Application of Fixed Additional Time

Background

* This is intended to address concerns raised in the community comments to IOT public comments, and shared by members of this IOT, that the time limits for bringing an IRP should not have the effect of dissuading a claimant from pursuing other accountability mechanisms which might serve to narrow or resolve the matters in dispute, such as the Request for Reconsideration (RFR), for fear that by doing so they would be past the deadline to file the IRP.
* The IOT’s initial discussions on this topic considered tolling of the time limit to bring an IRP to account for time spent in a related RFR. Some members of the IOT raised concerns about the complexity and the potentially lengthy period, in total, before an IRP might be brought. The proposal for allowing a period of Fixed Additional Time arose out of the desire to strike a reasonable balance.
* The IOT also considered the question of whether a Dispute which is appropriate for an IRP might also fall within the scope of the RFR process, and the majority concluded that it could.

Agreement reached

* The agreement applies where a potential claimant to an IRP first brings an RFR relating to the same Dispute, provided of course that at the time the RFR is brought the claimant is not already out of time to file an IRP.
* Where that RFR does not serve to wholly resolve the dispute, and the claimant now intends to commence an IRP (or a Cooperative Engagement Process (CEP) as a precursor to an IRP), they will have the following time to do so:  
  + If the claimant is not past the deadline to file an IRP as of the time of the publication of the Approved Resolution by the Board on the final disposition of the RFR (or publication of the summary dismissal by the BAMC where appropriate) and the remaining time to file an IRP is greater than or equal to 30 days then the claimant will have this remaining time to file an IRP.
  + If the claimant is past the deadline to file an IRP or has less than 30 days to file an IRP as of the time of the publication of the Approved Resolution by the Board on the final disposition of the RFR (or publication of the summary dismissal by the BAMC where appropriate) then the claimant would be granted 30 days fixed additional time (FAT) to file an IRP from the time of the publication of the Approved Resolution by the Board on the final disposition of the RFR (or publication of the summary dismissal by the BAMC where appropriate).
  + Provided that the IRP is commenced (or the CEP is initiated) within the 30-day FAT period, the claimant will not be considered time-barred to file their IRP.
* tThe IOT also considered applying the concept of FAT where a claimant initiates CEP. This will be discussed when the IOT reviews, and if necessary revises, the CEP rules. .
* The IOT did not agree to apply the concept of FAT to complaints to the Ombuds or to DIDP requests.