view to improving reporting capacity, and increasing reliability and dependability of data reporting; and
- Continue to develop operational manuals to clarify processes, reduce unnecessary and redundant processes and ensure the transfer of knowledge to employees to ensure understanding and consistency.

Recommendation 2: Develop a Performance Measurement Strategy

Given that issues have been identified regarding program logic and ongoing monitoring of program results, it is recommended that the FMCS develop a performance measurement strategy to support monitoring of program progress toward attainment of its objectives and to support further program evaluation. This should include the following activities:

- Reassess the logic model and expected outcomes of the service;
- Identify appropriate indicators that can be measured along with data that can be collected systematically and regularly in support of these indicators;
- Work with the FMCS staff, including regional offices, to identify data that can be collected to inform indicators; and
- Collect information on dispute prevention cases, clients and results on a regular basis so that the FMCS can study the impacts of dispute prevention efforts and to provide feedback on this aspect of the services.

Recommendation 3: Continue to Improve Workplace Efficiency and Address Resource Issues

In consideration of findings that relate to the potential for improved efficiencies, the FMCS should continue to explore measures to improve workplace efficiency. Activities could include:

- Develop a plan to support regular communication and sharing of information within the National Headquarters, between employees and management, between the National Headquarters and the Regional Offices, and between the Regional Offices; and
- Continue to explore alternative ways of addressing resource deficiencies, including the possibility of charging fees for services, of having clients provide facilities in more cases, and increased collaboration with provinces and territories in areas where there is more overlap between clients.

Appendix A

Program Overview

Workplace Dispute Prevention and Resolution (WDPR) activities include the appointment of mediation and conciliation officers to provide expert mediation and conciliation services to assist unions and employers in resolving collective bargaining disputes, as well as dispute prevention assistance in the form of training sessions, facilitation and grievance mediation.

Dispute *resolution* services can be provided to labour-management parties once a notice of dispute is filed with the Minister of Labour. Conciliation officers assist the parties in reaching an agreement by lowering tensions, keeping the channels of communication open, providing technical assistance, and exploring potential solutions.

Dispute *prevention* services, also referred to as preventive mediation services, differ from dispute resolution services in that they are provided during the life of the collective agreement up to the time when a notice of dispute is filed under section 71 of the *Canada Labour Code*. These services help parties resolve their differences so they do not become impediments to bargaining or reaching a settlement. Preventive mediation activities are intended to encourage a more cooperative and less adversarial approach to dispute resolution through the improvement of the labour-management relationship. They are not legislated and are provided at the request of the parties involved in a labour-management relationship.

The Federal Mediation and Conciliation Service (FMCS) also has other responsibilities related to WDPR. These responsibilities, under Part I of the *Canada Labour Code*, include ministerial appointments of neutral third-party arbitrators to resolve disputes arising from the application or the interpretation of collective agreements (grievance arbitration). Under the *Wage Earner Protection Program Act*, adjudicators are appointed to examine decisions on matters of law, or jurisdiction, and under the *Status of the Artist Act* mediation assistance is provided to artists and producers in the negotiation of scale agreements. See Annex A for more information on the WDPR program.

WDPR Organizational Structure

The head of the FMCS is the Assistant Deputy Minister of Policy, Dispute Resolution, and International Affairs who reports to the Deputy Minister and the Minister of Labour regarding responsibilities related to the resolution and prevention of disputes. The Director General of the FMCS is responsible for program management and oversight.

The FMCS has an office in the National Headquarters (in Gatineau, QC), which houses:

- The Office of the Director General;
- Dispute Resolution Program which is under the responsibility of the Dispute Resolution Program Director and is made up of two divisions: Legislation, Research and Policy; and Dispute Resolution Services; and
- Dispute Prevention Program which is under the direction of the Dispute Prevention Program Director and includes the Preventive Mediation Impact Assessment Study.

The Dispute Prevention Program was created on April 11, 2011. It was covered in the evaluation only in terms of its design and delivery since it was created late in the period under study and an impact study of the Dispute Prevention Program activities is being undertaken by the program area.

The FMCS also has six regional offices: Pacific (in Vancouver, BC), Northwest (in Calgary, AB), Ontario (in Toronto, ON), National Capital⁸ (in Gatineau, QC), Quebec (in Montréal, QC) and Atlantic (in Halifax, NS).⁹ Each regional office has a regional director, regional co-ordinator, and mediation and conciliation officers. Mediation and conciliation officers are appointed as either conciliation officers or mediation officers depending on the status of a given collective bargaining file. Officers are conciliation officers when appointed under Section 72 of the *Canada Labour Code* (for the first 60 days) and mediation officers when appointed under Section 105 after or prior to conciliation.

⁸ The National Capital Regional office was created in 2009. This increased the number of regional offices from five to six. The mediation and conciliation officers and cases assigned to the National Capital Regional office were previously under the Ontario Regional Office and its Regional Director.

⁹ The Pacific Region covers British Columbia and Yukon. The Northwestern Region includes Alberta, Saskatchewan, Manitoba and the Northwest Territories. The Ontario Region covers Ontario and Nunavut while the Quebec Region includes the province of Quebec and the Atlantic Region is made up of New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador.

Appendix B

Evaluation Issues and Questions

The evaluation assesses issues related to the relevance, effectiveness, design and delivery, as well as the economy and efficiency of the WDPR. Although alignment with Treasury Board Secretariat (TBS) guidelines on evaluation was a consideration in determining the focus of the evaluation, the primary rationale for this focus was to provide relevant information to the Department for program and policy development. In particular, since the WDPR did not undergo a formative evaluation, questions regarding the design and delivery of the WDPR, which are more formative in nature and which are not essential for compliance with TBS guidelines, were also addressed in the evaluation. These elements were assessed in particular to determine whether the WDPR's governance and administration contribute to the achievement of its outcomes.

Evaluation questions were developed with input from the Federal Mediation and Conciliation Service (FMCS) and the Evaluation Advisory Committee to guide the evaluation so that it could best support program and policy development.

Relevance

The section on relevance examines whether there is a continued and demonstrated need to provide dispute resolution and dispute prevention services to workplace parties. The FMCS has recently begun developing its preventive mediation services in line with increased funding commitments in Budget 2011. The evaluation explored whether this shift in services was in line with the perceived needs of labour-management parties. It also explored whether WDPR services duplicate or complement existing governmental and non-governmental programs, initiatives or services.

Effectiveness

The questions on effectiveness focus on the WDPR's immediate outcomes, which are identified in the WDPR logic model as:

1. Knowledge, tools and expertise necessary to address workplace labour issues¹⁰ are available and used.
2. Commitment to alter the nature of labour-management relationships is gained.
3. High quality and relevant industrial relations advice and information in relation to the management of labour disputes are made available to decision makers in a timely manner.¹¹
4. Disputes related to collective agreements are settled.

The first and second immediate outcomes are related to the dispute prevention mandate. The third immediate outcome refers to WDPR activities to provide advice to the Minister of Labour. The fourth immediate outcome applies to the WDPR's dispute resolution mandate.

Since a national strategy for the dispute prevention activities was being developed during the period of the evaluation, the evaluation did not assess whether the outcomes of dispute prevention activities (immediate outcomes 1 and 2) were fully achieved. Instead it focused on identifying activities, measuring outputs and exploring whether the outcomes proposed by the FMCS were in line with the expectations of the FMCS staff, clients and stakeholders. Additionally, the evaluation assessed the achievement of the immediate outcomes related to the provision of advice to the Minister of Labour (outcome 3) and dispute resolution (outcome 4).

The evaluation explored whether WDPR is making progress towards achieving its intermediate outcome:

1. Parties are engaged in constructive dialogue and cooperation to address workplace issues.

The ultimate outcome of the program was not subject to evaluation as being less amenable to assessment, given the parameters of the program, but the results presented here support the conclusion that the program is on track to achieve the ultimate outcome – labour-management relationships are improved and workplace relations are cooperative.

¹⁰ Workplace labour issues refer to difficulties and problems in labour and management relations (e.g., labour disputes, bargaining and negotiations, grievances, unjust dismissal, wage recovery, etc.) experienced by industries in the federal jurisdiction (i.e. banking, telecommunications, broadcasting, air, interprovincial rail, road and pipeline transportation, shipping, uranium mining, and grain handling), which are regulated by the *Canada Labour Code*.

¹¹ Timely manner refers to timeliness of provided advice from decision makers' perspective.

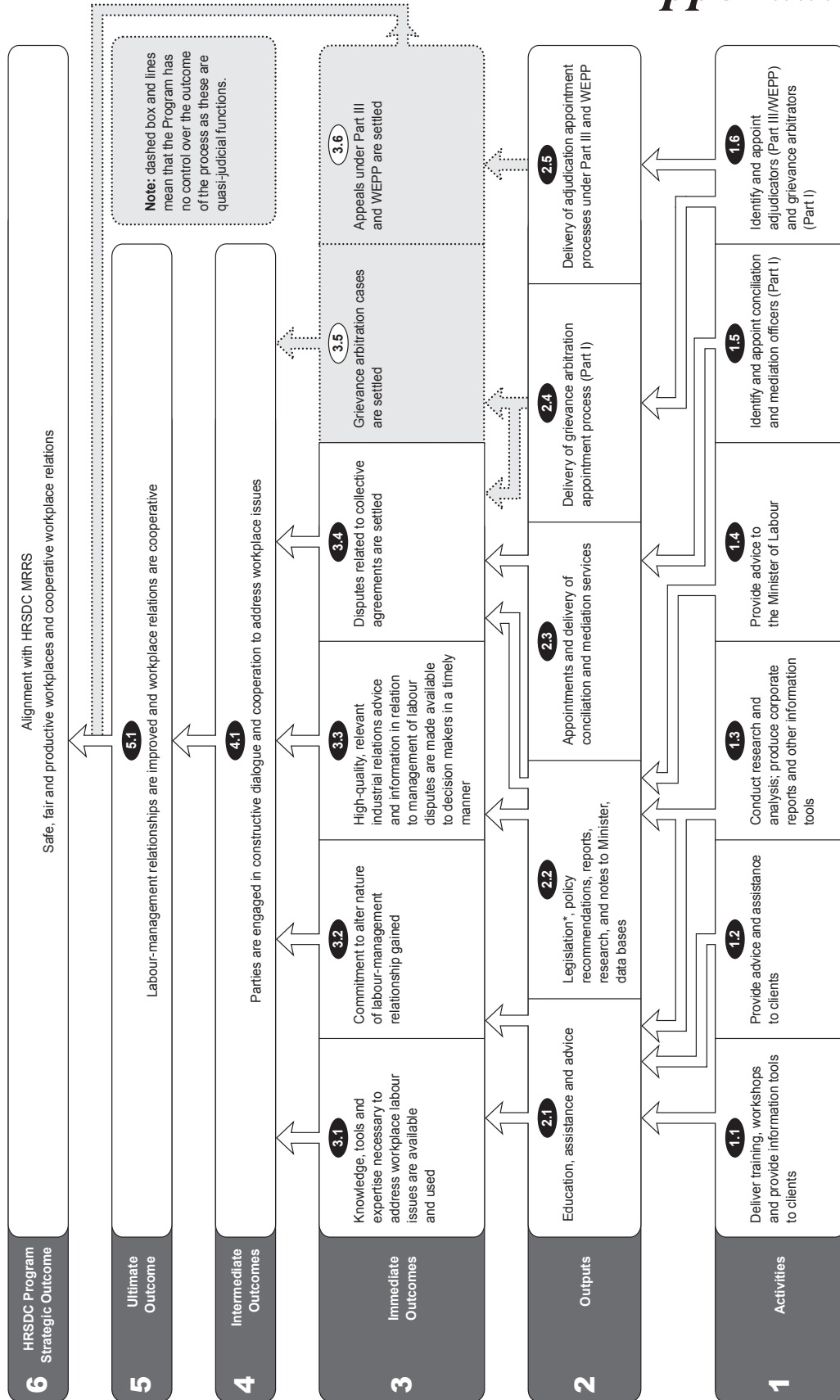
Design and Delivery

In relation to the design and delivery of the WDPR, the evaluation examined the extent to which WDPR services are responsive to the needs of its clients. It also assessed whether the organization of the WDPR supports the achievement of its goals and objectives and whether adequate and effective mechanisms for program governance, accountability, performance measurement and decision-making exist and are used.

Efficiency and Economy

To study the efficiency and economy of the WDPR, the evaluation analyzed whether the resources used in delivering the WDPR, and whether outputs produced, contribute to services that are obtained at the least possible cost with the required level of quality, quantity and timeliness. The evaluation considered alternative methods or delivery mechanisms that could increase the efficiency of the WDPR and assessed whether the mix and allocation of WDPR activities, services and resources is optimal for achieving the WDPR's expected outcomes and the extent to which the WDPR key outputs are produced in a manner that optimizes outcomes.

FMCS Logic Model



* Only on rare circumstances Back-to-Work legislation might be introduced in Parliament.