



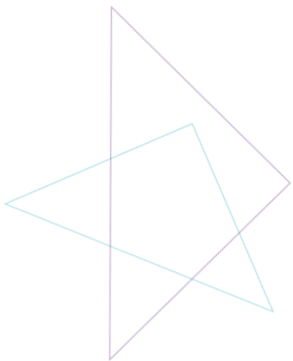
Establishing Language Requirements of Positions

Workforce Strategies,
Human Resources Services Branch

Objectives



- Enable you to provide sound advice to managers on the application of the *Official Languages Act (OLA)* in relation to the identification of language requirements and linguistic profiles of positions.
- Provide an overview of your role and responsibilities related to the identification of official languages requirements of positions
- Provide you with an overview of cases that present greater risks.



Official Languages Act



- **Part IV: Communication with and Services to the public**
 - Guarantees the right of members of the public to communicate with and receive available services from federal institutions in the official language of their choice from its head office, its central offices and its offices in Canada and abroad where there is sufficient demand for both languages
- **Part V: Language of Work**
 - The language-of-work rights (personal and central services, work tools, supervision and communication) of employees depend on the region in which their office is located. Consult [Language of Work at a Glance](#) for an overview.
 - Federal institutions in bilingual regions must also take measures “as can reasonably be taken” to establish and maintain work environments that are conducive to the effective use of both official languages.
- **Section 91**
 - Objectivity must be the basis for determining the language requirements of a position



Objectivity

- Determine the language requirements of a position, by taking into consideration the **duties of the position** and the requirements for **service to the public** and/or **language of work**.
- Language requirements **must be reviewed each time a human resources activity takes place** (e.g. reorganization, reclassification, staffing)
- Language requirements **should never be based on an incumbent/candidate's** Second Language Evaluation (SLE) results.
- The language profile of bilingual positions must respect the principle of **equal status of the two official languages*** (ex: BBC/BBC)

** Except for technical or specialized language skills (code P)*



Identification of the Language Requirements of Positions

ESDC's [Guideline on the Identification of Language Requirements](#) include a four-step process to support managers in ensuring that language requirements fulfill the organization's OL obligations to the public and to its employees:

STEP 1: Determine the linguistic obligations of the position

STEP 2: Determine the bilingual capacity of the unit/organization

STEP 3: Determine the language requirements to meet obligations

STEP 4: Determine the linguistic profile of a bilingual position



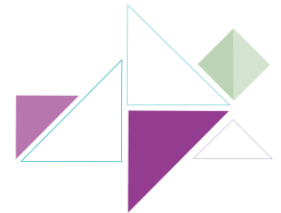
STEP 1: Determine the linguistic obligations of the position

- What are the OL obligations relating to services to the public and/or language of work (employees)?
- The main factors on which the official languages obligations are based are:
 - Location of the position
 - Is the position in a designated bilingual office or point of service for service to the public?
 - Is the position in a [region designated bilingual](#) for language-of-work?
 - Services to be provided
 - services to the public
 - central services (i.e. finance, IT, legal, security, human resources)
 - personal services (i.e. compensation, career counselling, occupational health and safety)
 - supervisory functions
 - formal level in grievance process



STEP 2: Determine the bilingual capacity of the unit/organization

- Managers are responsible for organizing their resources and for developing and maintaining a linguistic capacity within their work unit to fulfill their linguistic obligations to the public and internal employees.
- Managers should consider the answer to these questions:
 - Are there any positions in the work unit providing similar services to the same public or group of employees?
 - Is there enough bilingual capacity (sufficient bilingual employees) within the work unit to deliver your business to the public or to employees?
- If the answer to either of the above-noted questions is “no”, the language requirement of the position must be bilingual to ensure there is a sufficient bilingual capacity to respect OL obligations.



STEP 3: Determine Language Requirements to Meet Obligations

- Positions may be Bilingual, French essential, English essential, or Either/or (English or French essential)
- Managers must follow sound management practices based on their operations and particular situations to develop and maintain a bilingual capacity within their work unit to fulfill their official language obligations.
- The proportion of duties to be performed in one language or in the other has no impact on the language requirement of the position.
- Language requirements must take into consideration virtual management organizational structures, if applicable.
- All bilingual positions with the same job description must have the same linguistic profile (ex: cannot have 1 position BBB/BBB and 2 positions CBC/CBC if they have the same job description).



STEP 4: Determine the Linguistic Profile of a Bilingual Position

- **Language proficiency levels for reading, writing and oral interaction must :**
 - Be determined objectively based on the duties of the position and based on requirements for services to the public and/or employees.
 - Take into account the complexity of the functions to be accomplished
 - Adhere to statutory and departmental requirements.
- **Tools**
 - [ESDC's Guideline on Identifying Language Requirements of Positions](#)
 - [TBS Qualification Standards in Relation to Official Languages](#)
 - [TBS Online tool: *Determining the linguistic profile of bilingual positions*](#)
 - [ESDC's Table of Human Resources Authorities](#)



Proficiency Levels (A-B-C)

Level	Reading Comprehension	Written Expression	Oral Proficiency
A <i>(Beginner)</i>	Not applicable at ESDC	Not applicable at ESDC	Not applicable at ESDC
B <i>(Intermediate)</i>	<p>Comprehension of most descriptive or factual material on work-related topics and understanding the main idea of most texts.</p> <p>A person reading at this level can:</p> <ul style="list-style-type: none"> • grasp the main idea of most work-related texts • identify specific details • distinguish between main and subsidiary ideas 	<p>Ability to write short descriptive or factual texts with sufficient mastery of grammar and vocabulary to deal with explicit information on work-related topics.</p>	<p>Understands the main points of clear standard speech that deals with concrete, work-related topics and is delivered at normal speed.</p> <p>A person speaking at this level can:</p> <ul style="list-style-type: none"> • sustain a conversation on concrete topics • report on actions taken • give straightforward instructions; • provide factual descriptions and explanations.
C <i>(Advanced)</i>	<p>Comprehension of texts dealing with a wide variety of work-related topics</p> <p>A person reading at this level can:</p> <ul style="list-style-type: none"> • understand most complex details, inferences and fine points of meaning • demonstrate good comprehension of specialized or less familiar material 	<p>Ability to write explanations or descriptions in a variety of informal and formal work-related situations in which the ideas are developed and presented in a coherent manner in which vocabulary, grammar and spelling are generally appropriate and require few corrections.</p>	<p>Understands linguistically complex speech that deals with work-related topics and is spoken in standard dialect at normal speed.</p> <p>A person speaking at this level can:</p> <ul style="list-style-type: none"> • handle sensitive situations; • understand subtle, abstract and complicated ideas; • support opinions; • express hypothetical and conditional ideas.



About “Either English or French essential”

- Position where communication requirements are minimal and the person occupying the position can effectively perform the duties in either language.
- The language requirement has a **limited application** in ESDC.
- Should be used only in offices that are designated bilingual for language-of-work purposes.
- Examples of positions that **may** be either French or English essential:
 - Stores Clerk (GS STS-04)
 - Multimedia Technician (GT-03)
 - Certain IT Programmers
 - Mail Clerk (CR-03)
 - Passport Printing Support and Passport Clerk (CR-03)
- Employees in either Essential or French positions can be supervised in their language of choice and work in their language of choice, therefore the supervisor must be bilingual.



Statutory Requirements (TBS)

Directive on Official Languages for People Management

- The linguistic profile of positions that have supervision of employees in bilingual regions are identified at the BBB level at a minimum.
- The linguistic profile of positions involving service to the public or to employees are identified at the BBB level at a minimum.
- ADM and equivalent throughout Canada must be set at CBC level.
- Executive group (EX) positions must be set at minimum CBC level, if it 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.



Departmental Requirements (ESDC)

Guideline on Identifying Language Requirements of Positions

- Level B is the minimum level required for written comprehension, written expression and oral proficiency.
- Bilingual EX minus 1 and EX minus 2 levels located in designated bilingual regions that supervise must be set at the CBC level.
- EX minus 1 and EX minus 2 levels located in unilingual regions that supervise employees in designated bilingual regions must be set at the CBC level.
- When the language requirements of a position change, a rationale must be provided at all times. If an incumbent occupies the position, they must be informed in writing within ten (10) working days of the modification.

Directive on Official Languages Obligations in ESDC Bilingual Points of Service

- The linguistic profile for all bilingual service officers, occupying a bilingual position that serves the public in a bilingual point of service, is CBC.



Complaints

The Office of the Commissioner of Official Languages (OCOL) and the Federal Court can receive and examine complaints about the lack of objectivity when determining language requirements of positions (based on section 91 of *OLA*).

High risk areas

- Positions that have supervision (any level)
- Senior Advisor/Senior Analyst positions that have no supervision (and similar positions, at levels equivalent to PM-05, EC-06, AS-05, etc)
- CS/FI positions
- Positions that serve the public (in person, by telephone or via the Internet)



Other Challenges and Risks



Other potential issues stemming from a misidentified language profile:

- Risk of Federal Public Sector Labour Relations and Employment Board (FPSLREB) staffing complaint
- Lack of advancement opportunities
- Employee morale or dissatisfaction stemming communication issues with colleagues and management
- Lower productivity
- Operational delays
- Operational costs



Impact on Incumbent

Whenever the language requirements or the linguistic profile of a encumbered position are modified:

- Incumbent must be notified within 10 days of change of language requirements
- Incumbent rights for raised or re-identified profiles*
- Language training is offered by the institution
- Administrative measures must be put in place

**For reclassifications, there are no incumbent rights (that is, the incumbent must meet the language requirements).*



Analyze a Request

- Examples of elements to review:
 - Justification or the results of the TBS Linguistic Profile tool
 - Job description
 - Org. chart
 - HR Delegation approval and level
 - OL profile of positions with the same job code
- Examples of questions to guide you:
 - Does the position provide personal or central services to our employees? Where?
 - Does the position offer service to the public? Where?
 - Does the position supervise and if so, is there a legal obligation to supervise employees in their language of choice?
 - Does the position have to handle grievances?
 - Is there sufficient bilingual capacity in the work unit?
 - Is the justification consistent with the job description?
 - Are there other bilingual identical positions and if so, what is the linguistic profile of these positions? If there are varying bilingual linguistic profiles for the same position, what is the explanation?



Key Functions in Job Descriptions

Examples of functions that **may** indicate a **higher level of language skill(s)** is required:

- Supervise staff
- Negotiates with partners
- Establishes partnerships
- Directs consultations
- Directs or represents the Department on intra/inter departmental committees, project teams or working groups
- Provides direct services to the public
- Plans, designs, develops and implements operational policies, program procedures and national services
- Analyzes applicable laws, operational policies, programs and service delivery mechanisms in order to provide recommendations



ANNEX 1

ANALYSIS OF OL PROFILES



Analysis of OL Profile – Example 1



CS-03 TECHNICAL ADVISOR BBB/BBB

1. Duties performed by position (as per the job description):

- Provides specialized advice to internal project teams and work units on technical solutions and standards to adapt and support the design, development, testing, implementation, integration, maintenance and support of IT applications.
- Advises and guides business clients on technical applications issues, and provides expertise and analysis to facilitate client understanding, involvement and acceptance of the design, development, testing and delivery, installation, integration and maintenance of IT applications.
- Conducts feasibility studies, develops and designs research, recommends various alternatives for IT applications development and presents options to support decision making and to address client requirements.
- Participates in discussions with program, technical and administrative specialists of client organizations, to obtain agreement on service requirements and the resolution of technical issues.
- Participates on departmental, interdepartmental, national or international working groups or project teams to facilitate the development of standards, policies, networking and partnering in application development.
- Provides technical direction to working groups and periodically leads project teams composed of technical staff.
- Maintains knowledge of trends and developments in systems analysis and design, application/web design and development, application testing and implementation techniques and practices and project management techniques and practices.



Analysis of OL Profile – Example 1

2. Analysis of these duties with the qualification standards:

- The incumbent provides specialized advice to internal project teams and work units on technical solutions and standards to adopt and assists the design, development, maintenance and support of IT applications. The incumbent advises and guides business clients on technical application issues, and provides expertise and analysis to facilitate client understanding of, involvement with and acceptance of designs.
- The incumbent participates in discussions with program, technical and administrative specialists from client organizations to obtain agreement on service requirements.
- The incumbent provides technical direction to working groups and periodically leads project teams composed of technical staff. The incumbent supervises technical activities of project teams and working groups composed of technical staff and provides input for performance appraisals.
- The position requires some written products but they are very technical in nature and do not require complex or hypothetical explanations which would entail a high level of written proficiency in the second language.
- The position rarely includes making a recommendation on a specific course of action related to a policy or procedure.

A person **reading** at a B level can:

- grasp the main idea of most work-related texts;
- identify specific details; and
- distinguish main from subsidiary ideas.

A person at a B **writing** at this level can:

- deal with explicit information on work-related topics since they have sufficient mastery of grammar and vocabulary.

A person **speaking** at a B level can:

- sustain a conversation on concrete topics and report on actions taken;
- give straightforward instructions to employees; and
- provide factual descriptions and explanations.



Analysis of OL Profile – Example 1

3. Outcome of the analysis:

The linguistic profile of BBB is appropriate based on the description of the work.

- The position does not entail discussion of sensitive or contentious issues; the presentation of complex arguments; negotiation; or, participation on a selection board.
- There is very little work that is abstract or highly hypothetical in the work performed.
- Further, the person in this position requires knowledge and technical proficiency with IT Applications.
- There is no requirement for the person in this position to conduct extensive research through literature reviews or other types of research.
- The work performed is of a highly specialized nature.
- Given the specialized nature of the work, it does not require a highly diversified vocabulary in the second language nor the ability to synthesize complex documents or present argumentation in the second language.
- The incumbent would be able to request or provide information, explanations or instructions and to sustain a conversation on concrete topics.
- The incumbent would also be able to give straightforward instructions to employees and participate in departmental or interdepartmental meetings regarding factual topics.
- This position has no supervision.



Analysis of OL Profile – Example 2



AS-07 SENIOR PROJECT MANAGER CBC/CBC

1. Duties performed by position (as per the job description):

- Expert advice to departmental senior management with regard to project management and to complex departmental/branch projects.
- Negotiates through solution director, contracts and cost-sharing agreements with internal and external partners and clients.
- Develop strategic plans; direct project teams; prepare comprehensive analyses, briefings and reports related to strategic issues, complex operational requirements, policy development and implications.
- Provides leadership and specialized expertise to solution director on branch, departmental and interdepartmental committees associated with projects. Ensures consultations with internal/external clients on a regular bases to discuss strategic issues.



Analysis of OL Profile – Example 2

2. Analysis of these duties with the qualification standards:

- A person reading at a Level C can:
 - Understand most complex details, inferences and fine points of meaning;
 - Review for meaning and tone when it was prepared by others;
 - Obtain an in-depth understanding of content; and
 - Assess implications, provide comments and make recommendations.
- Written expression: As the written reports, briefings etc. will be prepared by the solution director and project managers, a Level B in writing will suffice for this position
- A person speaking at Level C can:
 - Support opinions;
 - Deal with situations requiring persuasion/negotiation and complex arguments, and/or the seamless exchange of ideas in both official languages;
 - Give and understand explanations and descriptions involving complicated details, hypothetical questions, or complex and abstract ideas; and
 - Counsel and give advice to employees or clients on sensitive or complex issues.



Analysis of OL Profile – Example 2

3. Outcome of the analysis:

The linguistic profile of CBC is appropriate based on the description of the work.

- The position entails dealing with situations requiring persuasion/negotiation and complex arguments, and/or the seamless exchange of ideas in both official languages
- Giving and understanding explanations and descriptions involving complicated details, hypothetical questions, or complex and abstract ideas; and
- Providing counsel and give advice to employees or clients on sensitive or complex issues



ANNEX 2

ANALYSIS OF JUSTIFICATION



Analysis of justification – Example 1



Justification attached in the HRSC portal request:

- I would like to downgrade the bilingual profile from BBC to BBB because the functions does not justify a BBC.
- This position provides central services in finance.
- The other positions at the same group and level within our branch have either a BBB profile, English essential profile or French essential profile.
- The duties conducted by the Financial Services Clerk are essentially data entry, understanding finance related information and providing basic information to employees. This position does not provide services to the public and does not supervise employees.
- See attached results from TBS query tool to support my justification.

Is this justification acceptable?



Analysis of justification – Example 2



Justification attached in the HRSC portal request:

- In order to ensure increase participation of the official language minority communities in Edmonton in our upcoming selection process, we are requesting a change of language profile to BBB/BBB. This will allow for the inclusion of bilingual candidates and still provide the opportunity to advance in their career with the Government of Canada. A BBB profile was identified to ensure a senior position with a language profile that is more attainable, while still meeting the needs of the organization and ensuring the duties of the position can be performed in both official languages.

Is this justification acceptable?



ANNEX 3

SCENARIOS



Scenario #1

You receive a request from a Director (EX-01) to downgrade the linguistic profile of a PM-06 Manager position from CBC/CBC to BBB/BBB. This position is located in NCR.

Recommended Approach:

1. Make sure the Director has the proper sub-delegation to approve or modify language profiles.
2. Review justification provided.
3. Contact the Director and explain the ESDC requirements that EX minus 1 and minus 2 supervisor positions in bilingual regions must be identified at a minimum a CBC. Refer them to the *Guidelines*.
4. If manager insists on maintaining a BBB linguistic profile, review the work description and compare to TBS Qualification Standards and provide advice to the client.
5. Review the org. chart and compare the linguistic profile with other positions with the same job code.
6. If the client removes several duties from the work description, advise on risks that removing duties and the complexity of the work to be done could result in a lower classification level.
7. If the client maintains a BBB linguistic profile, document the file with the advice provided and escalate the case to your manager/director/DG to have a discussion with the client because it goes against the guidelines and it's high risk area for complaints.

Scenario #2

You receive a request from a DG to create a new position for an AS-04 Team Leader, Admin Services in Montreal with a linguistic profile BBB/BBB. It is a generic position and within ESDC, the bilingual profiles of these positions with the same work description range from BBB to CBC.

Recommended Approach:

1. Determine if BBB is an appropriate linguistic profile based on work description/jobbing number*.
2. If it is not, contact the Director and explain the based on the work description and the OL Qualification standards, CBC may be a more appropriate profile. Also advise that bilingual positions with the same work descriptions should have the same bilingual profile. Finally, explain that OCOL deems as founded all complaints where the linguistic profile of supervisor positions in bilingual regions is below CBC.
3. If client removes several duties from the work description, advise that removing the complexity of the work to be done could result in a lower classification level.
4. If client justifies why the functions do not require a high level of complexity and a BBB linguistic profile is appropriate for their work unit, document the file with the advice provided and proceed. Although it is a high risk area based on past complaints, it complies with TBS Directive and ESDC guideline.

Scenario #3

You receive a request from a DG to create a new position for an AS-04 Team Leader in Toronto with an English essential profile. This Team Leader will supervise unilingual and bilingual employees in Toronto and Sudbury.

Recommended Approach:

1. Since the position involves virtual supervision, review the legal requirements for language of work purposes in Toronto and Sudbury by looking at the list of [regions designated as bilingual for language of work purposes](#).
2. Contact the Director and explain that Sudbury is a bilingual region for language of work purposes (falls under the category of bilingual parts in Northern Ontario) and that employees in bilingual regions have a right to be supervised in their language of choice, even if the Team Leader is located in a unilingual region.
3. Advise the client of the options and document the file with the advice/options provided:
 - Profile should be at a minimum BBB to comply with the ESDC Guideline and TBS Directive, but that CBC is preferable because in the event of a complaint, OCOL deems as founded all complaints where the linguistic profile of supervision in bilingual regions is below CBC.
 - Review the organizational structures and reorganize the teams so that the Toronto Team Leader only supervise employees in unilingual region and another Team Leader may supervise the bilingual employees.
 - Contact their Staffing HR Advisor to discuss the staffing options such as non-imperative staffing



ANNEX 4

ROLES AND RESPONSIBILITIES



Roles and Responsibilities

Division	Main Responsibilities
Classification	<ul style="list-style-type: none"> • Provide advice and guidance to client managers based on the work description, and in accordance with established statutory requirements, TBS policies and departmental guidelines • Conduct extensive research to provide advice to clients, review work description, probe management for more information, ensure the language profile is consistent with other positions with the same work description, ensure the department is meeting its official language obligations for service to the public and for language of work • Identify specific classification actions for which a broader management consultation is required and escalate the case at a higher management level • Consult Classification Operations Manager and/or colleagues. Seek advice from the OL COE for complex cases if expert advice is required
Staffing	<ul style="list-style-type: none"> • Provide advice and guidance to clients on OL as it relates to staffing (such as the use of non-imperative staffing, OL exemptions for acting, OL requirements on job posters, recruiting official language minority communities in unilingual regions, etc.) • Monitor the progress of non-imperative staffing cases for clients by regularly consulting the PSOLEAO Shared Log and follow up with clients to advise of them of the risks, obligations and options • Identify specific staffing actions for which a broader management consultation is required and escalate the case at a higher management level, as needed. • Conduct extensive research to provide advice to clients, consult Staffing Operations Managers and/or colleagues. Seek advice from the OL COE or Corporate Staffing COE for complex cases if expert advice is required.



Roles and Responsibilities

Division	Main Responsibilities
Subdelegated Managers	<ul style="list-style-type: none"> Objectively identify the linguistic profiles of positions; Respect the OLA, TBS official languages policy, directives, qualification standards as well as ESDC requirements Review the linguistic requirements of positions when undertaking any human resources action Provide a justification for change in OL requirements or complete the TBS tool – Determining the Linguistic Profile of Bilingual Positions.
Official Languages Centre of Expertise	<ul style="list-style-type: none"> Develop, implement and update OL policies, guidelines, procedures, trainings, action plans, communication plans and tools for HR professionals, managers and employees Provide expert advice and guidance, and interpretations services to HR professionals on complex cases Monitor the application of OL policies, directives and procedures, and the application of the PSOLEAO Liaise with OL stakeholders (including Part IV, Part VII, the College@ESDC, TBS, PSC and interdepartmental OL community) on various OL issues. Participate and collaborate at various departmental and interdepartmental forums, committees and meetings



ANNEX 5

EX minus 1 and EX minus 2



EX minus 1 and EX minus 2

Classifications	EX equivalency	EX minus 1	EX minus 2
AS	AS-08	AS-07	AS-06
CO	CO-04	CO-03	CO-02
CS	CS-05	CS-04	CS-03
EC	EC-08	EC-07	EC-06
EN-ENG	EN-ENG-06	EN-ENG-05	EN-ENG-04
FI		FI-04	FI-03
IS		IS-06	IS-05
NU-EMA		NU-EMA-02	NU-EMA-01
PE		PE-06	PE-05
PG		PG-06	PG-05
PM	PM-07	PM-06	PM-05
TI		TI-08	TI-07