

At a Glance



Evaluation of the Environmental Damages Fund

About the program

Established in 1995, the Environmental Damages Fund (EDF) is a specified purpose account administered by Environment and Climate Change Canada (ECCC). It directs funds received from fines, court orders, voluntary payments and payments made from international funds (collectively defined as “awards”) to priority projects that support restoration of damage to the natural environment and wildlife conservation. At the time of the evaluation, 14 federal statutes automatically directed awards to the EDF, and 5 federal statutes contain discretionary clauses to do so. In addition to ECCC, Fisheries and Oceans Canada, Transport Canada, Natural Resources Canada and the Parks Canada Agency have federal statutes directing awards to the EDF or statutes with discretionary clauses providing authority to direct awards to the EDF. The ultimate outcome of the EDF is that degraded environments are restored or enhanced as a result of community-based action.

Over the period examined by the evaluation, the EDF has seen a growth in the number and value of awards received. As such, annual funding received by the EDF increased significantly from a few million to \$205M million between fiscal year (FY) 2015 to 2016 and FY 2019 to 2020. Amount received in FY 2019 to 2020 includes the \$196.5 million fine from the automaker Volkswagen. This fine was ordered under the Canadian Environmental Protection Act, 1999 (CEPA) in January 2020 and represented the largest fine attributed to the EDF to date.

What the evaluation found

The evaluation found that overall, the EDF is designed to support the achievement of its intended outcomes. Key elements of the program’s design contribute to the achievement of the EDF’s outcomes. These include the program’s flexibilities, a relevant set of program categories, definition of eligible funding recipients, and an effective process for applicants to apply for available funding. Funds are managed within the parameters of a specified purpose account. However, the growth in the number and size of awards that are directed to the EDF has put additional pressure on the program. The EDF team is experiencing challenges in addressing the increased number of awards due to its limited internal capacity. Some internal procedures, guidance documents and tools are not well suited to this changing requirement for the timely disbursement of larger awards. These procedures, guidance documents and tools also include limited information to help guide engagement with Indigenous communities.

Considerations around other government priorities were factored into the EDF’s program authorities, which date from 2009. However, the considerations identified at that time do not fully reflect the current priorities, such as requirements to account for the different needs of



various population groups and how environmental conditions can impact some groups disproportionately.

Accountability for the EDF is clear. There is positive engagement of internal ECCC partners through ECCC's EDF director General Committee and consultations on specific allocation strategies. The Government of Canada EDF Director General Committee has not met since 2017, although the program receives awards from Transport Canada, the Parks Canada Agency, Natural Resources Canada and Fisheries and Oceans Canada legislation.

The funding approval process has been inconsistent over time which is, in part, attributable to the unique circumstances around the allocation of one large new award.

For the most part, the roles and responsibilities of those involved in the EDF are clear. However, the roles and responsibilities of the National Environmental Damages Fund Office and the regions could be formalized, particularly with regard to the tracking of awards.

Raising awareness among prosecutors about the EDF and communicating the impact of funded projects to enforcement officials and legal partners is a priority, as is improving reporting to Canadians.

The current performance measurement strategy would benefit from an updated logic model and performance indicators to reflect the program's expansion and to better demonstrate results.

Recommendations and management response

The following recommendations are addressed to ECCC's Assistant Deputy Minister of the Strategic Policy Branch, as the senior departmental official responsible for the EDF, and the Assistant Deputy Minister of the Corporate Services and Finance Branch, who is responsible for the G&C process (calls for proposals, tools and reports) and supporting ECCC programs, such as the EDF, in the allocation and sound management of funds.

Recommendation 1: Ensure that the Environmental Damages Fund program, both in the regions and the National Environmental Damages Fund Office, have adequate capacity to respond to the growth in awards.

Management response: In light of the departmental review of G&Cs and in consideration of ongoing overall G&C program delivery capacity in the Strategic Policy Branch, the EDF program, in collaboration with the Human Resources Branch, is in the process of finalizing an organizational structure, followed by preparing and executing a staged staffing plan, including workload analysis and staffing strategy. The staffing plan will optimize the use of the 5% of the specified purpose account permitted for administrative purposes to support staffing initiatives. With these staffing actions in place, an effective balance of necessary resources can be achieved to ensure capacity to deliver on the full scope of the program's mandate, including

delivery of funds to recipients in a timely manner and addressing the evaluation recommendations.

Recommendation 2: Revise select internal ECCC procedures, guidance documents and tools related to grants and contributions, to ensure that they are customized to the unique flexibilities of the Environmental Damages Fund and can support:

- **an efficient and timely disbursement of funds in a context where the program is growing**
- **enhanced engagement with Indigenous communities**

Management response: The EDF, in conjunction with the Corporate Services and Finance Branch where appropriate, will review and update current procedures, guidance documents, and tools to more effectively disburse funding and absorb pressures that result from large awards. The Assistant Deputy Minister of the Strategic Policy Branch will consider if the threshold for triggering the Policy on Large Awards should change. The Assistant Deputy Minister of the Corporate Services and Finance Branch and the Assistant Deputy Minister of the Strategic Policy Branch will recommend if the approval thresholds under the EDF should change to align with the departmental thresholds.

Recommendation 3: Ensure that roles and responsibilities are well-defined for the National Environmental Damages Fund Office and the regions, and engage more regularly and systematically with other federal departments and organizations that have legislation or interactions with the Environmental Damages Fund.

Management response: The program will document the roles and responsibilities of the National Environmental Damages Fund Office and the regional offices. This documentation will include details on regular business practices (that is governance, policy development and maintenance and public calls for proposals), program promotion, development and implementation of large award allocations and financial and administrative practices. The program will engage the interdepartmental governance mechanism as per the terms of reference.

Recommendation 4: Continue outreach to prosecutors, enforcement officers and the Canadian public to foster their awareness of the Environmental Damages Fund and its benefits and improve reporting to Canadians.

Management response: The EDF recognizes that improved outreach is critical to the continued success of the program. The program will continue to work in close coordination with Public Affairs and Communications Branch to update and implement the EDF Communications Plan and maintain appropriate messaging and information for Canadians. The program will prepare and implement an outreach strategy to deliver program funding information and

outcomes to the enforcement and judicial communities on a periodic basis in order to foster awareness of the EDF and its benefits.

Recommendation 5: Conduct analyses to determine whether current program authorities allow the Environmental Damages Fund to remain effective and efficient moving forward.

Management response: In collaboration with the Corporate Services and Finance Branch and Legal Services, the National Environmental Damages Fund Office will examine EDF Terms and Conditions to identify any constraints on implementing the EDF in a manner responsive to ongoing and emerging Government of Canada priorities.

About the evaluation

Conducted from June 2020 to April 2021, the evaluation examined design and delivery aspects of the EDF in ECCC from April 1, 2014 to March 31, 2020. Evaluation questions focussed around the strengths and limitations of the program's design, capacity, decision-making processes, governance, and communications and reporting. The evaluation did not examine the achievement of program results. It used multiple methods including document and data review and 23 interviews including 23 interviews with 27 individuals representing program management and staff, internal ECCC and federal partners and EDF funding recipients.