

MNDM POLICY: ASSESSMENT WORK CREDITS - ELIGIBLE EXPENSES RELATED TO CONSULTATION WITH ABORIGINAL COMMUNITIES

The following is operational policy describing MNDM's approach to implementation of O.Reg 6/96 (Assessment Work), as amended, with regard to the eligibility of costs incurred in conducting consultation with Aboriginal communities.

I. Introduction

Claim holders may now receive assessment credit for expenses they incur in conducting consultation with Aboriginal communities in relation to exploration activities proposed for their mining lands.

MNDM's expectations with regard to consultation at early exploration are found in O.Reg 308/12 and further explained in *Policy (Consultation and Arrangements with Aboriginal Communities at Early Exploration)*. The processes established through that regulation and *Policy* have generally limited process requirements, depending on the nature or complexity of a project and its potential impacts.

At these early stages, MNDM has retained the responsibility to notify First Nation and Métis communities, as appropriate, and to solicit their input with regard to potential impacts of a proposed project to their existing or asserted treaty or Aboriginal rights.

The claim holders, as delegates of the Crown and for their own business purposes, also have an important role to play in consultation processes. They are in the best position to describe their projects and are best positioned to discuss ways of adjusting their plans to address concerns raised by Aboriginal communities while still preserving the feasibility of their project.

MNDM also recognizes that consultation, begun early, can help to build relationships and goodwill and bring certainty to a project that government approvals alone cannot provide, ideally through arrangements reached between communities and project proponents. As such, MNDM continues to encourage notification and consultation with communities prior to formal submissions or applications to the ministry.

II. Eligibility

In order to encourage early and ongoing consultation as a best practice, MNDM is prepared to give assessment work credit for expenses reasonably incurred in conducting these processes, where the process is intended to:

- Share information about the proponent and proposed activities;
- Gather information from communities about potential adverse affects of proposed activities on their treaty or Aboriginal rights;

- Develop mechanisms - through changes to projects plans, negotiated agreements, etc. - to address concerns raised.

In this context, MNDM recognizes the following categories as costs that might reasonably be incurred to advance a consultation process and reach a resolution on appropriate measures to address concerns raised:

- **Document preparation** - maps and other documents, not produced in the usual course of business, that are required to assist in information sharing with communities; translation costs, where necessary.
- **Travel expenses** - for proponent to travel to community or for community members to travel to other locations (site visits, meeting locations) and related accommodation costs.
- **Meeting costs** - facilities, catering, associated expenses.
- **Technical expertise/Professional services** - for third party review of technical documents; for studies or mapping projects, where agreed to as necessary or appropriate.
- **Honoraria** - as may be agreed to in advance, for elders or other designated community members directly participating in a consultation process due to their special knowledge or experience and status in the community.
- **Administration** - actual costs incurred for postage and courier charges; long distance charges; photocopying, etc.
- **Other expenses** - where clearly linked to the consultation process and which the ministry considers reasonable.

MNDM also recognizes that costs associated with consultation are often formalized in arrangements or agreements reached between communities and project proponents. For administrative convenience in lieu of detailed and itemized costs and accounting, consultation costs captured in these agreements are often reflected as a lump sum representing, for example, a set percentage of the exploration budget. Where such an agreement is reached and costs to support the consultation process are reflected in the agreement, those costs will be eligible for assessment work credit.

NOTE: Credit will be given only for costs related to consultation conducted with those communities identified by MNDM for consultation. Direction should always be sought from MNDM as to the appropriate communities to consult.

For greater clarity, costs that will **not** be considered eligible as related to consultation processes include:

- Fees or monies paid by way of “access” or to simply enter a consultation process, unless directly attributable to, and structured as, supporting the capacity of a community to participate in the consultation process;

- Goodwill contributions: donations to local institutions or cultural events; donations of goods or services (eg: sporting goods to community teams; company jackets to community members, etc.); etc.

III. Documentation

Claim holders should be prepared to provide details of the specific steps they have taken in consulting with Aboriginal communities (see reporting requirements and Consultation Report referenced in *Policy: Consultation and Arrangement with Aboriginal Communities at Early Exploration* (“*Consultation and Arrangements*”)) and be able to directly relate claimed expenses to those specific efforts.

Consultation costs will be required to be filed on the appropriate assessment work form, accompanied by a separate technical report, which will provide details with regard to, for example:

- Date the expense was incurred (eg. meeting date and times);
- The nature of the expense (particularly as related to the above-listed cost categories);
- Who was involved (if appropriate);
- Specific costs associated with the expense claimed.

Receipts for the claimed expenses are not required to be filed at the time of reporting but appropriate records and receipts should be maintained and could be requested by MNDM at any time in order to verify expenses claimed and confirm consistency with MNDM’s *Policy: Consultation and Arrangements*.

Where consultation costs are reflected in an arrangement reached between Aboriginal communities and the proponent/applicant, MNDM will require sufficient information with regard to the arrangement (the parties involved; the nature of the commitments with regard to consultation; the amount being claimed for assessment credit) and confirmation from all parties to the arrangement of its existence and costs committed to consultation. This could be satisfied by filing a copy of the arrangement itself, or by providing memorandum or other documentation, signed by the parties, confirming the existence of the arrangement and commitments made.