



# **Directive on the Implementation of the Official Languages (Communications with and Services to the Public) Regulations**

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communications avec le public et prestation des services

# Directive on the Implementation of the Official Languages (Communications with and Services to the Public) Regulations

## 1. Effective date

- 1.1 This directive comes into effect on November 19, 2012.
- 1.2 Subsection 6.2.3 of this directive comes into effect on November 30, 2016.
- 1.3 This directive replaces the following instruments:
  - [Directive A: Consultation of minority official language populations on the implementation of regulatory provisions concerning the principle of proportionality](#)
  - [Directive B: Assessment of demand within the context of the Official Languages Regulations](#)
  - [Directive C: Operational definition of the concept of restricted clientele with respect to the provisions set out under the specific circumstances for significant demand](#),
  - Implementation principle of the Treasury Board pursuant to paragraph 46(2)(a) of the Official Languages Act for the implementation of Part IV of the Act, with respect to the concept of significant demand under circumstances determined by the Official Languages Regulations: Communications with and Services to the Public.

## 2. Application

- 2.1 This directive applies to all institutions subject to the [Official Languages Act](#) (OLA), including departments, organizations, Crown corporations and privatized organizations affected by constituting legislation or any other legislation containing provisions according to which they are subject to 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.

## 3. Context

- 3.1 The OLA stems from the [Canadian Charter of Rights and Freedoms](#). It reaffirms that English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in the institutions of the Government of Canada. The OLA stipulates the obligations of institutions in the area of official languages. The [Official Languages \(Communications with and Services to the Public\) Regulations \(the Regulations\)](#) is the instrument implementing some of the key provisions of Part IV of the OLA in terms of communications with and services to the public. It specifies the circumstances under which the “nature” of the office or facility justifies the provision of bilingual services and sets criteria that determine whether or not there is significant demand for services in both official languages. In the latter case, the Regulations require that the most recent decennial census data be used.
- 3.2 This directive supports the [Policy on Official Languages](#) by dealing with various operational aspects associated with the implementation of the Regulations, namely:
  - The time frame for an office automatically designated bilingual under a provision relating to the nature of the office or significant demand for services to implement the measures enabling the office to fulfill its language obligations;
  - The time allotted to an institution to measure demand for services in both official languages and the associated terms and conditions;
  - The time frame for an office designated bilingual following a measurement of demand to implement the measures enabling it to fulfill its language obligations;
  - The cycle for updating the language obligations of offices subject to provisions relating to specific circumstances;
  - The terms and conditions, as well as the length of, the transition period for offices which are no longer required to provide services in both official languages; and
  - The establishment of a clear definition as to what constitutes restricted and identifiable clientele.
- 3.3 This directive enables the Government of Canada to minimize the risks of applications for remedy before the courts because of the non-respect, by institutions, of the rights of the public to communicate with and receive services from these institutions in the official language of their choice.
- 3.4 This directive is issued by the Treasury Board pursuant to section 46 of the OLA.
- 3.5 This directive must be read in conjunction with Part IV of the OLA, its Regulations, the [Policy on Official Languages](#) and the [Directive on Official Languages for Communications and Services](#).

## 4. Definitions

Refer to the [Appendix](#).

## 5. Directive statement

### 5.1 Objective

The purpose of this directive is to ensure a consistent and coherent implementation of the Regulations by specifying certain aspects therein.

### 5.2 Expected results

- In situations where a measurement of demand for services must be conducted, institutions have determined the language obligations according to the methods and the time frames stipulated in this directive;
- In situations where the principle of proportionality applies, institutions have determined the number of designated bilingual offices according to the requirements of the Regulations and of the directive, and, if necessary, have consulted the language minority population as to the choice of location of new bilingual offices;
- A newly designated bilingual office has implemented measures to fulfill its language obligations within the time allotted by the directive;
- Institutions have rigorously respected the time frames and terms and conditions that apply in situations where offices are no longer required to provide services in both official languages; and
- Institutions have updated the language obligations of their offices according to the time allotted, as well as terms and conditions outlined in this directive.

## 6. Directive requirements

### 6.1 Application of the Regulations

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

- 6.1.1 [Offices](#) that must measure the demand for services made by the public fulfill their obligations in this regard as soon as possible. They have a maximum of two years to do so. If necessary, they have a maximum of one year from the date on which the language obligations are determined to provide bilingual services or to discontinue providing these services;
- 6.1.2 Determine whether some of their offices meet the operational definition of [restricted and identifiable clientele](#) outlined in this directive. If necessary, measure demand using a method that enables them to determine, for each office, the language preference of each of their clients;
- 6.1.3 In situations where the [principle of proportionality](#) applies, round up to the nearest whole number if the results of calculations of the number of offices that must provide services in both official languages are fractional. This number must be increased by one more office per service if the institutions offer any of the [key services](#) in the Montréal or Toronto Census Metropolitan Areas; and
- 6.1.4 When the principle of proportionality applies to their offices, in addition to taking into consideration the factors outlined in the Regulations, consult the English- or French-speaking minority population that they serve regarding the choice of office(s) that have significant demand for services in both official languages;

Deputy heads or their delegated office managers are responsible for ensuring the following:

- 6.1.5 In the case of offices subject to a provision of the Regulations relating to the delivery of bilingual services, either automatically, following the calculation of proportionality, or the establishment of the service area, implement the measures needed to fulfill their language obligations as soon as possible. They have a maximum of one year either from the date on which the language obligations are determined or from the date on which the thresholds set by the Regulations are reached, as the case may be; and
- 6.1.6 In the case of offices subject to a provision related to general circumstances that does not call for measuring the demand for services and that are no longer required to provide services in both official languages based on the demographic data of the decennial census, continue to provide bilingual services until the minority population they serve is consulted about the terms and conditions and the date scheduled for the discontinuation of bilingual services, and informed of the locations of offices where services are provided in the population's official language in person, via telephone, in writing or via a website. They have a maximum of two years to conclude these consultations.

### 6.2 Updating language obligations following the decennial census of the population

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

- 6.2.1 Review and update every 10 years the language obligations of all offices subject to the provisions of the Regulations relating to significant demand following the publication of the Population Estimates by First Official Language Spoken of the most recent decennial census;
- 6.2.2 Fulfill their obligations in this regard according to the terms and conditions and within the time frame established in section 6.1 above: Application of the Regulations; and

- 6.2.3 Despite subsections 6.2.1 and 6.2.2 of this directive, and in order to facilitate a regulatory review, take administrative measures to ensure that offices that are no longer required to communicate with and provide services to the public in both official languages following the publication of the Population Estimates by First Official Language Spoken of the most recent decennial census continue to communicate with and provide services to the public in both official languages until the first of the following two dates: (1) the coming into force of new regulatory measures, if any, following a regulatory review, or (2) such time as deputy heads or their delegates review and update the language obligations of offices subject to the provisions of the Regulations, pursuant to subsection 6.2.1 of this directive and to section 3 of the Regulations, following the publication of the Population Estimates by First Official Language Spoken of the next decennial census in 2021.

## 6.3 Other requirements

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

- 6.3.1 Use methods to obtain proven results in situations involving offices, except for those serving restricted and identifiable clientele, which must measure the demand for services in both official languages;
- 6.3.2 Ensure that respondents' rights to use either official language are respected when offices must measure demand; and
- 6.3.3 Take into account the fact that projects for assessing demand in either official language covered by the present directive are not considered to be surveys of public opinion as defined in the [Policy on Communications and Federal Identity](#) and therefore do not require the application of Appendix C: Mandatory Procedures for Public Opinion Research of the [Directive on the Management of Communications](#).

## 6.4 Monitoring and reporting

### Government-wide

- 6.4.1 Evaluation of the implementation of the above requirements will be conducted using performance measurement tools identified by the Office of the Chief Human Resources Officer of the Treasury Board of Canada Secretariat.

### Within institutions

- 6.4.2 The deputy head or his or her delegate is responsible for:
- Monitoring his or her institution's compliance with this directive and instituting the necessary corrective measures should there be discrepancies;
  - Keeping up-to-date files and information systems that are used to prepare reports for the Office of the Chief Human Resources Officer of the Treasury Board of Canada Secretariat at its request; and
  - Keeping up-to-date the governmental databases that are used to inform the public on the location of bilingual offices.

## 7. Consequences

The consequences in the event of non-compliance with this directive are listed under the heading "Consequences" of the [Policy on Official Languages](#).

## 8. Roles and responsibilities of government organizations

This section identifies key institutions that are responsible for implementing this directive. In and of itself, it does not confer an authority.

The Office of the Chief Human Resources Officer of the Treasury Board of Canada Secretariat is responsible for:

- Ensuring the integrity of the application of the Regulations by providing institutions with advice and guidance on the Regulations and their application; and
- Providing institutions with data on the population by first official language spoken and coordinating the updating of language obligations for all institutions subject to the OLA following the publication by Statistics Canada of the Population Estimates by First Official Language Spoken of the most recent decennial census.

Statistics Canada gathers data on official languages and publishes Population Estimates by First Official Language Spoken. Upon request and for a fee, it can provide consultation services, as well as those relating to the development of survey methodologies.

See also section "Roles and responsibilities of government organizations" of the [Policy on Official Languages](#).

## 9. References

### Legislation

- [Canadian Charter of Rights and Freedoms](#)
- [Official Languages Act](#)
- [Official Languages \(Communications with and Services to the Public\) Regulations](#)
- [Access to Information Act](#)
- [Privacy Act](#)

## Policy instruments

- [Policy on Official Languages](#)
- [Policy on Information Management](#)
- [Policy on Communications and Federal Identity](#)
- [Directive on Official Languages for Communications and Services](#)

## Other publications

- [A Description of the Official Languages \(Communications with and Services to the Public\) Regulations](#)

# 10. Requests for information

Please direct all requests for information on this directive to the [person responsible for official languages](#) in your institution.

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## Appendix: Definitions

### key service

The Regulations list certain federal services to which specific provisions apply, namely, the following services within a Census Metropolitan Area: post office, employment or human resources centre, Income Security Programs office, tax office, Canadian Heritage office and Public Service Commission of Canada office. Within a Census Subdivision, the key services are the six services listed above, as well as the Royal Canadian Mounted Police detachments.

### office

Any location where a federal institution provides services or information to the public. It can be a post office, a border port of entry, an information counter, a toll-free service telephone number, a train, boat or plane route, or a commemorative plaque.

### principle of proportionality

Principle taken from the Regulations according to which a federal institution with several offices in a given Census Metropolitan Area (CMA) or a Census Subdivision (CSD) must provide services in both official languages in the number of offices equal to or greater than the proportion that represents the minority compared to the total population in the CMA or CSD.

The following provisions of the Regulations concern the principle of proportionality: paragraphs 5(1) (b), (c), (g), (i) and (m).

The Regulations stipulate that the following factors must be considered in the choice of offices that provide communications and services in both official languages: the distribution of the language minority population in the region, the function of the offices, as well as their clientele and their location in the region.

## Example of the application of the principle of proportionality

### Fictional CMA

- Total population: 147,655
- Minority population: 41,850
- Percentage: 28.3

Almost 90% of the French-speaking population of the CMA is found in three of the seven localities that make up the CMA: 48% of the French-speaking population lives in the principal city, 22% in locality A and 20% in locality B.

Under the principle of proportionality, if 10 of the offices of a given institution offer the same services, the number of these offices that have to provide their services in both official languages should be calculated as follows:  $10 \times 28.3\% = 2.8$ , or 3 offices. When the application of proportionality results in a fraction (e.g., 2.8) rather than a whole number, the figure has to be rounded to the next higher whole number. This is because the regulatory provision requires that, in comparison to the total number of the institution's offices in the area, the number of offices offering their services in both official languages must be **at least equal to or greater than** the proportion of the total population that the minority represents. (If the result had been 2.3 or 2.5 out of 10, the number of offices would likewise be three.)

Since a large number of the members of the minority population live outside the principal city, it would be inappropriate to designate three offices in that city as the ones required to serve the public in both official languages.

Thus, it would perhaps be more appropriate to provide services in both official languages at two offices in the principal city and one in either locality A or B, or to offer services in both official languages at one office in each of these three localities.

The final decision will also have to take into account the function of the office and results of the consultation with the minority population.

When the principle of proportionality is applied in a CSD instead of a CMA, the number and location of offices required to provide services in both official languages are determined the same way.

#### restricted and identifiable clientele

1. The services specifically target a restricted clientele. The expression "restricted clientele" designates clientele of an office that has been given the mandate of providing certain services exclusively to a specific group or category of clients. The services that are covered by the restricted clientele provisions are services not available to the general public since they are intended only for clients, or their representatives, that make up a specific group that is defined in a statutory document or a government policy. This would be the case, for example, with businesses or entities carrying out activities in a regulated sector that are registered or that must secure a licence in accordance with federal legislation.

The institution must be able to show that the services in question are intended for a stable clientele, whose composition can be clearly specified. As a general rule, the clientele of an office cannot be considered a restricted clientele if the number of clients to whom an institution provides the type of services described above corresponds to more than 1% of the total population of Canada as defined in subsection 4(2) of the Regulations.

2. The clientele is identifiable. The term "identifiable" means that the name of each client and the official language in which he or she prefers to be served can be determined. The institution has an up-to-date list of its clients.