The Official Languages (Communications with and Services to the Public) Regulations and the Official Languages Regulations Re-Application Exercise

Presentation notes—November 2022

# Slide 1 Presentation on the Regulations and the OLRRE

* Hello, and welcome to the presentation is on the *Official Languages (Communications with and Service to the Public) Regulations* referred to as the Regulations in this presentation.
* This presentation is also focused on the Official Languages Regulations Re-Application Exercise, that we usually call, the OLRRE for short.
* During the presentation, we will have a look at the Regulations and at the OLRRE as well as the institutions’ obligations with respect to the language designation of offices.

# Slide 2 Background

* The Regulations stem from the *Canadian Charter of Rights and Freedoms* and the *Official Languages Act*.
* It is important to note that the *Official Languages Act*, or the OLA,is a quasi-constitutional law.
  + Quasi-constitutional laws are designated as such because they deal with a constitutional matter and express our fundamental values but are passed in accordance with the normal process for passing legislation.
  + They take precedence over all other federal laws.
  + The other two major quasi-constitutional laws are the *Canadian Bill of Rights* and the *Canadian Human Rights Act*.
* Together, the Charterand the OLA give members of the public the right to federal communications and services in the official language of their choice, under the following circumstances:
  + in the National Capital Region;
  + in the institutions of Parliament;
  + at the head offices of the institutions;
  + and where there is significant demand; and where justified by the nature of the office.
* We can see that Parliament did not intend all federal offices to be designated bilingual. In fact, currently only 34 percent of offices are designated bilingual.
* We will come back to the concepts of “significant demand” and “nature of the office” later.

# Slide 3 The Role of the Regulations

* Amendments to the 1991 Regulations were made in 2019.
* Approximately 11,300 offices are subject to the OLA and the Regulations.
* Using various criteria and thresholds in the form of numbers and percentages, the Regulations define, for an existing office:
  + the circumstances where there is significant demand in the minority language, in which case it must be designated bilingual; and
  + cases where the nature of the office justifies it being bilingual.
* Here on the slide, under the first bulb, you’ll see that the Regulations apply to existing federal offices. Therefore, the Regulations do not determine IF an institution needs to open or close an office at any given location, nor to they specify how the office must provide its services.
* How services are offered and how institutions operate are not considered when determining the language designation of an office, unless the services are offered by means of a toll-free number, an automated system or videoconferencing (beginning in about 2023).

# Slide 4 What is Meant by “Office” and “Public”

* The Regulations apply on offices that communicate with and provide services to the public and that are not already bilingual under the OLA, like those mentioned earlier in the NCR or agents of parliament or an institutions’ headquarters.
* An office is a location where a federal institution offers services to, or communicates with, the public.
* The public is any person, group of persons, organization or business that receives services from, or communicates with, federal institutions including representatives of other levels of government.
* When we think of “communications with and services to the public,” we often think of the general public—the average person—who might walk into an office in person to use the services intended for the general Canadian public. However, the concept of communications with and services to the public in the sense of the Regulations is much broader.
* For instance, it can include services and communications by appointment only or on a ferry, or communications with and services to:
  + persons who have committed an offence, for Border Services or the RCMP;
  + the inmate population, if you’re working with Correctional Services;
  + other levels of government, such as municipal or provincial government employees;
  + scientists and academics, for those of you working in science-based departments; or
  + suppliers and other contractors, in the case of Defence Construction Canada.

# Slide 5 Significant Demand

* The Regulations are the instrument for the application of part IV of the OLA, the part on communications and services.
* Under the OLA, the Governor in Council may, by regulation, consider the following criteria in determining whether there is significant demand in English, in French or in both official languages:
  + The size of the linguistic minority in the area served and its proportion to the total population of the area;
  + The particular characteristics of the minority;
  + The volume of communications or services between an office and its users; and
  + any other criteria deemed appropriate.
* These criteria are included in the Regulations through three different kinds of rules:
  + The 1st are General rules
  + The 2nd, Specific rules
  + And the last, the Nature of office rules
* On the next slides, I will discuss these different kinds of rules.

# Slide 6 General Rules – Calculation Method

* Under the first category of general rules, we find the calculation method.
* The calculation method provides data on the size and proportion of the linguistic minority for each census metropolitan area and each census subdivision in Canada.
* This information is essential to determining significant demand and the linguistic obligations of nearly 9,000 of about 11,300 federal offices.
* Since 1991, language data were obtained through the decennial census using a calculation method that took into account answers to questions regarding knowledge of official languages, mother tongue and the language spoken most often at home.
* A new calculation method based on mother tongue and languages spoken at home was developed during the 2019 regulatory review. It came into effect in 2022 and will increase the number and proportion of the minority.
* We will look at how these data are used in the next slides.

# Slide 7 General Rules – Thresholds

* The general rules include criteria and thresholds that are applied to the minority population data obtained using the calculation method.
* In general, the size and proportion of the minority where the office is located are examined. If it meets the thresholds and the office’s situation respects the prescribed criteria, the office is designated as bilingual.
* You have an example here on the slide. If an office is the only one to offer its services in Bathurst, New Brunswick, a census subdivision in which the minority is 500 people or more, representing five percent or more of the total population in the region, then this office is designated as bilingual.
* This is just one example. There are several other rules and criteria. Sometimes, one must determine the service area of ​​an office to see if there is significant demand at an office.

# Slide 8 General Rules – Service Area

* As I was saying, in some cases, the territory or geographic area served by an office must be defined to determine its linguistic designation. This is called the service area of ​​an office.
* The service area is determined by the institution. It may be larger than the census subdivision where the office is located. It can include several regions, even an entire province.
* Once the service area is defined, the thresholds and criteria of the Regulations are thenapplied:
  + First, we apply the new rule according to which if there is a minority language school in the service area of ​​the office, the office is designated bilingual.
  + If there is no minority school in the service area, we then verify to see if there are at least 5,000 people from the linguistic minority in the office’s service area. If so, it is designated bilingual, if not, it depends!
    - Some offices will have to apply other thresholds and criteria, for example, if the service area overlaps provinces with two different official languages, such as Quebec and Ontario for example, the office is then designated as bilingual; or
    - If there are at least 500 people from the minority representing at least five percent of the total population of the service area, the office is designated as bilingual.
    - In addition, in certain circumstances ( and in certain regions and for non-key services) the Regulation provides that when the service area of ​​an office does not reach these thresholds, we must verify whether there is a significant demand or not by measuring the real demand for service in the minority language.
      * If there is a five percent or more of demand in the minority language, the office is designated bilingual. This is called measurement of demand. We will come back to it a little later in the presentation.
* These are just a few examples of the use of language data and the thresholds prescribed by the Regulations, but I would like to reassure you that our new system for official languages ​​obligations – SOLO for short – will tell you which rule applies and will tell you if the thresholds are reached and if there is a school in the service area. I will talk about SOLO a little later in the presentation.

# Slide 9 General Rules – Principle of Proportionality

* The principle of proportionality is another way of using language data. When an institution has several offices offering the same services in a region, it must generally offer bilingual services at a number of offices equal to or greater than the percentage of the minority in that region. We have an example here on the slide:
  + Let’s say there are three offices offering the same non-key services in Montréal. The percentage of the minority in Montréal is 30.3 percent.
  + We multiply three offices by 30.3 percent which gives us 0.9. The number is always rounded up, so one of the three offices must be bilingual.
  + Once the number of bilingual offices has been determined, the institution must consider the offices’ mandate, the distribution of the minority, and opinions obtained from consultations with the minority when choosing which office is to be designated bilingual among those three offices.
* Here, we give an overview of the application of the principle of proportionality; however, the situation may vary depending on the situation of the offices in question.
  + For example, there are services that we call “key services” because they are closer to the general public, like Canada Post services. Offices are more likely to be affected by the principle of proportionality if they offer key services than if they offer non-key services simply because, in smaller census subdivisions, only offices offering those key services are so numerous that they would need to apply the principle of proportionality.
* When you apply the Regulations through SOLO, the system automatically notifies you when proportionality must be applied to a group of offices offering the same services. Moreover, we here at the Official Languages Centre or Excellence are here to help if you have any questions.
* Regarding consultations, we have developed a best practices guide for consultations related to the application of the Regulation. It can be found on the OL Connection GCWiki page.

# Slide 10 Specific Rules

* There are situations where demographic data is not useful in determining whether there is significant demand for service in the minority language at an office.
* For example:
  + Demographic data is not a good indicator of significant demand at an airport as travellers at the airport may be from other regions, or even other provinces. The same is true for plane routes. So:
    - For airports, if it is located in a provincial or territorial capital, the airport, and the federal offices within that airport, are designated as bilingual.
    - For other airports, the million rule is used. If the total number of passengers arriving and departing at the airport over a year is at least one million, the airport and federal offices located within that airport, are designated as bilingual.
    - When an airport does not reach the threshold of one million, actual demand in the minority language by travellers going through the airport is measured.
    - Demand is also measured for most plane routes. I will talk more about measurement of demand on the next slide.
  + Demographic data is also not useful for offices that serve a restricted and identifiable clientele. These offices offer services that are not available to the general public. The restricted clientele is exclusive, and the institution has an up-to-date list of its clients. For example, Veterans Affairs and Correctional Service serve a restricted and identifiable clientele.
  + To determine the language of service, these offices must also measure the demand by their clientele, or more precisely in those cases, they survey their clientele directly.

# Slide 11 Measurement of Demand

* A measurement of demand is a survey of an office's clientele to find out their language preference for communications and services.
* In short, when there is five percent demand or more for services in both official languages ​​over a period of one year, the office is designated bilingual.
* But there are nuances here, some offices need to measure demand from the general public.
  + For example, we were talking earlier about, an office offering non-key services that has determined its service area but does not meet the thresholds set out in the Regulations and does not have a school in its service area. It must now measure the demand for services in the minority language. If there is five percent demand or more in the minority language, it is designated bilingual. Otherwise, it is unilingual in the language of the majority. The same goes for airports.
  + Some offices under specific rules, such as plane or ferry routes, must measure demand in both official languages. These offices are designated bilingual if at least five percent of the demand for services during a year is in French and at least five percent in English. Otherwise, the office is designated unilingual in the official language in which there was at least five percent demand.
* For offices serving a restricted and identifiable clientele, the office must ask each of its clients their language preference. The office will be designated bilingual if at least five percent of the clientele over the course of a year prefers to receive their communications and services in French and at least five percent in English.
* Otherwise, the office is designated unilingual in the official language in which there was at least five percent of demand for communications and services, whether it is the language of the majority or not. It is therefore entirely possible, for example, that an office offering services to a restricted and identifiable clientele be designated unilingual French in a province where the majority language is English—a unilingual French office in Nova Scotia, for example.
* As with the other rules, SOLO will tell you when it is necessary to measure the demand. In addition, we have developed a good practices guide for measurement of demand. It can be also be found on that OL Connection GCWiki page.

# Slide 12 Nature of the Office

* We’ve arrived to the final set of rules. The Nature of the Office rules.
* In some cases, the very nature of the office or its mandate is such that it must automatically be designated bilingual.
* Normally, offices subject to Nature of the Office rules offer services to the general public.
* Sometimes, it is the national or international nature of the office’s mandate, such as an embassy or consulate, which makes it bilingual.
* In some cases, it is because the office offers services related to health or public safety, such as a first aid clinic at an airport.
* Sometimes, it is other circumstances, such as services offered by a toll-free telephone number or by videoconference.
  + You’ll remember that the videoconference rule was added during the review of the Regulations of 2019. It will come into force in 2023 only.
* In some situations, it is the location of the office that means that it should be designated bilingual, such as an office in a national park.

# Slide 13 Application of the Regulations

* So, who is responsible for applying the Regulations? The institutions! They are responsible for applying the Regulations to determine or verify their office’s language designation.
* Since the Regulations apply to existing offices, as the person responsible for official languages, it is important to keep the list of your institution’s offices up to date.
* The Official Languages Centre of Excellence here at TBS will remind you of this requirement to keep your institution’s list of offices up to date annually during the Review ​​on Official Languages exercise.
* In the past, we were using the Regulations Management System (or the RMS) to register federal offices and to apply the Regulations. However, the new System for Official Languages Obligations, SOLO, that I mentioned a few times already should be online starting in early 2023. It will replace the old system, the RMS.
* SOLO will allow you, by entering the address of an office, to know which rule applies to that office.
* Depending on the applicable rule, the language designation of the office may be provided automatically and immediately, but sometimes, you will need to take steps to confirm the language designation of the office, such as:
  + determining the office’s service area;
  + Measuring the actual demand for service at the office; or
  + consulting the minority population when the principle of proportionality applies.
* SOLO will guide you on the steps to take, as applicable.
* The Regulations must be applied or their application verified:
  + When an office opens, closes or moves, or when its functions change.
  + During the Official Languages Regulations Re-application Exercise, knows as the OLRRE.

# Slide 14 The Official Languages Regulations Re-Application Exercise (OLRRE)

* As the composition of the population and the geographic boundaries of the regions change over time, the Regulations provide that institutions reapply the rules to their offices every 10 years, using language data from the most recent decennial census of population. This helps keep the language designation of offices up to date.
* Since people’s habits can also change, the Directive on the Implementation of the Regulations ensures that the demand for specific rules—such as air routes—is measured at least every 10 years as well.
* This review of the application of the rules takes place during the Official Languages Regulations Re-Application Exercise (OLRRE). The OLRRE process will be launched at the end of 2022.
* We, the Treasury Board Secretariat, will coordinate the OLRRE using SOLO. However, you will also have a big role to play. We will talk about it a little later.

# Slide 15 Next Steps – Before the OLRRE

* As I mentioned earlier, SOLO should be online in early 2023.
* The tool is essential for managing the language obligations of offices and coordinating the OLRRE. So, we will offer you SOLO training as soon is the tool is available online.
* Updating your list of offices is essential for ensuring that the OLRRE goes well, as the Regulations must be applied to all existing offices that are subject to it (except offices of course subject to nature of office rules, which se discussed earlier in the presentation).
* This is why, in late 2022, we will send an email asking you to start obtaining the information required to update your institution’s list of offices. This will ensure that you will be ready to input those updates into SOLO once the system is formally launched.
* In the winter/spring of 2023, will send you and deputy heads an email officially announcing the launch of the OLRRE.

# Slide 16 Next Steps – OLRRE

* As mentioned, the OLRRE process will be launched at the end of 2022/early 2023 starting with SOLO training and a request to start obtaining the information required to update your institution’s list of offices.
* The OLRRE itself will begin a little later, in the winter or early spring of 2023, with the application of the automatic general rules on existing offices registered in SOLO.
  + Automatic rules are those that do not require any intervention on your part to be applied. Once these rules are applied in SOLO, we immediately know the linguistic designation of most of these offices.
* Once the rules are applied in SOLO, we at TBS will verify the results and then we will ask you to review and validate them.
* At the beginning of 2023 will also begin the work for specific rules, such as the measurement of demand for offices where demographic data is not relevant, such as routes, airports, ferry stations and offices offering services to a limited and identifiable clientele.
  + If your institution is subject to these rules, you will be notified in SOLO and, as provided by the Directive, you will have two years to measure the demand in those offices and to provide your results in SOLO.
* The OLRRE will continue in the spring of 2023. This is when most of you will receive automatic rule results for validation. It is also at this time that some of you will be assigned tasks in SOLO, perhaps directing you to determine the service area of ​​some of your offices and/or to consult the minority served by your offices under the proportionality rule to discuss the location of bilingual offices.
  + As provided by the Directive, you will have six months to determine the service area of ​​your offices and six months to complete your consultations and identify your bilingual offices in SOLO.
* In the fall of 2023, if you had defined the service area of some offices at the beginning of 2023 and that some of them have not reached the service area thresholds prescribed by the Regulation, SOLO will inform you that you must now measure the demand in those offices.
  + The two-year deadline to complete this process and enter your results into SOLO will begin at that time.
* At the same time, if you have offices that were under the proportionality rule, SOLO will tell you that offices that were not identified as bilingual following your consultations with the minority must now define their service area.
  + The six-month deadline to define the service area of ​​these offices will begin in the fall of 2023.
* Throughout the OLRRE, demographic protection will be applied by SOLO to offices subject to rules that depend on the number and percentage of the minority.
  + Demographic protection will ensure that offices currently designated bilingual will retain their bilingual designation if the minority has remained the same or has increased in number, even if its proportion of the total population has decreased.
  + For example, if an office was going to lose its bilingual designation during the OLRRE because it no longer met the percentage threshold, but the minority population in the region where it is located or in its service area has increased or remained the same, SOLO will identify that office as designated bilingual under the new demographic protection provision.
* The OLRRE timeline is subject to change as we continue preparing SOLO to run the exercise. Rest assured that we will provide firm dates as soon as we can and that before each step of the OLRRE, we will offer to the institutions concerned by that step a focused information session on what needs to be done.

# Slide 17 Once the OLRRE Has Been Completed

* Once the language designation of an office has been determined, the Directive on the implementation of the Regulations gives newly bilingual offices up to one year to implement their new obligations.
* In cases of newly unilingual offices, you have up to one year to inform the minority population served of the date the bilingual services will no longer be provided at that office and where they can receive services in their preferred official language.
* Once the timelines set out in the Directive have passed, the annual reviews will be the tool used by TBS to verify compliance.

# Slide 18 A Bilingual Office

* Your institution must consider official languages obligations in the planning of its operations and resource needs, just as it must consider its other obligations regarding employment equity, security, accessibility, etc.
* In its decisions, your institution must consider equal treatment in both official languages. For example, one cannot offer an in-person service in English and make French available by phone only.
* The *Policy on Official Languages* and the *Directive on Official Languages for Communications and Services* provide more details for implementing bilingual obligations within your institution.

# Slide 19 Contact Us

* Should you have any questions on any of the content in this presentation, we invite you to please email us at the generic inbox listed on this slide.
* Please feel free to communicate with us in the official language of your choice.