

# TC Indigenous Engagement Review

From: Transport Canada

Internal audit report outlining results of the assessment of the TC Indigenous Engagement Review at Transport Canada.

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# Background and definitions

## Background

This review was included in the 2021-22 Risk-Based Audit and Evaluation Plan. Its objective was to review how TC is organized to support engagement and consultation with Indigenous partners as part of the Government of Canada's broader reconciliation agenda. The review was also intended to identify opportunities to strengthen current engagement and consultation practices.

The review's criteria included: an exploration of TC's Indigenous engagement governance; the roles and responsibilities of key players in engagement and consultation; common tools and resources that support engagement activities; what mechanisms are in place to report on results; and training for TC employees who perform engagement or consultation. A full list of the review's criteria can be found in Annex A.

## Engagement vs. consultation <sup>1</sup>

**Engagement** can take place without consultation, but consultation always requires engagement as part of the process. At a minimum, engagement can be limited to information sharing, while at higher levels it can involve significant participation, for instance when programs or approaches are co-developed or when federal programs are co-managed with Indigenous groups. The goal of an engagement process will differ according to the context and the initiative.

**Consultation** is about working together to understand the effects of Crown conduct in a particular context, which involves seeking how best to address or mitigate those effects. When the duty to consult is triggered at a low level, the process can be very similar to engagement, for instance notification of contemplated Crown conduct and information sharing. Depending on the project or initiative, overlaps between consultation and engagement can happen until further discussions with Indigenous groups bring light on whether or not there is potential for impacts on rights, thus triggering a duty to consult.

## Methodology

As part of this review, we used several methods to reach out to TC employees who interact, engage, or consult with Indigenous groups. We collected information around different themes including but not limited to:

- Nature of interactions with Indigenous Peoples
- Employees' competencies and training
- Indigenous engagement support
- Indigenous engagement coordination
- Indigenous engagement funding
- Strategic direction

## Interviews

Interviews were conducted with TMX members, the Oceans Protection Plan (OPP) Community Engagement and Partnerships team, the Indigenous Relations branch (IR), Regional Directors (RDs) in Surface, most Marine Safety and Security (MSS), Programs branch representatives, and with employees in Transportation of Dangerous Goods (TDG) and Rail Safety.

## OGD comparison

We interviewed representatives from four other departments/agencies to compare their Indigenous support structures to IR's organization, financial structure, human resources, governance, strategic plan, performance measurement, training, and tools.

## Surveys

Two surveys were sent out: one to IR clients and another to TC inspectors. The full details of both can be found in Annex E.

The **client** survey was sent to ten different groups identified by IR. Note that some employees who completed this survey have not individually received support from IR or regional Indigenous Relations Unit (IRU) in their work with Indigenous Peoples.

The **inspector** survey was sent to regional employees in the two groups that IR identified as primarily using their services: MSS and Surface.

## Limitations

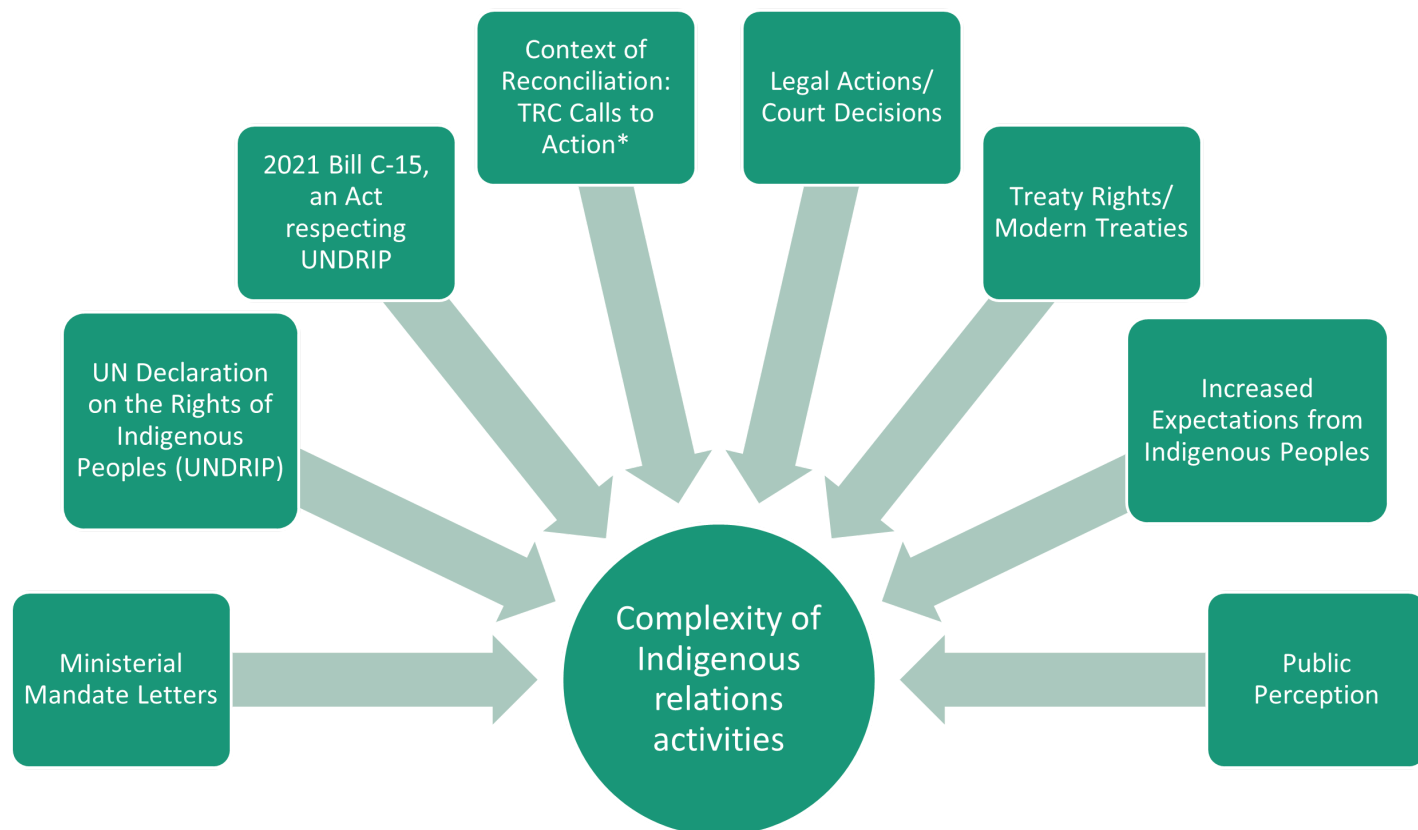
Data collection was conducted during the COVID-19 pandemic when engagement and consultation activities were disrupted. There may have been an impact on newer employees' level of experience engaging/consulting and the timing may have influenced how employees responded to certain questions.

## Context – Engagement and consultation at TC

Several factors influence TC's approach to Indigenous relations activities:

In line with the Government of Canada's reconciliation agenda, TC has committed to working in partnership with Indigenous communities and organizations. TC established the Aboriginal Consultation Unit in 2010, which traditionally focused on Section 35 obligations. It was later renamed the **Indigenous Relations branch (IR)**. As the reconciliation landscape has evolved, IR's scope of responsibilities has expanded along with an increased level of expertise. Among the broad range of activities and functions carried out by the branch, IR leads and/or supports the department in undertaking engagement and consultation activities.

Eventually, other teams were created to support Indigenous engagement under specific programs, modes, or initiatives (i.e., OPP, Rail Safety, and the High Frequency Rail project).



► Figure 1:

Note: The Truth and Reconciliation Commission (TRC) 2015 final report includes 94 calls to action to further reconciliation

The key findings in this report have been categorized into six areas based on the review's criteria. The sections include the respective criteria, some context information, the findings, and recommendations where applicable.

## **1. Governance, roles and responsibilities**

- Context
- Findings 1, 2, 3
- Recommendations 1, 2, 3

## **2. Reporting mechanism**

- Finding 4

## **3. Funding**

- Finding 5
- Grants and contributions

## **4. Tools**

- Findings 6, 7

- Recommendations 4, 5

## **5. Competencies, training**

- Context
- Finding 8
- Recommendation 6

## **6. Other observations**

# **1. Governance, roles and responsibilities**

## **Context**

### **Governance review criteria**

Governance structure is well defined with clear roles and responsibilities covering strategic direction, decision-making, and provision of advice and oversight of departmental Indigenous engagement and consultation activities.

### **Governance context**

With an increased federal focus on reconciliation, departments and agencies have to define their Indigenous engagement strategies, with some advancing faster than others.

Under Bill C-15, the Act respecting UNDRIP, the Government of Canada must “Ensure that the laws of Canada are consistent with UNDRIP, and must prepare and implement an action plan to achieve the objectives of the Declaration.” <sup>2</sup>

## Role and responsibilities review criteria

IR’s organizational structure is clearly defined and documented. IR’s role and responsibilities as a service provider are communicated and understood within the Department.

## Roles and responsibilities context

At TC, IR is the lead for Indigenous **consultation** advice. However, Indigenous **engagement** support is provided by different teams including IR, the OPP Community Engagement and Partnerships team, and groups within certain programs (e.g., Rail Safety has a team dedicated to supporting Indigenous engagement as it relates to rail activities).

## Finding 1

The existing governance structure is not providing a unified direction on engagement efforts.

## Context

Questions concerning Indigenous issues are discussed at various senior-level committees instead of one dedicated committee. TMX decided against establishing an Indigenous specific ADM committee in 2017.

## TC Committees



There is no designated senior management committee at TC that acts as a central point to discuss questions about Indigenous engagement. Instead, questions can be raised at the following forums:

- TMX
- ADM Policy Committee
- DG horizontal committee
- Indigenous Relations Oversight Committee (IROC) – monthly meeting between IR regional managers and IR HQ
- Bi-weekly OPP meetings – IR has a seat at this meeting with departments that support OPP engagement
- Diversity and Inclusion Action Plan: Indigenous Learning, Awareness, Recruitment, and Reconciliation pillar

Since the existing committees aren't explicitly tasked with helping to promote an integrated department-wide approach to Indigenous engagement, there is no clear governance process in place to help set departmental strategic direction and priorities.

## **OGD comparison**

Unlike TC, two OGDs have DG level committees devoted to Indigenous questions (e.g., issues, priorities, or past and future engagement plans).

One OGD has a director-led committee that examines issues related to Indigenous transfer payments. They also have a DG joint committee that oversees Indigenous engagement strategies and capacity.

## Finding 2

Clear priorities and a department-wide reconciliation strategy have not been articulated, making it difficult to strategically plan and align Indigenous engagement activities.

### Departmental priorities

TC's Indigenous engagement and consultation activities contribute to the Government of Canada's Reconciliation agenda, but according to interviewees, it's not clear how. TC hasn't yet adopted a reconciliation strategy with clear priorities, which has left employees to conduct engagement activities on a project-by-project basis without aiming towards a unified departmental outcome. Interviewees felt that they needed more guidance on the department's overarching strategic objectives regarding Indigenous engagement and how IR contributes to those objectives.

Interviewees suggested that TC, at the departmental level, draft an outline of its strategic reconciliation goals and the indicators marking progress. This would help senior staff to envision the bigger picture in relation to their programs, and help working-level employees to build relationships with Indigenous partners in support of shared Indigenous and Government of Canada priorities regarding reconciliation.

### Steps forward for TC

The Indigenous Relations and Navigation Protection Directorate (IRNP) is drafting a Strategic Plan 2022-2026 which includes a mission and a vision for its two branches and describes IR's mandate, objectives, and pillars.

OPP has codeveloped a framework in collaboration with Legal Services, IR, and Indigenous partners. This is part of the effort to develop outcomes and indicators for measuring meaningful engagement with Indigenous partners.

## **OGD comparison**

Other departments/agencies have strategies in place on how to progress towards reconciliation. For example: One OGD has an Indigenous Framework and Strategy and a logic model including program activities, outputs, and outcomes.

Another OGD has a Pathways to Reconciliation Plan with action items being developed. They don't have a specific performance measurement framework, but they plan on developing performance measures soon.

One OGD does not have a strategic plan/performance measurement framework for Indigenous engagement but the intent is to start working on a plan.

## **Finding 3**

A lack of clearly defined roles and responsibilities have created confusion among working-level employees who have trouble differentiating between groups that offer Indigenous engagement support.

## **Context**

Indigenous engagement support is decentralized at TC; it is provided by different groups throughout the regions and the NCR instead of one core unit.

## **Organizational structure**

TC has a decentralized approach to Indigenous engagement. Different groups support engagement activities, including IR which serves as the functional authority for the departmental Indigenous portfolio and is the lead for consultation advice. IR reports to the DG IRNP, who reports to the ADM Programs.

The OPP Community Engagement and Partnerships team, which has been reporting to the ADM of Pacific and will soon report to the ADM of Safety and Security, also supports TC employees (most in Marine mode) on Indigenous engagement.

There are other supporting groups, such as one within Rail Safety, which report to their respective DGs and ADMs.

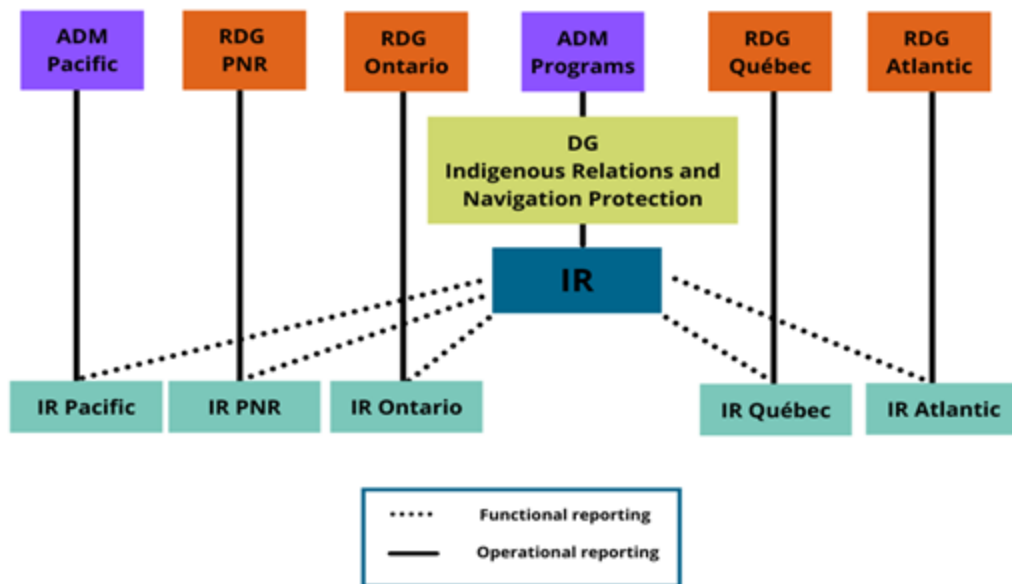
Each region has an Indigenous Relations Unit (IRU) to support and lead Indigenous engagement. IR and OPP resources sit together in every region except for HQ and Pacific where the teams are separate. Even so, interviewees reported that they weren't always sure which specialist to approach for which engagement-related question. Pacific was the exception where OPP efforts are more active and IR's services are in higher demand. The regions all manage engagement efforts differently, depending on which topics are at the forefront in their area.

## **OGD comparison**

Three OGDs have dedicated teams like IR.

The other OGD, however, has an even more decentralized approach than TC, where experts are embedded within teams that engage with Indigenous communities.

The image below presents the IR reporting relationship between the regions and HQ:



► Figure 2: Indigenous Relations organizational chart

## Indigenous relations branch expertise

IR's list of responsibilities and activities is ever-expanding as the Department adds engagement components to a range of new projects. Examples of IR's activities can be found in Annex B.

IR has used different mechanisms to promote their services, including a June 2021 presentation to the TC Managers Network, a designated page on MyTC, organizing different Indigenous-focused events, and arranging virtual coffee chats with IR staff and employees. Aside from the information found on MyTC, IR's roles and responsibilities have never been documented.

Groups like the Navigation Protection Program and the Marine mode are more familiar with IR's services, given their higher frequency of need. Other groups like those in Surface mode have less need and thus less familiarity.

## OPP community engagement and partnerships team

Roles and responsibilities of the OPP National Engagement Hub, the Regional Hubs, the Office of Primary Interest, and the OPP Communications Hub were defined and documented in the OPP National Integration Model. It also defines how TC works with other departments and how the hubs support OPP engagement. The OPP National Integration Model has been identified as a good practice to help to reduce engagement fatigue and help build stronger relationships with Indigenous groups.

## Recommendations

**Recommendation 1:** The newly formed Corporate Secretariat responsible for enhancing departmental governance structures and processes should help the department to strengthen governance to set strategic direction and priorities, and to promote an integrated departmental approach to Indigenous engagement.

**Recommendation 2:** The ADM Programs, with the support from TMX and on behalf of the Department, should lead the development and implementation of a strategic plan that clearly defines the short, mid, and long-term priorities for Indigenous engagement, and sets out the key activities, timelines, and resources required to achieve the priorities.

**Recommendation 3:** The ADM Programs, responsible for the department's Indigenous Relations Centre of Expertise, in conjunction with TMX colleagues, should lead an exercise to define the roles and responsibilities that clearly differentiate between the IR Centre of Expertise, Policy Lead/Technical Expertise, and Program Delivery, including engagement by Programs and Regions.

## 2. Reporting mechanism

### Finding 4

IR's performance story does not reflect the full extent of their work.

#### Context

Despite recently updating their outcomes and indicators, an evolving environment has generated new engagement activities that aren't all represented in the PIP.

#### Reporting mechanism review criteria

Progress in achieving IR objectives is measured and a reporting mechanism is in place.

#### Performance information profile

IR recently updated their intermediate and ultimate performance measurement outcomes (IR's outcomes and indicators are listed in Annex C). Until recently, the data to report on those outcomes was not consistently collected or available. This issue has been addressed and all indicators are now being reported on through the PIP results process.

#### IR engagement sessions

It is difficult to track the number of engagement activities that IR supports because involvement varies according to each context. Most clients in our survey reported using IR services infrequently or "when needed", which could include anything from formal advice to one-off questions. There's a disconnect between the ultimate outcome's indicator which counts the

“Number of engagement sessions with Indigenous communities” and the reality of IR’s workload, which includes ad hoc advice that is not reflected in their Performance Information Profile (PIP).

## **TC engagement sessions**

Furthermore, IR isn’t the only group at TC which performs Indigenous engagement. Finding 1 explained how multiple programs carry out their own engagement activities, and how none of these programs are linked by common intermediate or ultimate outcomes since there is no departmental Indigenous engagement strategy in place.

## **IR activities**

IR’s PIP does not reflect the full extent of their services. In addition, their indicators focus on counting activities instead of progress towards reconciliation, with a target of “greater than 1” agreement or arrangement for their intermediate outcome. Updating the PIP is part of the annual review process for most programs, and IR should use this exercise to address these gaps. That said, measuring the success of a relationship isn’t straightforward. As part of addressing Recommendation #2 from this report, there will be an opportunity to align IR outcomes/indicators with a departmental strategic plan.

## **IR intermediate outcome**

Delivery of TC mandate consistent with the principles respecting the Government of Canada’s relationship with Indigenous Peoples

**Indicator:** Number of agreements or arrangements entered into by the Minister of Transport with Indigenous communities and/or organizations.

**Target:** greater than 1 (by 2023)

## **IR ultimate outcome**



Early and meaningful engagement to establish trust with Indigenous communities

**Indicator:** Number of engagement sessions with Indigenous communities.

**Target:** at least 25 (by 2025)

## 3. Funding

### Finding 5

IR doesn't track their activities outside of engagement projects linked to B-base funding, so it's difficult to confirm if an increased demand in their services, including ad hoc requests, has led to more work with fewer resources.

### Context

B-based funding supports many IR activities, but not all. IR staff must rely on their A-based capacity to support requests outside of B-base funded projects.

### Support review criteria

Sufficient resources are in place to support engagement and consultation with Indigenous groups and achieve departmental objectives.

### A- vs. B-based funding

A-base amounts that support IR salary (for both HQ and IRUs) have dipped slightly each year since 2019-20 while the B-based amounts have steadily increased between 2018-19 to 2021-22, by nearly \$1M per year.

### Demand

IR supports on average 15 <sup>3</sup> B-base funded projects a year, but according to interviewees, an increased focus on Indigenous engagement has put more demand on IR services, specifically ad hoc services that aren't being tracked. <sup>4</sup> Although interviewees noted that this is putting pressure on their budget, it's difficult to confirm without knowing which services have increased and by how much each year.

This also links back to an undefined departmental strategy for Indigenous engagement. There's a need for all programs that perform engagement, not just IR, to track their Indigenous engagement activities and how they connect to a broader departmental goal. Once programs settle on whether they're doing the right activities to reach goals set out in a strategic plan (i.e., Recommendation #2 from this report), then it will be clearer whether the budget to support those activities is appropriate.

**OGD Indigenous support funding:** The teams that support Indigenous engagement at two OGDs rely on a budget that is primarily A-base.

## Grants and contributions

### Context

Over the past five years, several TC projects and initiatives have increased the need for Indigenous engagement funding, such as OPP and Rail Safety programs. Even if TC programs are organized and ready to engage, Indigenous partners still need the support and capacity to be able to participate.

### TC funding

Some Indigenous partners rely on TC's funding to bolster their capacity to successfully engage (e.g., travel costs provided to remote communities). However, navigating Indigenous engagement grant and contribution (G&C)

funding can be challenging for both TC employees and for the groups with whom they engage.

Some interviewees noted that Indigenous partners struggle to get through the bureaucratic red tape and access the resources they need to engage.

Some TC employees surveyed didn't have a full understanding of the funding available for Indigenous communities or were asking for more flexible funding (i.e., how and when funding can be provided, and for what purposes). They asked for better coordination and communication around funding (e.g., central coordination or a summary of funding provided to different Indigenous groups).

## **TC G and C support**

A team within the Programs group is responsible for non-infrastructure G&C programs and supports G&Cs offered to Indigenous communities. They are aware of Indigenous communities' expectations and lack of capacity and have found ways to allow for more flexibility. They also recognize that there are opportunities for improvement.

The team supporting the G&C programs is funded with B-base funds which can create some budget gaps between initiatives/projects. In these situations, TC projects/programs may not be able to meet Indigenous groups' expectations or needs. They are usually consulted when Memoranda to Cabinet and Treasury Board Submissions are drafted to make sure that they are included and funded.

## 4. Tools

### Finding 6

Employees aren't always aware of other engagement activities happening in the department (e.g., which communities other projects have met with or challenges that they faced).

Tools to coordinate the engagement are program-specific, which encourages a siloed approach to support, track, and document Indigenous engagement.

### Context

Different teams use different tools to coordinate their engagement activities.

### Tools review criteria

Tools (databases, templates, etc.) are available and functioning to support departmental efforts in engaging and consulting with Indigenous groups.

### Indigenous engagement databases

When we explored which tools are most useful for employees who perform engagement, the subject of coordination was the focus of comments. As mentioned in the sections on Governance and Reporting, different teams have separate reporting structures as well as their own methods to track and document Indigenous engagement activities.

IR and OPP have both developed databases to document past and upcoming engagement or consultation sessions: the Indigenous Engagement Consultation Database used by IR, and the OPP Stakeholder

Engagement Solution (OPPSES). As of September 2022, these databases have not been linked, but Business Solutions has developed a system to move the databases into one comprehensive system.

Aviation Security and Communications have their own systems to document Indigenous Engagement.

Rail Safety has also developed an application in Google Earth which maps Indigenous engagement activities and records relevant information.

## **TC engagement framework**

In fall 2020, the Digital Service Transformation Office (DSTO) in partnership with the Canada School of Public Service (CSPS), developed the Modern Public Engagement at TC – A diagnostic and opportunities for transformation. Some best practices and opportunities listed in that presentation were related to Indigenous engagement conducted at TC. One opportunity in the presentation suggested developing additional guidance, a framework, and tools to support business units with their engagement.

Since then, DSTO, in collaboration with the CSPS and TC Communications, is in the process of finalizing a TC: Modern Public Engagement Framework. The latest draft of this Framework has references to specific Indigenous engagement resources, including tools and considerations.

## **Tools**

Programs, particularly in Marine, have been using OPP tools to manage engagement activities. Interviewees from these groups suggested sharing these tools with other programs or adapting them to help organize a departmental approach to engagement. Some suggestions of shared tools included:

- A centrally-managed contact list of engagement partners
- Organizational tools to coordinate engagement activities across programs. The OPP developed an engagement calendar to facilitate OPP engagements – a good practice that some suggested adopting for the department at large.

## **Combining efforts**

Some interviewees suggested combining engagement sessions with other programs or even other departments. This would increase efficiency and put less strain on Indigenous partners who attend multiple engagement events a year.

A common note from interviewees was that engagement sessions don't always stay on topic and Indigenous partners will often ask questions that the visiting program doesn't know how to answer. Increasing the number of experts in the room would help to mitigate this risk. As explained on the previous slide, having access to a comprehensive system where employees could find information on the Indigenous partners/communities could also help to identify any upcoming issues or questions.

## **Finding 7**

Sections on Indigenous engagement in TC's guidance documents on drafting submissions to Cabinet or Treasury Board are outdated and missing context on why Indigenous engagement should be a consideration.

## **Context**

The Indigenous Relations section in TC's guidance documents is not as detailed as other TC internal services.

## **Cabinet Documents and Treasury Board Submission Process**

OPIs can involve different functional authorities, including IR, to help them draft Treasury Board Submissions or Cabinet documentation. IR should be engaged early in the process when a project or an initiative requires Indigenous engagement or consultation. Involving IR representatives helps OPIs to plan their Indigenous engagement activities and to determine how many resources the engagement will require. It also helps IR to prepare for that engagement in advance and plan accordingly.

The current process includes inviting IR to key planning discussions and sharing draft Treasury Board Submission and Cabinet documents with IR for review. This process is documented in the TC guidance available to OPIs.

### **Guidance Documents**

TC has two documents to help programs draft Cabinet proposals and submissions to Treasury Board:

- A Guide to Preparing Cabinet Documents (RDIMS#18395041)
- Transport Canada Protocol for Developing Financial Treasury Board Submissions (RDIMS#15951694)

Both include the internal services that programs should consult when drafting these documents, such as the Centre of Expertise on Funding Instruments, Digital Service and Transformation, and Human Resources Policy and Operations.

The section on Indigenous consultation is outdated, entitled: Indigenous Coordination/Aboriginal Consultation and, unlike TC's other internal services, offers no explanation of when IR should be consulted or for what reasons. Including more information in the guidance documents would not

only help drafters to increase general departmental awareness of IR's services but also help them understand when to involve IR and why their services are required for upcoming projects.

## Recommendations

**Recommendation 4:** The Chief Digital Officer should complete the integration of the different engagement tracking tools into one departmental system to reduce duplication of information and effort, and to enable better coordination and more efficient engagement planning.

**Recommendation 5:** The ADM Programs, with support from Cabinet Affairs and the ADM Corporate Services, should update TC's guidance on IR involvement in the preparation of Treasury Board Submissions and Cabinet documents.

# 5. Competencies, training

## Context

In 2015, the Truth and Reconciliation Commission of Canada published its final report detailing the experience and impacts of the residential school system. The report contains 94 calls to action. One call touches on training for public servants.

## Professional development and training for public servants

(call 57)



We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## **Finding 8**

TC has a variety of Indigenous-focused training and learning activities, however there is no national training curriculum or plan to mandate specific courses for positions which commonly work with Indigenous groups.

### **Training**

Training needs for IR and departmental employees engaging with Indigenous partners have been identified and there is a plan to address training needs.

### **National training with regional components**

Based on our survey results, there is an ongoing demand for Indigenous engagement training. Some interviewees suggested regional training from either an IRU representative or a member of the community that the regional team is looking to engage with. This targeted training would help TC staff prepare to engage with specific Indigenous communities and would reduce the number of community-specific questions that are sent to IR.

## **IR training**

As for IR, staff generally learn the skills that they need on the job. When asked, IR interviewees requested training on conflict resolution and cultural awareness.

## **Indigenous training curriculum**

TC doesn't have a departmental Indigenous learning curriculum. Developing such a curriculum was identified as an opportunity by DSTO as part of their work on Modern Public Engagement <sup>5</sup> at TC.

## **TC indigenous learning hub**

The Indigenous learning hub is TC employees' 'go-to' place to find Indigenous training. Many resources such as CSPS training, guidance, and tools can be found in the hub.

The hub is designed with 3 levels starting with level 1 to begin the learning journey. All employees are recommended to complete Level 1, however none of the training in the hub is mandatory. It is up to management to decide if their employees should complete Indigenous training.

## **OGD training**

One OGD has integrated Indigenous history and culture courses for some of their employees.

One OGD has an 8-hour mandatory training course on reconciliation (Circle of Nations) for all employees.

At one OGD, the Indigenous engagement team employees must complete the CSPS Reconciliation begins with me course.

## **Recommendation**

Recommendation 6: The ADM Programs should assess the effectiveness of the training offered in the Indigenous Learning Hub in order to help determine appropriate curriculums for specific positions that engage with Indigenous communities or groups.

## 6. Other observations

### Procurement

#### Context

The Government of Canada issued the following news release on August 6, 2021: “The Government of Canada is committed to renewing and strengthening its economic relationship with Indigenous entrepreneurs and communities by providing increased economic opportunities to First Nations, Inuit and Métis businesses through the federal procurement process.” <sup>6</sup>

#### Procurement strategy for indigenous business (PSIB)

This relatively new federal strategy helps Indigenous businesses obtain federal contracts. Multiple departments use it to reserve a certain number of contracts for competition among Indigenous businesses exclusively. To apply, an Indigenous business needs to register with Indigenous Services Canada, which manages a network of representatives from federal organizations who act as Indigenous Procurement Coordinators for their organizations.

#### 5% of contracts to indigenous businesses

In 2021, the federal government established a mandatory target where at least 5% of the value of federal contracts must be awarded to businesses owned and led by Indigenous Peoples. This requirement will be phased in over 3 years with full implementation expected by 2024.<sup>7</sup>

## **Procurement support at TC**

A few employees mentioned that the TC Procurement team could benefit from more Indigenous expertise in managing these contracts.

The strategy and requirement listed above are providing new opportunities and are helping TC contracting to secure Indigenous businesses. But at the same time, these new expectations and requirements create challenges and raise questions about how TC will organize itself to support meeting the new procurement target.

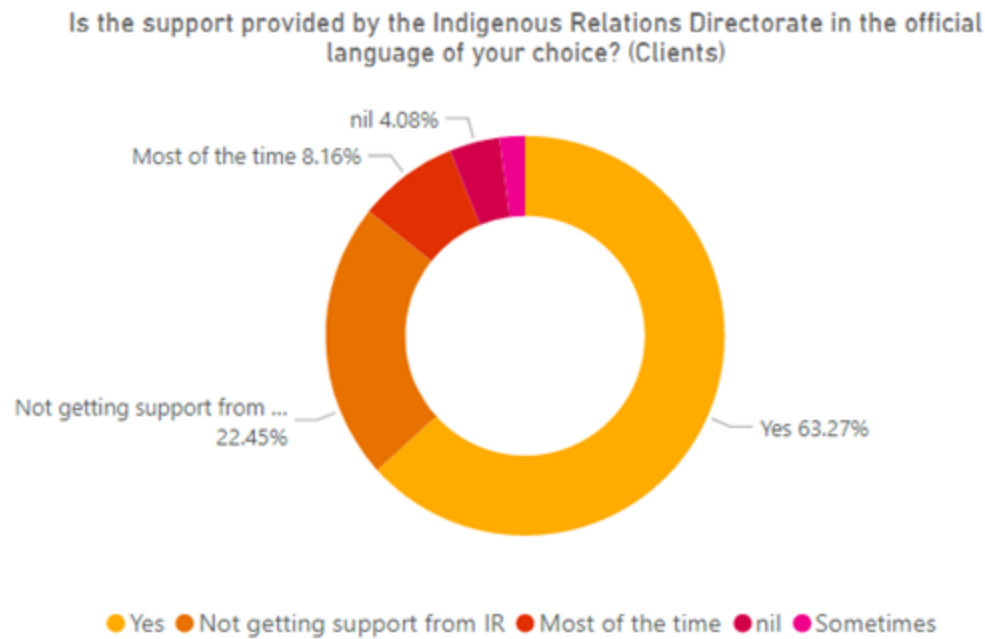
## **Other observations**

The following review criteria did not lead to major observations due to lower significance and lower risk.

### **Review Criteria: Services are offered in both official languages**

#### **Observations**

Interviews and survey results showed that IR and IRU services are generally offered in both official languages:



► Figure 3: Is the support provided by the Indigenous Relations Directorate in the official language of your choice? (Clients)

## Review Criteria: The Department's Transformation initiatives include Indigenous engagement modernization efforts

### Observations

One of the opportunity identified by DSTO in the presentation Modern Public Engagement at Transport Canada – A diagnostic and opportunities for transformation is to develop an engagement framework for the department.

Currently, a TC: Modern Public Engagement Framework is being finalized by DSTO, Communications, and CSPS.

## Summary of findings

### Findings:

1. The existing governance structure is not providing a unified direction on engagement efforts.

2. Clear priorities and a department-wide reconciliation strategy have not been articulated, making it difficult to strategically plan and align Indigenous engagement activities.
3. A lack of clearly defined roles and responsibilities have created confusion among working-level employees who have trouble differentiating between groups that offer Indigenous engagement support.
4. IR's performance story does not reflect the full extent of their work.
5. IR doesn't track their activities outside of engagement projects linked to B-base funding, so it's difficult to confirm if an increased demand in their services, including ad hoc requests, has led to more work with fewer resources.
6. Employees aren't always aware of other engagement activities happening in the department (e.g., which communities other projects have met with or challenges that they faced). Tools to coordinate the engagement are program-specific, which encourages a siloed approach to support, track, and document Indigenous engagement.
7. TC's guidance documents on drafting submissions to Cabinet or Treasury Board are outdated and missing context on why Indigenous engagement should be a consideration.
8. TC has a variety of Indigenous-focused training and learning activities, however there is no national training curriculum or plan to mandate specific courses for positions which commonly work with Indigenous groups.

# Management Action Plan

	Recommendation	Management Action Plan	Completion date
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<p><b>1</b> The newly formed Corporate Secretariat responsible for enhancing departmental governance structures and processes should help the department to strengthen governance to set strategic direction and priorities, and to promote an integrated departmental approach to Indigenous engagement.</p>	<p>Corporate Secretariat will:</p> <p>1.1 Refresh the DGH Terms of Reference and re-iterate its role as a horizontal information sharing and advisory body that can be consulted on matters related to communications and engagement, including Indigenous Engagement. <b>(October 18, 2022)</b></p> <p>1.2 Consult with ADM Programs and IR units to identify opportunities to enhance or clarify the approach to Indigenous Engagement within the TC Integrated Decision Making Framework (IDMF). <b>(February 28, 2023)</b></p> <p>1.3 In line with the proposed approach to modernizing TC governance, clarify within the IDMF the necessary structures and processes for</p>	<p>March 31, 2023</p>
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		Indigenous Engagement governance at the corporate level. <b>(March 31, 2023)</b>	
2	The ADM Programs, with the support from TMX and on behalf of the Department, should lead the development and implementation of a strategic plan that clearly defines the short, mid, and long-term priorities for Indigenous engagement, and sets out the key activities, timelines, and resources required to achieve the priorities.	<p>ADM Programs will:</p> <p>2.1 Develop a draft strategic plan defining the department's short, mid and long-term priorities for Indigenous engagement and key steps to achieve them. The plan will include key activities, timelines and associated resources to ensure capacity to deliver on commitments and outcomes that correspond with timelines outlined in the plan.</p> <p>2.2 Present a draft of the strategic plan to TMX for endorsement.</p> <p>2.3 Implement a strategic plan in accordance with the timelines outlined in the plan.</p>	<p>TMX approval by April 30, 2023</p> <p>Implementation following approval.</p>

3	<p>The ADM Programs, responsible for the department's Indigenous Relations Centre of Expertise, in conjunction with TMX colleagues, should lead an exercise to define the roles and responsibilities that clearly differentiate between the IR Centre of Expertise, Policy Lead/Technical Expertise, and Program Delivery, including engagement by Programs and Regions.</p>	<p>ADM Programs will:</p> <p>3.1 Utilize the strategic plan and TC's governance mechanisms (i.e., ADM Policy, DG Horizontal, etc.) to clearly define, document and communicate the continuum of roles, responsibilities, and services of the different groups as it pertains to Indigenous engagement to support the effective development of legislation, regulations and policies, to guide program design and to support program delivery.</p> <p>3.2 Develop supporting tools (i.e., engagement calendar and engagement guide) and materials to more effectively coordinate Indigenous engagement across the department, while identifying opportunities for co-</p>	June 30, 2023
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development of new initiatives and co-management of programs

3.3 Develop and implement a plan to increase awareness among TC employees of the role of the IR Centre of Expertise vis-a-vis Policy leads and Program delivery, to ensure an understanding of everyone's role and advance reconciliation opportunities as per the TC IR strategic priorities and plan.

4	<p>The Chief Digital Officer should complete the integration of the different engagement tracking tools into one departmental system to reduce duplication of information and effort, and to enable better coordination and more efficient engagement planning.</p>	<p>Chief Digital Officer will:</p> <p>4.1 Continue to work with the Oceans Protection Plan (OPP) program and Indigenous Relations (IR) branch to consolidate their standalone systems into the TC common tool / platform – the TC Engagement and Consultation Hub (TC-ECH)</p> <p>4.2 Minimum Viable Product was launched in Sept 2022 and training for users is ongoing.</p> <p>4.3 Present the TC Engagement and Consultation Hub to DSTO’s Technical Architecture Committee for approval as the standard tool to support consultation and engagement at TC.</p> <p>4.4 Onboard Modern Public Engagement onto TC Engagement and Consultation Hub (in</p>	March 31, 2023
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		support of Privy Council Office and Open Government reporting).	
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5	<p>The ADM Programs, with support from Cabinet Affairs and the ADM Corporate Services, should update TC's guidance on IR involvement in the preparation of Treasury Board Submissions and Cabinet documents.</p>	<p>In collaboration with Cabinet Affairs and ADM Corporate Services, Programs Group will:</p> <p>5.1 Update TC's guidance, and any supplementary materials, on the involvement of Indigenous Relations in the development of initiatives to ensure meaningful consultations and engagement prior to the preparation of Treasury Board Submissions and Cabinet documents.</p> <p>5.2 Ensure participation in various governance committees to be able to provide advice and guidance on initiatives prior to the development of MCs and Submissions.</p> <p>5.3 Develop and implement a plan for distributing updated guidance across the department.</p>	April 30, 2023
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<p><b>6</b> The ADM Programs should assess the effectiveness of the training offered in the Indigenous Learning Hub in order to help determine appropriate curriculums for specific positions that engage with Indigenous communities or groups.</p>	<p>ADM Programs will:</p> <p>6.1 Conduct an assessment of the effectiveness of the training offered by the Indigenous Learning Hub.</p> <p>6.2 Determine appropriate curriculums for specific positions that engage with Indigenous communities or groups, including distinctions-based information, overview of treaty and other Crown commitments as well as language training.</p> <p>6.3 Re-publish the Indigenous Learning Hub to provide more position-specific guidance.</p> <p>6.4 Develop and implement a plan for communicating the curriculums across the department.</p>	<p>June 30, 2023</p>
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# Annex A – Review criteria

## Review criteria:

1. Governance structure is well defined with clear roles and responsibilities covering strategic direction, decision-making, and provision of advice and oversight of departmental Indigenous engagement and consultation activities.
2. IR's organizational structure is clearly defined and documented. IR's role and responsibilities as a service provider are communicated and understood within the Department.
3. Tools (databases, templates, etc.) are available and functioning to support departmental efforts in engaging and consulting with Indigenous groups.
4. Sufficient resources are in place to support engagement and consultation with Indigenous groups and achieve departmental objectives.
5. Progress in achieving IR objectives is measured and a reporting mechanism is in place.
6. Training needs for IR and departmental employees engaging with Indigenous partners have been identified and there is a plan to address training needs.
7. Services are offered in both official languages.
8. The Department's Transformation initiatives include Indigenous engagement modernization efforts

# Annex B – List of IR activities

IR's top activities include:



- supporting consultation and engagement approaches across a broad range of policy, program, regulatory and legislative initiatives
- promoting TC compliance with modern treaty agreements and legal obligations
- participating in whole-of-government negotiations aimed at advancing Indigenous interests and achieving Indigenous self-governance and self-determination
- supporting and helping develop whole of government policies related to Indigenous issues
- supporting, building and maintaining ongoing relationships and partnerships with First Nations, Inuit and Métis Nation organizations and communities
- Indigenous cultural awareness at TC, including the implementation of four pillars and key projects for action:
  - cultural awareness
  - training
  - Indigenous staffing and recruitment (in collaboration with HR)
  - tools and resources for TC employees
- other ad hoc non documented advice, such as:
  - supporting Ministerial-level meetings (e.g., Inuit-Crown Partnership Committee)
  - supporting CIRNA-led discussions on precedent setting topics (e.g., revenue sharing from transportation assets)
  - culturally appropriate characterization in departmental documentation, including all Ministerial correspondence going to an

Indigenous community, organization, or Person

- review of strategic documents with an Indigenous lens

## Annex C – IR outcomes and indicators

### Short term outcomes

1. Specialist or expert information or knowledge supports and informs consultations across all phases of an impact assessment
  - a. Indicator: Percent of impact assessments in which TC supports Indigenous consultations where the department has identified a need to participate in the impact assessment. Target: 100 exactly
2. TC employees are enabled to undertake effective engagement
  - a. Indicator: Number of training sessions delivered to and/or establishment of tools and resources for TC employees. Target: greater than 6
3. TC supports the implementation of modern treaties
  - a. Indicator: Proportion of Memoranda to Cabinet, Treasury Board Submissions and Regulatory proposals reviewed for modern treaty implications. Target: exactly 100
4. Absence of litigation brought against TC for breach of consultation obligations
  - a. Indicator: Number of instances where TC, as the Crown decision-maker, is in breach of the legal duty to consult. Target: at most 0

## Intermediate outcome

1. Delivery of TC mandate consistent with the principles respecting the Government of Canada's relationship with Indigenous Peoples
  - a. Indicator: Number of agreements or arrangements entered into by the Minister of Transport with Indigenous communities and/or organizations. Target: greater than 1 (by 2023)

## Ultimate outcome

1. Early and meaningful engagement to establish trust with Indigenous communities
  - a. Indicator: Number of engagement sessions with Indigenous communities. Target: at least 25 (by 2025)

## Annex D – Funding

### The number of B-based initiatives supported by IR per fiscal year

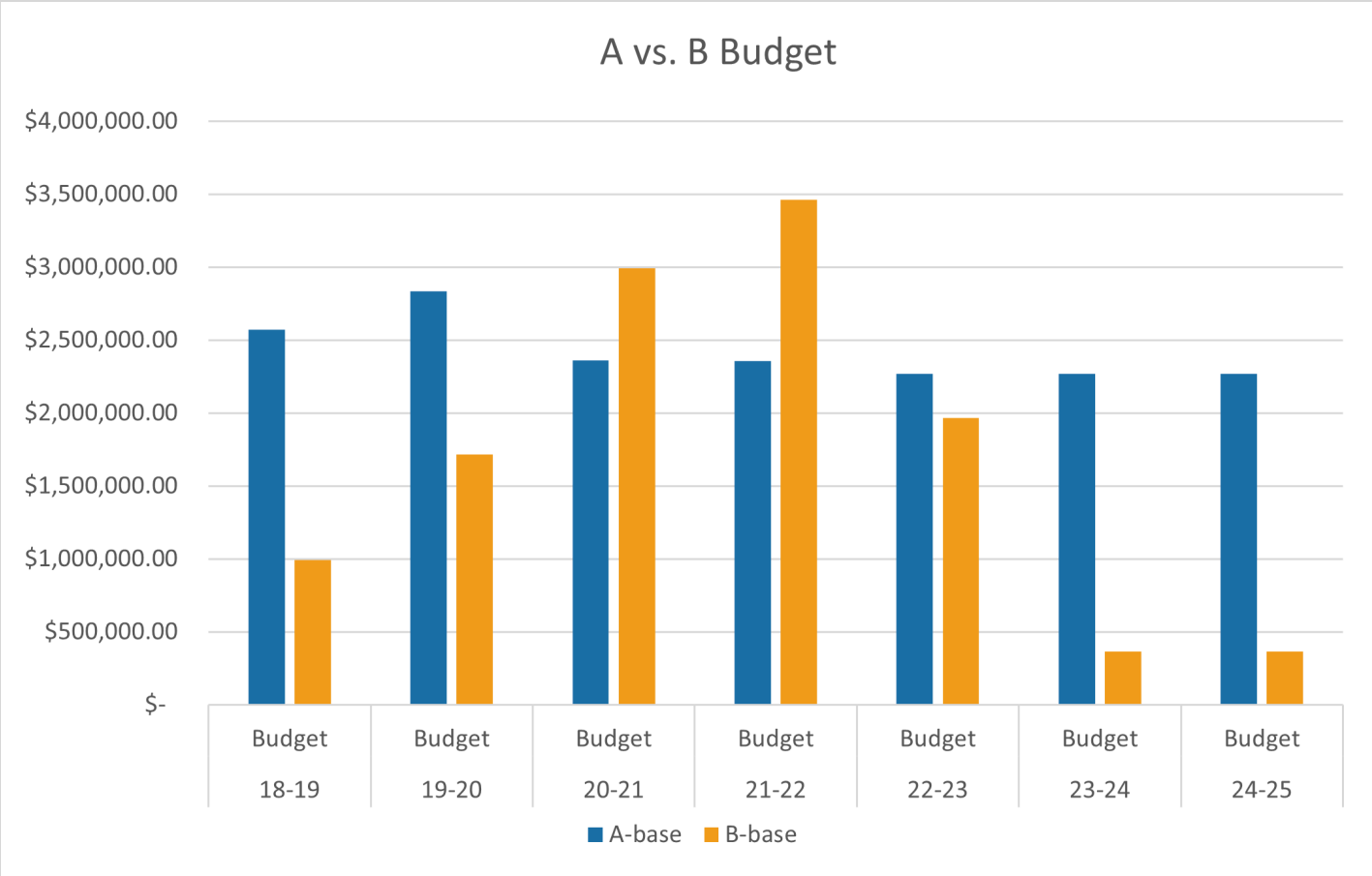
Fiscal year	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Number of B Base initiatives	9	13	17	17	14

## Total salary for Indigenous Partnerships and Engagement (M40) over 5 years



► Figure 4: Total salary for Indigenous Partnerships and Engagement (M40) over 5 years

## IR A-base and B-base funding per fiscal year



► Figure 5: IR A-base and B-base funding per fiscal year – A vs. B budget

24%	Drop in salary from fiscal year 2021-2022 to 2022-2023
47%	Drop in salary from fiscal year 2021-2022 to 2023-2024
86%	of salary is A base in fiscal year 2023-2024, 2024-2025

# Annex E – Survey methodology

In January 2022 we sent two surveys via email to 153 TC employees identified by different groups in HQ and the Regions:

The **client survey** was sent to 10 different groups that IR identified as their clients. It was completed by 49 employees out of 80 – a 61% response rate. Note that not all employees who were identified by these groups and who completed the survey have received individual support from IR/IRU.

The **inspector survey** was sent to 73 regional TC employees in the two groups that IR identified who primarily use their services: Marine Safety and Security (MSS) and Surface. This survey was completed by 26 employees – a 36% response rate. A few employees who are not inspectors also completed the survey. There was no response from MSS Ontario, and Surface ATL, QC, and ON didn't identify any inspectors who work or engage with Indigenous groups.

## Limitations

Data collection was conducted during the COVID-19 pandemic when engagement and consultation activities were disrupted. There may have been an impact on newer employees' level of experience engaging/consulting and the timing may have influenced how employees responded to certain questions.

## Number of client/inspector responses per TC program

Program	Client responses	Inspector responses
Air, Marine and Environmental Programs	7	N/A
Environmental Policy	4	N/A
Marine Policy	4	N/A
Marine Safety and Security	19	23
Navigation Protection Program	1	N/A

Surface	1	3
Transportation and Infrastructure	2	N/A
Transportation of Dangerous Goods	11	N/A
<b>Total:</b>	<b>49</b>	<b>26</b>

## Number of client/inspector responses per region

Region	Client responses	Inspector responses
Pacific	2	5
Prairie and Northern	3	3
Ontario	N/A	N/A
Quebec	3	13
Atlantic	12	5
NCR	29	N/A

## Number of client/inspector responses per position

Position (grouped)	Client responses	Inspector responses
Executive	1	1

Inspector/Officer/ Surveyor	14	22
Manager/Chief	15	2
Policy/Program Analyst/Advisor	16	N/A
Other	3	1

## Footnotes

- 1 Information from CIRNAC – Interim guidance on Indigenous engagement
- 2 Bill C-15 - An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples
- 3 See Annex D for the number of B-based initiatives supported by IR per fiscal year and projected changes in salary funding.
- 4 See Annex B for a list of IR activities.
- 5 please refer to section “Tools – Finding 6” for additional information



- 6 Public Services and Procurement Canada: Government of Canada announces federal-wide measures to increase opportunities for Indigenous businesses
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**Date modified:**

2023-02-16

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