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Canada

Directive on Official Languages for People Management

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Directive on Official Languages for People Management

1. Effective Date

1.1 This directive comes into effect on November 19, 2012. It replaces the [Directive on the Linguistic Identification of Positions or Functions](#) and the [Directive on the Staffing of Bilingual Positions](#).

2. Application

2.1 This directive applies to [institutions](#) subject to Parts IV, V, VI, and section 91 of the [Official Languages Act](#), except for the Senate, the House of Commons, the Library of Parliament, the office of the Senate Ethics Officer, and the office of the Conflict of Interest and Ethics Commissioner.

2.2 Appendix 1 (Linguistic Identification of Positions) applies to all institutions mentioned above. It also contains certain requirements that apply only to institutions listed in Schedules I or IV of the [Financial Administration Act](#) (FAA).

2.3 Appendix 2 (Staffing Rules) applies only to institutions that are subject to the [Public Service Employment Act](#) (PSEA).

3. Context

3.1 This directive supports the [Policy on Official Languages](#) by setting out requirements related to the linguistic identification of a [position](#), the staffing of bilingual positions, and the equitable participation of English-speaking and French-speaking Canadians in federal institutions.

3.2 The [Official Languages Act](#) (OLA) provides that English and French are the languages of work in institutions and that employees have the right to use either official language in accordance with Part V of the OLA.

3.3 The languages of work used in institutions are identified by geographic region. English and French are the languages of work in [bilingual regions](#). In [unilingual regions](#), the language of work is generally the one that predominates in the province or territory.

3.4 The languages used for communications with and services to members of the [public](#) are identified for each office of an institution. In [designated offices](#), members of the public have the right to choose between English and French.

3.5 Leadership in the area of official languages calls on all managers in institutions:

- to respect the language-of-work rights of employees;
- to create and maintain a workplace that is [conducive](#) to the use of English and French in bilingual regions;
- to communicate to employees the role that official languages play in service excellence for Canadians.

3.6 This directive is issued by the Treasury Board pursuant to its authority under section 46 of the OLA.

3.7 This directive must be read in conjunction with Parts IV, V, VI and Section 91 of the OLA, the [Policy on Official Languages](#) and related instruments such as:

- the [Directive on Official Languages for Communications and Services](#);
- the [Bilingualism Bonus Directive](#);
- the [Qualification Standards in Relation to Official Languages](#).

4. Definitions

Please refer to Appendix 4.

5. Directive Statement

5.1 Objective

To establish, across institutions, sound and consistent practices and procedures for [Deputy heads](#) or their delegates, and Heads of Human Resources for the following:

- responsibilities with regard to language-of-work obligations;
- steps to follow for the linguistic identification of positions; and
- conditions for staffing bilingual positions.

5.2 Expected results

Appropriate measures are in place to ensure that:

- 5.2.1 language-of-work rights of employees are respected;

- 5.2.2 the linguistic identification of positions is based on a consideration of the tasks to be performed or implements predetermined linguistic requirements for executive positions;
- 5.2.3 bilingual positions are staffed with candidates who meet the language requirements at the time that they are appointed, unless [exceptional staffing situations](#) exist;
- 5.2.4 English-speaking and French-speaking Canadians have equal opportunities for employment and advancement in the institution while respecting the merit principle as set out in section 39 (3) of the OLA.

6. Requirements

6.1 Language of work

Managers and supervisors are responsible for:

- 6.1.1 (Work instruments) Providing employees in bilingual regions with [regularly and widely-used work instruments and electronic systems](#) (work instruments) in both official languages. In unilingual regions, employees are provided with work instruments in both official languages if they require them to communicate or provide services to the public or employees in English and French.
- 6.1.2 (Supervision) Supervising employees located in bilingual regions in the official language of the employee's choice when they occupy bilingual or either/or positions, and in the language of the position when they occupy unilingual positions.
Managers and supervisors who occupy bilingual positions in bilingual regions supervise each employee in the language chosen by that employee regardless of the linguistic identification of the employee's position.
- 6.1.3 (Meetings) Taking all necessary measures to enable employees in bilingual regions to use the official language of their choice in meetings.
- 6.1.4 (Training and development) Ensuring that training and professional development is available to employees in bilingual regions in the official language of their choice.
- 6.1.5 (Performance reviews) Ensuring that, in institutions for which the Treasury Board is the employer, annual performance reviews and appraisal ratings reflect compliance with this directive, and associated directives and standards.
- 6.1.6 (Other measures) Taking all possible measures to create and maintain a work environment that allows employees to use the official language of their choice in bilingual regions for both oral and written communication purposes.

Deputy heads or their delegates are responsible for:

- 6.1.7 (Personal and central services) Providing [personal and central services](#) to employees in bilingual regions in the official language of the employee's choice.
- 6.1.8 (Language training for career development) Offering language training to employees who wish to develop their second-language skills in order to advance in their career and possibly hold bilingual positions in the future. English-speaking and French-speaking employees have equal access to language training for career development purposes. The terms and conditions are negotiated between the employee and the manager. They reflect the respective needs of employees and the institution, as well as the available resources.
- 6.1.9 (Central and common services agencies) Ensuring that [central and common services agencies](#) respect the language-of-work rights of employees in institutions over which they have authority or that they serve.
- 6.1.10 (Grievances) Ensuring that employees whose employer is the Treasury Board can file a grievance in the official language of their choice anywhere in Canada.

6.2 Linguistic identification of positions

Managers are responsible for the following:

- 6.2.1 (Linguistic identification) Determining the linguistic identification of a position and ensuring that it reflects the functions and duties related to that position. They do so by:
 - 6.2.1.1 objectively determining if the position requires the use of one or both official languages; and
 - 6.2.1.2 objectively establishing the required level of proficiency in the second official language if the position requires the use of both official languages.
- 6.2.2 (Reviewing the linguistic identification) Objectively reviewing the identification of positions in any activity that affects human resources, such as staffing actions, reorganizations or reclassifications. If changes are made, the incumbent is informed in writing as soon as possible.
- 6.2.3 (Specific requirements) Applying the additional requirements listed at Parts I and II of Appendix 1 (linguistic identification of positions) of this directive.
- 6.2.4 (Executive Positions) Applying the predetermined identification of executive positions listed at Part III of Appendix 1 (linguistic identification of positions).

6.3 Staffing bilingual positions

Managers are responsible for the following:

- 6.3.1 (Identification) Establishing the linguistic identification of the position before beginning a staffing process.
- 6.3.2 (General rule) Staffing bilingual positions with candidates who meet the language requirements at the time that they are appointed.

- 6.3.3 (Exception to the general rule) In exceptional staffing situations, applying the following measures when a bilingual position is staffed with a candidate who does not meet the language requirements:
 - 6.3.3.1 (Language training) Ensuring language training is provided as soon as possible so the candidate can acquire the second-language skills required.
 - 6.3.3.2 (Accommodation) Ensuring steps are taken to [accommodate](#) an individual with a disability or an identified learning disability that may hinder learning the other official language.
 - 6.3.3.3 (Measures) Putting in place measures to fulfil the tasks and functions linked to the position while the person occupying the position does not meet the language requirements.
- 6.3.4 (Special cases) Ensuring that bilingual positions are always staffed with a candidate who meets the language requirements of the position in the following cases:
 - When the position is staffed for a specified period;
 - When the position requires technical or specialized language proficiency;
 - When a [bilingual position is indispensable](#) for providing services to the public or employees in both official languages.

Deputy heads or delegated managers are responsible for:

- 6.3.5 (Specific requirements) Applying the additional requirements listed at Appendix 2 (Staffing rules) for institutions subject to the PSEA.

6.4 Equitable participation of English-speaking and French-speaking Canadians

Human Resources Advisors are responsible for:

- 6.4.1 (Recruitment measures) Providing advice to managers and supervisors on possible recruitment measures (see Appendix 3 of this directive) to ensure the equitable participation of English-speaking and French-speaking Canadians.

6.5 Monitoring and reporting

Heads of Human Resources are responsible for:

- 6.5.1 Ensuring compliance of their institution with this directive;
- 6.5.2 Taking corrective measures if they become aware of cases of non-compliance;
- 6.5.3 Keeping files and information systems current in order to provide reports to the Office of the Chief Human Resources Officer within the Treasury Board Secretariat (OCHRO-TBS) upon request.

7. Consequences

The consequences for non-compliance with this Directive are set out in the respective section of the [Policy on Official Languages](#).

8. Roles and Responsibilities of Government Organizations

The roles and responsibilities related to this Directive are set out in the respective section of the [Policy on Official Languages](#).

9. References

Legislation

- [Canadian Charter of Rights and Freedoms](#)
- [Official Languages Act](#)
- [Financial Administration Act](#)
- [Public Service Employment Act](#)
- [Public Service Employment Regulations](#)
- [Public Service Official Languages Appointment Regulations](#)
- [Public Service Official Languages Exclusion Approval Order](#)

Treasury Board Policy Instruments

- [Qualification Standards in Relation to Official Languages](#)
- [Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service](#)

Other publications

- [Bilingualism Bonus Directive](#)

10. Enquiries

For questions regarding this policy, please contact the [Person responsible for official languages](#) or [TBS Public Enquiries](#).

Appendix 1: Linguistic identification of position

Part I – Language Requirements

Managers in institutions listed at schedules I or IV of the [Financial Administration Act](#) (FAA) identify the language requirements of positions as follows:

- English Essential if the functions and duties of the position will only require the use of English (unilingual English position).
- French Essential if the functions and duties of the position will only require the use of French (unilingual French position).
- Bilingual if the functions and duties of the position will require the use of both English and French (bilingual position).
- Either/or if the functions and duties of the position will only require the use of one official language and the incumbent chooses which language he/she will use. The language of the position is the one chosen by the incumbent as long as they remain in this position (either/or position).

Part II – Linguistic Profile

If a position is identified bilingual, managers establish the level of proficiency required in the second official language.

The linguistic profile reflects the functions and duties the incumbent will be required to perform in their second official language.

Managers in institutions listed at schedules I or IV of the FAA apply the [Qualification Standards in Relation to Official Languages](#). The language proficiency levels of positions involving service to the public or to employees, as well as supervision of employees, are identified at the BBB level or higher.

Part III - Predetermined linguistic identifications of executive positions

(Assistant Deputy Minister level) Throughout Canada, positions at the assistant deputy minister level or [equivalent](#) are designated bilingual requiring a superior level of proficiency in the second official language. A superior level for institutions listed in schedules I or IV of the FAA is CBC.

(Other executive positions) Other executive positions are designated bilingual requiring a superior level of proficiency in the second official language so that incumbents in bilingual regions can carry out their duties and fulfil their obligation to create a workplace that is conducive to the use of English and French, if the position includes one or more of the following:

- the supervision of employees in bilingual positions or employees in positions with varying language requirements (e.g. English-essential AND French-essential positions or English/French essential AND bilingual positions);
- participation as a regular member in the institution's management team;
- significant role in exercising the institution's authority to direct, or to provide services to, other institutions;
- significant functions related to representing the institution to the public or employees of the institution;
- a significant role in the co-ordination of programs or activities of employees in bilingual regions.

A superior level for institutions listed in schedules I or IV of the FAA is at least CBC.

Appendix 2: Staffing rules applicable to institutions subject to the Public Service Employment Act (PSEA)

Deputy heads or their delegates are responsible for ensuring the following:

(Executives) [Imperative staffing](#) is obligatory in the following circumstances:

- Throughout Canada for assistant deputy minister level or [equivalent](#) positions
- In bilingual regions, for all EX-02 to EX-05 positions
- In unilingual regions, for all EX-02 to EX-05 positions that include supervision of employees located in bilingual regions who occupy bilingual positions or positions with varying language requirements.

(External appointments) Imperative staffing is not mandatory in the case of external appointment processes ("open to the public") for indeterminate positions. Such appointments may be made either imperatively or [non-imperatively](#).

(Justification) Managers staffing bilingual positions non-imperatively provide the reasons and a justification in writing. They explain the measures taken to ensure that the position's bilingual functions are carried out until such time as the incumbent meets the position's language requirements.

(Non-imperative Staffing) The provisions of the [Public Service Official Languages Exclusion Approval Order](#) as well as the [Public Service Official Languages Appointment Regulations](#) are applied when a non-imperative staffing process is used.

(Reclassification) The language requirements of a position are reviewed when it is reclassified. Reclassifications are considered appointments and are subject to the PSEA.

(Modifications of language requirements or linguistic profiles) Whenever the language requirements or the linguistic profile of a

position are modified, the incumbent is informed in writing within ten working days following the date of the modification. If the incumbent does not meet the position's new language requirements or its linguistic profile, the incumbent may remain in the position without having to meet the new requirements or the linguistic profile. If the position becomes bilingual or its linguistic profile is raised, the institution provides language training to the employee. The employee is strongly encouraged to take the training. The institution must take administrative measures to have the functions of the position carried out in both official languages.

The provisions of the preceding paragraph do not apply in the case of the selection of employees for retention pursuant to section 21 of the [Public Service Employment Regulations](#).

(Non-imperative Deployments) Deputy heads or their delegates are responsible for managing non-imperative deployments. The same provisions governing a non-imperative appointment are applied to deployments. The employee has to meet the language requirements of the position within the exclusion period, even if he or she is [deployed on a non-imperative basis](#) to another bilingual position with the same or lower linguistic profile. If the employee is deployed to a position with a higher linguistic profile, a new exclusion period begins on the date of the deployment.

Appendix 3: Recruitment Measures

Some possible recruitment measures are the following:

- extending the area of selection in order to include candidates from both official language groups;
- adopting a recruitment strategy for an official language group when it may improve its participation in the staffing process; and
- ensuring the linguistic composition of the assessment committee reflects the range of candidates.

Certain practices are not acceptable:

- setting or implementing quotas (numerical objectives or targets) for the number of Anglophones or Francophones, or both, to be appointed to a given number of positions over a given time period.
- arbitrarily defining positions' language requirements to encourage the recruitment of members of a single official language group.

Appendix 4: Definitions

accommodate

To adapt teaching methods and other teaching approaches, as well as scheduling, duration of training, training-related evaluation processes, premises and materials, to the needs of persons with disabilities or learning disabilities that can impede the learning of a second official language. See the [Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service](#).

bilingual position is indispensable

This applies when the positions are linguistically indispensable because the provision of services depends on direct spoken or written communication by persons and the quality or availability of service in either of the official languages would be inadequate without this capacity. Imperative staffing should be used in the following circumstances (not an exhaustive list):

- when the bilingual position is one of the very few in an office that provides services to the public or employees;
- when the bilingual position is the only one that provides certain services;
- when the bilingual position is one of several providing similar services but there are not enough incumbents who meet language requirements to ensure service in both official languages at all times;
- when the functions of the position require the capacity to communicate promptly and accurately in both languages in situations where the communication has a direct bearing on the health, safety or security of the public or the occupants of the office (e.g. a position responsible for communicating instructions within the context of internal security services or for the management of emergency situations).

bilingual regions

The [list of Bilingual Regions of Canada for Language-of-Work Purposes](#) is available on the TBS Web site.

central and common services agencies

Common service organizations are listed in Appendix B of the [Common Services Policy](#).

The Privy Council Office, the Department of Finance and Shared Services Canada are also central agencies for the purposes of this policy instrument.

conducive (workplace)

An organizational culture in which employees are systematically encouraged to use the official language of their choice in the workplace.

deployed on a non-imperative basis

During the initial period:

The following situations may arise, depending on the language profile of the position to which the person is deployed:

- If the position to which the person is deployed (2nd position) has the same linguistic profile as the position the person holds initially (1st position), the initial exclusion period for meeting the position's language requirements still applies.
- If the 2nd position has a lower linguistic profile, the incumbent no longer has to meet the requirements of the 1st position, but does have to meet the requirements of the 2nd position within the initial exclusion period.

deputy heads

This term is equivalent to “deputy minister”, “chief executive officer” and other titles denoting this level of responsibility.

designated offices

An office is designated bilingual for communications with and services to the members of the public if it meets criteria set out in the OLA or in the Regulations such as (not an exhaustive list):

- an institution's head or central office;
- an office within the National Capital Region;
- an office of an institution that reports directly to Parliament;
- an office where there is significant demand for services in either official languages.
- an office where, due to its nature, it is reasonable that communications with and services from that office be available in both English and French.

A list of offices designated bilingual is available in [Burolis](#).

equivalent

- In institutions listed in Schedules I or IV of the FAA, the term "equivalent" refers to positions approved by the TB as equivalent to the positions of an assistant deputy minister, even though the title does not include the term "assistant deputy minister."
- In institutions that do not appear in these schedules, “equivalent” refers to management positions where the level of authority exercised and organizational role are similar to those of an assistant deputy minister position (for example, the duties of a vice president in a Crown corporation), considering these institutions' individual administrative and operational structures.

exceptional staffing situations

The following are examples of staffing situations in which a candidate who does not meet the language requirements may be considered:

- when the potential applicant pool is very limited due to the highly specialized nature of the duties and the knowledge needed for a position;
- when the institution would receive an insufficient number of applications from members of one or the other official language community.

imperative staffing

Staffing procedure for a bilingual position where only applicants who meet all the position's qualifications, including language skills, at the time of appointment can be appointed.

institutions

Institution means:

- Any institution subject to Parts IV, V and VI and section 91 of the OLA, except for the Senate, the House of Commons, the Library of Parliament, the office of the Senate Ethics Officer and the office of the Conflict of Interest and Ethics Commissioner. For a formal definition of “federal institutions”, see section 3 of the OLA; and
- Any institution whose acts of incorporation provide for the application of the OLA (e.g. Air Canada and NavCanada).

non-imperative staffing

Staffing procedure for a bilingual position allowing the consideration of applicants who meet all essential qualifications except for the requisite language skills. The [Public Service Official Languages Exclusion Approval Order](#) and the [Public Service Official Languages Appointment Regulations](#) specify the circumstances in which non-imperative staffing is permitted.

personal and central services

In bilingual regions, personal and central services are offered to all employees in the official language of their choice. These services are those that affect the employee on a personal level (their health and well-being, personal development, their career) or that are essential for the employee to perform their duties. Some examples:

Personal services:

- pay and benefits services
- career counselling services

Central services:

- information systems services
- legal services

position

The term "position" includes positions or functions.

public

Any person, group of persons (professional associations or others) or organization or company (other than a Crown corporation) in Canada or abroad, any representative of another level of government communicating with or receiving a service from an institution, excluding officers and employees of institutions subject to the OLA when carrying out their duties.

regularly and widely-used work instrument and electronic systems

For example, the following work tools or instruments are available in both official languages in bilingual regions:

- manuals and handbooks of policies, procedures and directives;
- handbooks and documentation needed to deliver services to the public or to employees; and
- lexicons, official institutional publications, forms and templates that employees consult and other similar tools that they use in performing their duties.

Note that this list is not exhaustive. The institution is responsible for deciding on a case-by-case basis whether work instruments meet the definition of "regularly and widely used."

With regard to computer systems, those provided to employees as information sources or work tools must allow navigation and access to information in either official language; the information must also be available in the official language of the user's choice.

- This includes software applications, such as an office automation suite (word processor, electronic document management, spreadsheet, e-mail, etc.) made available to employees to perform their duties.
- In general, this does not include specialized software such as that used by system managers and support technicians to install, configure, maintain and manage the underlying software and hardware infrastructure that makes the institution's software suite available to employees.
- Regularly and widely used information technology systems, including software packages, acquired or produced by or on behalf of institutions after January 1, 1991, are available in both official languages.

unilingual regions

Any region that is not in the list of [bilingual regions](#).