



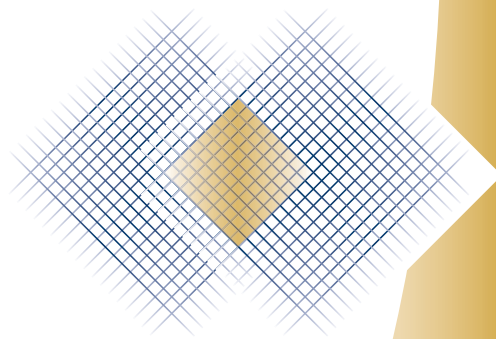
Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

F or Rent

In Search of Bilingual Services from
Businesses in NCR Federal Buildings

Follow-up



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In March 2004, the Office of the Commissioner of Official Languages published the results of a study of commercial tenants in federal buildings in the National Capital Region (NCR). The Commissioner submitted 13 recommendations to the National Capital Commission (NCC), Public Works and Government Services Canada (PWGSC) and Canadian Heritage.

In the summer of 2005, the Office of the Commissioner of Official Languages conducted a follow-up study to determine the extent to which these three organizations had implemented the recommendations, and to measure the progress that commercial tenants of buildings owned by the NCC and PWGSC had made in providing services in both official languages.

Availability of services in both official languages

An analysis of the results obtained from the follow-up study conducted among 198 commercial tenants of federal buildings located in the NCR shows that the availability of services in the minority language varies depending on the organization administering the lease and the location of the business.

The availability of in-person and telephone services in English in businesses located on the Quebec side is excellent. However, the availability of signage and written material has declined somewhat since 2003. We also noted that material is not available in French in some locations.

The availability of services in businesses located on the Ontario side remains basically the same as in 2003—60% of tenants are able to offer in-person or telephone services in French. Businesses had difficulty providing French-language signage and menus in 60% of cases.

The NCC is ahead in promoting bilingualism among its tenants in the NCR and is starting to reap the benefits of its work, since the level of bilingualism among businesses leasing from the NCC has improved slightly since 2003. The NCC's achievements are encouraging, though it must continue its efforts to further encourage its tenants, particularly those on the Ontario side, to offer their services in both official languages.

Almost all the businesses located on the Quebec side leasing from PWGSC were able to provide in-person and telephone services in both official languages in 2005. However, signage and written material were bilingual in only half of businesses. This constitutes a

slight decrease from 2003. On the Ontario side, PWGSC has seen a decline, over the past two years, in the level of bilingualism of the businesses located in its buildings. Their poor performance brings down the overall results for Ontario. The Department must quickly address the issue to correct the situation.

Implementation of recommendations

As shown in the following table, only 5 of the 13 recommendations were fully implemented.

Implementation Status of Recommendations in the 2004 Report

	PWGSC	NCC	Canadian Heritage
Recommendation 1	Implemented	Implemented	n/a
Recommendation 2	Implemented	Implemented	n/a
Recommendation 3	n/a	Implemented	n/a
Recommendation 4	n/a	Partially implemented	n/a
Recommendation 5	Implemented	n/a	n/a
Recommendation 6	Not implemented	n/a	n/a
Recommendation 7	Partially implemented	n/a	n/a
Recommendation 8	n/a	n/a	Implemented
Recommendation 9	Partially implemented	Implemented	n/a
Recommendation 10	Not implemented	n/a	n/a
Recommendation 11	n/a	n/a	Partially implemented
Recommendation 12	n/a	n/a	Implementation under way
Recommendation 13	n/a	n/a	Partially implemented

The NCC has implemented four of the five recommendations addressed to it by the Commissioner. The Commissioner expects the NCC will be able to fully implement Recommendation 4 without delay. Close monitoring of the file remains necessary to prevent setbacks.

Only three of the seven recommendations addressed to PWGSC have been implemented. The Department has not followed up on some of its commitments to the Senate Standing Committee on Official Languages and to the Commissioner in response to the recommendations in the 2004 report. The Commissioner expects the Department's senior management to take charge of the matter and show the necessary leadership to ensure that corrective measures are put in place as quickly as possible. She has made three new recommendations to PWGSC in this regard.

Canadian Heritage has implemented one of the Commissioner's four recommendations, one is being implemented and two have been partially implemented. The Commissioner feels that the Department has a restrictive interpretation of its responsibilities under Part VII of the *Official Languages Act* and that, to better respond to the spirit of the Act, the Department must more actively promote linguistic duality to the private sector and bilingualism in the NCR.

New recommendations

The Commissioner of Official Languages has issued four new recommendations as part of this follow-up report:

New Recommendation 1

The Commissioner of Official Languages recommends that Public Works and Government Services Canada amend its service clause so that all commercial tenants located in the National Capital Region are required to serve the public in both official languages. The Commissioner expects to receive a report on the implementation status of this recommendation by April 28, 2006.

New Recommendation 2

The Commissioner of Official Languages recommends that Public Works and Government Services Canada take the necessary steps to ensure that tenants provide service in both official languages, in particular by clarifying the language requirements in the leases and providing tenants with regular reminders of these requirements. The Commissioner expects to receive a report on the implementation status of this recommendation by September 29, 2006.

New Recommendation 3

The Commissioner of Official Languages recommends that Canadian Heritage take concrete steps to promote the bilingual character of the National Capital Region, initiate projects promoting linguistic duality with the private sector, and undertake a more active promotion of its Promotion of Linguistic Duality component among eligible organizations in order to encourage greater participation. The Commissioner expects to receive a report on the implementation status of this recommendation by March 30, 2007.

New Recommendation 4

The Commissioner of Official Languages recommends that Public Works and Government Services Canada work more actively with Canadian Heritage, the National Capital Commission and the municipal governments of Gatineau and Ottawa to promote the bilingual character of the National Capital Region actively in the business community.

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B BACKGROUND

In April 1997, the Standing Joint Committee on Official Languages tabled its report in Parliament on the application of the *Official Languages Act* in the National Capital Region (NCR). In particular, the Committee looked at language requirements in the leases of commercial tenants of federally owned buildings. The report put forward proposals that would “make a significant contribution to the process of ensuring that the National Capital Region reflects Canada's linguistic duality as faithfully as possible, in all sectors of activity, both public and private.”

In March 2004, the Office of the Commissioner of Official Languages published a study of 207 commercial tenants of federal buildings located in the core area of the NCR, taking into account the Committee's recommendations. The results showed that most businesses located on the Quebec side communicated with the public in both official languages. On the Ontario side, however, the majority of businesses did not have signage in both official languages and almost half could not serve clients in French. To address the situation, the Commissioner made 13 recommendations to the National Capital Commission (NCC), Public Works and Government Services Canada (PWGSC) and Canadian Heritage (see Appendix B). These recommendations focused primarily on the content of the language clauses in leases, monitoring and control mechanisms to ensure that commercial tenants meet their language responsibilities, and the creation of programs to encourage and help the private sector to offer services in both official languages.

In May 2004, the NCC, PWGSC and Canadian Heritage appeared before the Senate Standing Committee on Official Languages to report on the action taken in response to the Commissioner's recommendations. The Office of the Commissioner of Official Languages began a follow-up study in the summer of 2005 to determine the extent to which the recommendations of the March 2004 study had been implemented within the prescribed timelines.

According to Part VII of the 1988 *Official Languages Act*, the Government of Canada is committed to “fostering the full recognition and use of both English and French in Canadian society.” The government’s commitment, stipulated in section 41 of the Act, and the responsibility of federal organizations to act on this commitment, stipulated in sections 42 and 43 of the Act, were adopted by Parliament in accordance with the powers given to it by subsection 16(3) of the Canadian Charter of Rights and Freedoms, to advance the equality of status and use of English and French.

In carrying out this commitment, the NCC, PWGSC and Canadian Heritage must act in a manner that respects both the purpose and spirit of the Act, as described in the preamble, where Parliament emphasizes the government's commitment to linguistic duality and, in particular, to “enhancing the bilingual character of the National Capital Region and to encouraging the business community, labour organizations and voluntary organizations in Canada to foster the recognition and use of English and French.”

This legislative framework provides a basis for examining the responsibilities of federal institutions that own property and land in the NCR. Specifically, the NCC and PWGSC are responsible for ensuring that their commercial tenants in the NCR communicate with the public and offer their services in both official languages. The two organizations therefore include in their leases language requirements regarding both signage and service to the public.

Canadian Heritage also has an important role to play in encouraging and helping the business community to provide services in English and French, and in promoting the recognition and use of the two languages. This mandate is derived from paragraph 43(1)(f) of the Act, which states that the Department of Canadian Heritage is to take such measures as it considers appropriate to “encourage and cooperate with the business community, labour organizations, voluntary organizations and other organizations or institutions to provide services in both English and French and to foster the recognition and use of those languages.” The Department must therefore see that programs to that effect are in place.

L ANGUAGE

REQUIREMENTS IN LEASES

To respect the Government of Canada's commitments as stated in Part VII of the *Official Languages Act*, the NCC and PWGSC are responsible for including official language requirements in commercial leases negotiated in the NCR.

In her 2004 report, the Commissioner made five recommendations to ensure that language clauses are clearly defined and included in all commercial leases, and that tenants are informed of their obligations.

Recommendation 1

The Commissioner of Official Languages recommends that the National Capital Commission and Public Works and Government Services Canada take the necessary measures to ensure that the content of the language clauses is discussed and clarified with commercial tenants when they sign or renew their lease and inform them of the concrete actions that must be taken in order to meet their linguistic obligations.

To make it easier for tenants to find information on their language requirements, the NCC has grouped all language clauses together in an appendix to the lease. When negotiating a lease, the NCC asks tenants to sign the appendix to show that they are aware of the requirements. The Commissioner believes that this procedure responds to the recommendation.

When negotiating a lease, the PWGSC officer responsible for the lease agreement discusses the language clauses with the tenants to ensure that they are aware of their linguistic responsibilities under the lease. The officer then signs a letter stating that the clauses have been discussed. This letter is inserted in the tenant's file. This procedure responds to the recommendation.

Follow-up to Recommendation 1: Recommendation implemented.

Recommendation 2

The Commissioner of Official Languages recommends that the National Capital Commission and Public Works and Government Services Canada put in place, within two months of receiving this report, a monitoring mechanism to ensure that both language clauses are automatically added to any new or renewed commercial lease and provide the Office of the Commissioner of Official Languages with the results of this activity by December 31, 2004.

All of the NCC's commercial leases in the NCR contain language clauses. A clause regarding signage and another concerning service to the public are part of the NCC's standard lease agreement. The two language clauses are automatically added to any new or renewed commercial lease in accordance with the Commissioner's recommendation. Since 2003, the NCC has renewed 12 leases and signed 3 new ones.

Since January 2004, PWGSC has been using a standard lease agreement for all its commercial leases in the NCR. This lease agreement contains a clause regarding signage and one regarding service to the public. These language clauses are included in new and renewed leases as they are concluded. While PWGSC did not report on this activity by the date stipulated in the recommendation, the Commissioner believes that it has responded to the recommendation by putting a standard lease agreement in place.

Follow-up to Recommendation 2: Recommendation implemented.

Recommendation 3

The Commissioner of Official Languages recommends that the National Capital Commission ensure the addition and enforcement of language clauses for service and written material in any new or renewed long-term leases negotiated with development companies and ensure that commercial tenants renting space from them are informed of their linguistic obligations.

In addition to commercial leases, the NCC negotiates ground or development leases. These are long-term leases concluded with development companies that renovate or construct buildings on NCC land and then sublet commercial space. In response to the

Commissioner's recommendation, the NCC now includes language clauses in its ground leases and requires development companies to include language clauses (the same ones that the NCC includes in its own commercial leases) in the leases signed by businesses that are subletting the premises.

Follow-up to Recommendation 3: Recommendation implemented.

Recommendation 5

The Commissioner of Official Languages recommends that Public Works and Government Services Canada inform, within two months of receiving this report, all commercial tenants in the National Capital Region that have language clauses in their lease of what is expected of them with regard to service and signage.

In response to the Commissioner's recommendation, PWGSC sent a letter to its tenants in the summer of 2004, informing them of their linguistic obligations and providing a list of the resources and tools available to help them meet those obligations. The Department felt the need to send a subsequent letter that summer to address tenants' concerns regarding media coverage of the initial letter.

Follow-up to Recommendation 5: Recommendation implemented.

Recommendation 7

The Commissioner of Official Languages recommends that Public Works and Government Services Canada take, within three months of receiving this report, appropriate measures to ensure that the language clauses added to any new lease clearly identify what is required in the way of signage and bilingual services and that the elements of service found in the clauses are similar to those used by the National Capital Commission.

In her previous report, the Commissioner requested that the language clauses used by PWGSC clearly identify signage and service requirements. She is pleased to note that the current clauses regarding signage and service "in support of the federal government" are clear and detailed.

Tenants providing a service in support of the federal government have the following responsibility:

“There shall be adequate staff on the Premises, at all times, in order to provide the highest quality of service in both official languages of Canada.”

The Department uses two different service clauses depending on the services provided by tenants. However, prior to January 2004, PWGSC used only one clause, which was the same as the one now used solely for tenants who provide service in support of the federal government. Tenants who provide service to the “general public” have the following responsibility:

“The Landlord wishes to promote the use of both official languages of Canada and encourages the Tenant to provide its services in the Premises in French and English. The Tenant agrees that it will endeavour to provide bilingual services to the public where possible.”

We note that there are problems with the Department’s language clause regarding service to the general public. Speaking before the Senate Standing Committee on Official Languages in May 2004, the Department stated: “Since 2000, PWGSC has required that all commercial leases include clauses covering the provision of signage and services in both official languages in the National Capital Region.”

In our opinion, tenants that provide service to the general public are not required to meet any specific obligation since the language clause developed by the Department merely encourages them to offer bilingual services. Furthermore, the expression “where possible” is ambiguous and could lead tenants to form a narrow interpretation of their linguistic obligations.

The Commissioner believes that there is no reason to distinguish between commercial tenants serving the general public and those whose services are in support of the federal government, especially since the Department does not make this distinction in the signage clause.

The Commissioner reminds PWGSC of the commitment it made before the Senate Standing Committee on Official Languages in May 2004: “PWGSC is committed to fostering the full recognition and use of the English and French languages in Canadian

society, as well as enhancing the bilingual character of the National Capital Region.” We feel that this commitment must be viewed in tandem with PWGSC’s other statement before the Senate Committee that all its leases contain clauses requiring tenants to respect both official languages.

The Commissioner asks the Department to review the service clause in order to strengthen it and to better respond to her recommendation. Furthermore, as shown by the results of the spot checks conducted among businesses in 2005, PWGSC must be more firm with its tenants.

Follow-up to Recommendation 7: Recommendation partially implemented.

New Recommendation 1

The Commissioner of Official Languages recommends that Public Works and Government Services Canada amend its service clause so that all commercial tenants located in the National Capital Region are required to serve the public in both official languages. The Commissioner expects to receive a report on the implementation status of this recommendation by April 28, 2006.

To evaluate the progress made since the last study, we conducted a new series of spot checks of NCC and PWGSC commercial tenants. These new spot checks were conducted using the same methodology as that used in the summer of 2003.

Methodology

Canada's capital must be a reflection of the country. All citizens of and visitors to the National Capital Region should therefore be able to receive service in the official language of their choice in federal buildings. During our spot checks, we focused on businesses with easy public access in high-traffic areas or areas popular with tourists, the majority of which are located in the core area of the NCR.¹ With a few exceptions, we visited businesses located in the cities of Ottawa and Gatineau.²

The NCC and PWGSC rent their premises and land to a wide range of organizations and businesses. We conducted spot checks of boutiques and retailers, restaurants, fast-food outlets, museums and art galleries, eyewear stores, dry cleaners, travel agencies, banking institutions, golf and minigolf courses, campgrounds, hotels, hairdressers and estheticians, sports facilities, marinas, beaches and tour companies. A total of 198 businesses were visited, 33 in Quebec, and 165 in Ontario. Of these, 76 lease from the NCC and 122 from PWGSC (see Table 1).

We did not include facilities that do not serve the general public (e.g., research facilities, farms), those that are not easily accessible by the general public (e.g., cafeterias, convenience stores and fitness centres located in office buildings, private clubs) and those offering specialized services (e.g., law or dental offices, development corporations, bookstores specializing in one language).

1. The National Capital Region, as defined in the *National Capital Act* (1985), covers about 4,715 km² and extends well beyond the municipal boundaries of the cities of Ottawa and Gatineau.
2. Some businesses located outside the municipal boundaries were checked because we felt they attracted tourists.

Table 1

Distribution of businesses checked

	Ontario	Quebec	Total
No. of businesses leasing from the NCC	67	9	76
No. of businesses leasing from PWGSC	98	24	122
Total businesses visited	165	33	198

For this follow up study, we conducted spot checks of the 198 businesses that met the selection criteria. Most (78%) were also checked in 2003.³ It should be noted that, for the follow-up study, all the businesses received a spot check; sampling was impossible given the small number of NCC businesses located on the Quebec side. Each business was spot-checked to verify the language of signage and written material as well as the availability of services in both official languages and the linguistic quality of this service. We also did a spot check of telephone service and Web sites. In all cases, the auditor posed as a customer.

The same elements were checked as in the previous study:

Signage and written material

The auditor checked whether each of the following elements was bilingual or unilingual:

- exterior signage – the information written on the business’s main sign (other than the business name) and any advertising posted outside the business or in the windows, such as specials, sales, tables d’hôtes;
- advertising posted inside the business – such as specials, sales, tables d’hôtes;
- menus in restaurants and fast-food outlets;
- promotional material – leaflets, brochures and flyers.

3. Over the last two years, some businesses closed down and others opened their doors.

In-person service

The auditor determined whether service was available in the minority language (French on the Ontario side and English on the Quebec side).

If service was available in the minority language, the auditor verified its linguistic quality:

- poor – the service provider had a poor knowledge of the minority language, and had difficulty understanding the auditor and communicating the information requested;
- satisfactory – the service provider had sufficient knowledge of the minority language to understand the auditor and provide the information requested;
- very good – the service provider had a good command of the minority language.

When assessing the results, we determined that a language-quality rating of satisfactory or very good met the requirements for bilingual service, since the auditor was able to receive a level of service comparable to what would have been received in the other language.

Telephone service

A telephone spot check was conducted for each business, except fast-food outlets located in food courts. Calls were made during normal business hours. The auditor made only one call to each business. The methods of answering varied: some calls were answered by a staff member, while others were directed to voice mail or an answering machine.

The auditor determined whether service was available in the minority language. If service was available in the minority language, the auditor rated the linguistic quality.

Web sites

We checked the Web sites operated by local businesses. The sites belonging to major chains with stores across the country were not selected since they extended beyond the scope of our study, which focussed on the NCR. Although the language clauses in the commercial leases of NCC and PWGSC tenants do not specify Web sites, the sites are a means of advertising. The information posted on a business' Web site is therefore subject to the language clauses concerning signage.

The auditor determined whether the Web site was bilingual or unilingual using the same procedure as for evaluating written material.

LEGISLATIVE ISSUES CONCERNING COMMERCIAL SIGNAGE

Provincial governments are responsible for the language of commercial signage. The language of signage is legislated in Quebec, but not in Ontario. Section 58 of the Charter of the French Language states that “public signs and posters and commercial advertising must be in French. They may also be both in French and in another language provided that French is markedly predominant.” The same is true for printed advertisements, which are dealt with in section 52 of the Charter.

Federal institutions, however, are subject to federal law. Section 29 of the *Official Languages Act* states that “where a federal institution identifies any of its offices or facilities with signs, each sign shall include both official languages or be placed together with a similar sign of equal prominence in the other official language.”

Promoting the bilingual character of the NCR and the use of both official languages therefore complies with provincial and federal legislation.

Spot checks of businesses in the NCR, by province

The availability of services⁴ in both official languages in the NCR varies considerably between Quebec and Ontario. As we will also see in the following sections, the level of bilingualism among businesses varies depending on whether they are tenants of the NCC or of PWGSC.

Availability of services on the Quebec side of the NCR

Of the 33 businesses that were spot-checked, 9 leased from the NCC and 24 from PWGSC. Most businesses (79%) had also been checked in 2003, the others being new businesses.

Aside from a few exceptions, in-person and telephone services were available in English on the Quebec side of the NCR, as in 2003 (see Table 2).

4. In terms of in-person and telephone service, we verified the availability of service in the minority language only, English on the Quebec side and French on the Ontario side.

Table 2

Spot check results: Availability of service from Quebec businesses in 2003 and 2005

	Service Available in English; Language Quality Satisfactory to Very Good		
	2003	2005	Change
In-person service	100% (33/33)	97% (32/33)	≈
Telephone service	100% (30/30)	92% (24/26)	≈

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

We found that signage and written material were bilingual in about 60% of cases (see Table 3). In most cases, the English version was lacking, although five locations were noted where material was not always available in French. The only unilingual Web site was in English.

Table 3

Spot check results: Signage, written material and Web sites of Quebec businesses in 2003 and 2005

	Bilingual Material		
	2003	2005	Change
Exterior signage	79% (26/33)	59% (17/29)	↓
Menus	75% (9/12)	60% (9/15)	↓
Interior signage	76% (22/29)	62% (15/24)	↓
Promotional material	90% (9/10)	69% (9/13)	↓
Web sites	60% (3/5)	83% (5/6)	↑

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

As indicated, signage and written material in businesses located in Quebec are not sufficiently available in both official languages. This situation has deteriorated since 2003, and the Commissioner is concerned. However, there is improvement with regard to Web sites.

Availability of services on the Ontario side of the NCR

Of the 165 businesses that were spot-checked, 67 leased from the NCC and 98 from PWGSC. Most (78%) had also received spot checks in 2003, the others being new businesses.

As shown in Table 4, close to 60% of the businesses were able to provide services in French in person and on the telephone. These results are about the same as those in 2003.

Table 4
Spot check results: Availability of service from Ontario businesses in 2003 and 2005

	Service Available in French; Language Quality Satisfactory to Very Good		
	2003	2005	Change
In-person service	58% (99/170)	57% (94/165)	≈
Telephone service	63% (95/150)	56% (83/147)	↓

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

As shown in Table 5, the situation regarding bilingual signage was much the same as in 2003. There was a slight decline in terms of menus, but a slight increase in bilingual interior signage. Most Web sites did not provide French-language versions.

Table 5

Spot check results: Signage, written material and Web sites of Ontario businesses in 2003 and 2005

	Bilingual Material		
	2003	2005	Change
Exterior signage	38% (63/167)	40% (54/136)	≈
Menus	39% (17/44)	35% (17/48)	↓
Interior signage	21% (30/140)	25% (27/107)	↑
Promotional material	38% (10/26)	39% (15/38)	≈
Web sites	14% (7/50)	12% (3/26)	≈

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Spot checks of NCC businesses located in the NCR

Of the 76 businesses leasing from the NCC, 9 were located in Quebec and 67 in Ontario. Sixty-four percent of the businesses spot-checked in 2003 were checked again in 2005, the others being new businesses.⁵

In-person and telephone services

As shown in Table 6, all businesses leasing from the NCC that were located in Quebec received almost perfect results for in-person and telephone services. During telephone spot checks, we received service in English at all the numbers at which we were able to speak to a representative. In one case, we received a voice mail message in French only. These results are similar to those obtained in 2003.

5. There was no significant difference between the performance of new businesses and the performance of businesses that were also assessed in 2003.

Table 6

Spot check results: Availability of service from Quebec businesses leasing from the NCC in 2003 and 2005

	Service Available in English; Language Quality Satisfactory to Very Good		
	2003	2005	Change
In-person service	100% (6/6)	100% (9/9)	=
Telephone service	100% (6/6)	88% (7/8)	≈

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Businesses located in Ontario provided in-person service in French in nearly 70% of cases, and telephone service in three-quarters of cases. We noted a slight improvement over 2003 in terms of the availability of French-language services (see Table 7).

Table 7

Spot check results: Availability of service from Ontario businesses leasing from the NCC in 2003 and 2005

	Service Available in French; Language Quality Satisfactory to Very Good		
	2003	2005	Change
In-person service	59% (40/68)	67% (45/67)	↑
Telephone service	70% (42/60)	76% (48/63)	↑

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Signage, written material and Web sites

From Table 8 we can see once again that businesses located in Quebec and leasing from the NCC received perfect results regarding menus, interior signage and promotional material in 2005. Exterior signage and Web sites were generally in both official languages. However, we also noted that one of the businesses had mostly English signage and that the only unilingual Web site was in English.

Table 8

Spot check results: Signage, written material and Web sites of Quebec businesses leasing from the NCC in 2003 and 2005

	Bilingual Material		
	2003	2005	Change
Exterior signage	83% (5/6)	78% (7/9)	↓
Menus	50% (1/2)	100% (5/5)	↑
Interior signage	100% (4/4)	100% (6/6)	=
Promotional material	100% (4/4)	100% (5/5)	=
Web sites	60% (3/5)	83% (5/6)	↑

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Table 9 shows an improvement in bilingual material on the Ontario side in 2005. The greatest improvement is in interior signage and promotional material. The Commissioner encourages the NCC to maintain its efforts so that the percentage of businesses meeting requirements continues to increase rapidly.

Table 9

Spot check results: Signage, written material and Web sites of Ontario businesses leasing from the NCC in 2003 and 2005

	Bilingual Material		
	2003	2005	Change
Exterior signage	46% (33/71)	55% (31/56)	↑
Menus	47% (9/19)	57% (13/23)	↑
Interior signage	9% (5/55)	29% (13/45)	↑
Promotional material	29% (5/17)	44% (11/25)	↑
Web sites	15% (5/33)	16% (3/19)	≈

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Spot checks of PWGSC businesses located in the NCR

Of the 122 businesses leasing from PWGSC that were visited, 24 were located in Quebec and 98 in Ontario. Most of the businesses spot-checked in 2003 (86%) were checked again in 2005, the others being new businesses.⁶

6. There was no significant difference between the performance of new businesses and the performance of businesses that were also assessed in 2003.

In-person and telephone services

In 2005, almost all of the businesses located in Quebec and leasing from PWGSC were able to provide in-person and telephone services in both official languages (see Table 10).

Table 10

Spot check results: Availability of service from Quebec businesses leasing from PWGSC in 2003 and 2005

	Service Available in English; Language Quality Satisfactory to Very Good		
	2003	2005	Change
In-person service	100% (27/27)	96% (23/24)	≈
Telephone service	100% (24/24)	94% (17/18)	≈

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

The situation was different on the Ontario side, however, where we noted a decrease in the availability of in-person and telephone services. In 2003, 58% of the businesses were able to provide in-person service in French. In 2005, slightly more than half of the businesses located on the Ontario side of the NCR were unable to offer bilingual services in person or over the telephone (see Table 11). We can therefore conclude that there has been a deterioration over the past two years, and the Commissioner is concerned about this situation.

Table 11

Spot check results: Availability of service from Ontario businesses leasing from PWGSC in 2003 and 2005

	Service Available in English; Language Quality Satisfactory to Very Good		
	2003	2005	Change
In-person service	58% (59/102)	49% (48/98)	↓
Telephone service	59% (53/90)	42% (35/84)	↓

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Signage, written material and Web sites

Table 12 shows that only half of the businesses visited in Quebec in 2005 provided signage or promotional material in both languages, and fewer than half of the restaurants provided bilingual menus. Four of the businesses even had mainly English-language signage. No Web sites were located. We find that the situation has deteriorated slightly since 2003 with regard to signage and written materials.

Table 12

Spot check results: Signage, written material and Web sites of Quebec businesses leasing from PWGSC in 2003 and 2005

	Bilingual Material		
	2003	2005	Change
Exterior signage	78% (21/27)	50% (10/20)	↓
Menus	80% (8/10)	40% (4/10)	↓
Interior signage	72% (18/25)	50% (9/18)	↓
Promotional material	83% (5/6)	50% (4/8)	↓
Web sites	n/a	n/a	n/a

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

On the Ontario side, the performance of businesses visited, which was not stellar in 2003, also declined. Table 13 indicates that slightly more than one-quarter of the businesses had exterior signage in both official languages, and fewer than one-third had bilingual promotional material. Fewer than two businesses out of ten had bilingual menus, and interior signage was lacking in many instances. None of the seven Web sites checked was bilingual.

Table 13

Spot check results: Signage, written material and Web sites of Ontario businesses leasing from PWGSC in 2003 and 2005

	Bilingual Material		
	2003	2005	Change
Exterior signage	31% (30/96)	28% (22/78)	≈
Menus	32% (8/25)	16% (4/25)	↓
Interior signage	29% (25/85)	23% (14/62)	↓
Promotional material	56% (5/9)	31% (4/13)	↓
Web sites	12% (2/17)	0% (0/7)	↓

LEGEND: = No change ↓ Deterioration of service
 ≈ No significant change ↑ Improvement of service

Conclusions

Our study shows that the availability of services in both official languages varies greatly in the NCR, depending on whether the business is on the Quebec or Ontario side, and primarily on whether the business leases from the NCC or PWGSC.

Businesses that are tenants of the NCC and located in Quebec have almost perfect results regarding in-person and telephone services as well as written material. On the Ontario side, we find there has been an improvement in the availability of French-language services and bilingual material since 2003, and the greatest improvement has been in interior signage and promotional material. The NCC must continue its efforts to increase the number of businesses that meet the language requirements.

The Commissioner emphasizes that businesses located in Quebec and leasing from PWGSC had excellent results with regard to in-person and telephone services. However, the performance of these same businesses has declined since 2003 with respect to signage and

written material. On the Ontario side, the level of bilingualism among businesses has significantly declined since 2003. This situation is all the more alarming given that half of the 24 tenants⁷ whose leases were signed or renewed between 2003 and 2005 were not able to serve us in both official languages and had no bilingual signage. PWGSC has taken a step backwards. Based on these observations, it is clear that PWGSC must quickly review its strategy for promoting linguistic duality among its tenants. The measures put in place over the last two years have not produced the anticipated results. The Commissioner expects the Department to quickly put in place the necessary measures to correct the situation.

New Recommendation 2

The Commissioner of Official Languages recommends that Public Works and Government Services Canada take the necessary steps to ensure that tenants provide service in both official languages, in particular by clarifying the language requirements in the leases and providing tenants with regular reminders of these requirements. The Commissioner expects to receive a report on the implementation status of this recommendation by September 29, 2006.

7. Twenty-one of these cases involved renewals and three were new leases.

The Commissioner feels that the NCC and PWGSC must have monitoring and control mechanisms in place to ensure that their tenants meet their linguistic responsibilities. These mechanisms also show tenants the importance placed on official languages. The Commissioner made two recommendations in this regard in the previous report.

Recommendation 4

The Commissioner of Official Languages recommends that the National Capital Commission ensure, within three months of receiving this report, that Minto Properties Ltd. modifies its methodology for evaluating service in person so that the data obtained better reflect the availability of services in both official languages from businesses located on National Capital Commission property.

Minto Properties Ltd. is responsible for the day-to-day management of NCC buildings and is responsible for conducting spot checks of businesses to determine the availability of services and signage in both official languages. The company does this by visiting each business once a year. At the time of the previous study, tenants were given advance notice of the date and time of the visit. When they arrived on the premises, evaluators identified themselves before proceeding with the spot check. The Commissioner had asked the NCC to review this methodology so that the information collected would better reflect the availability of service in the two official languages.

To apply the Commissioner's recommendation, the property management company changed its procedures. Tenants are now given notice only of the month in which the visit will take place, but not of the exact date. However, the evaluators continue to identify themselves to the proprietor during the visit. This method does not permit an evaluation of the actual availability of service in the business, that is, the service that a member of the public would receive upon entering the business. Indeed, only one bilingual employee has to be on site for the evaluator to conclude that bilingual service is available. The NCC states that, under provisions of the *Ontario Commercial Tenancies Act* and the *Civil Code of Québec*, it is not authorized to conduct spot checks of its businesses using a "secret shopper." We do not share this opinion.

In Ontario, the legislation governing commercial leases simply guarantees tenants quiet enjoyment of the premises, while the legislation governing residential leases clearly sets out owners' rights and responsibilities regarding access to and inspection of the premises. The legislation regarding commercial leases in Quebec also simply requires owners to act in a reasonable manner. Consequently, NCC representatives have the authority to conduct spot checks of businesses to verify the availability of service and signage in both official languages without having to identify themselves. By informing tenants of the month in which the evaluation will take place, the NCC acts in accordance with its obligation to guarantee tenants quiet enjoyment of the premises. For this reason, the Commissioner continues to support a "secret shopper" approach and believes that the NCC has only partially implemented the recommendation.

Follow-up to Recommendation 4: Recommendation partially implemented.

Recommendation 6

The Commissioner recommends that Public Works and Government Services Canada put in place, within three months of receiving this report, monitoring and control mechanisms to ensure that commercial tenants are complying with their linguistic obligations and provide the Office of the Commissioner of Official Languages with the results of these activities by December 31, 2004.

Despite the Commissioner's recommendation, PWGSC has still not put in place formal monitoring mechanisms to ensure that businesses are complying with the language clauses in their leases. The Department relies instead on informal observations. Furthermore, it indicated at a meeting with representatives of the Office of the Commissioner of Official Languages that it had not given and did not intend to give SNC-Lavalin ProFac (the company responsible for the daily management of several PWGSC buildings since April 2005) the mandate to conduct spot checks of businesses.

However, appearing before the Senate Standing Committee on Official Languages in May 2004, PWGSC stated that it would "implement a monitoring process to determine whether commercial tenants are complying with their linguistic obligations. Tenants will be notified of the results and encouraged to resolve non-compliant issues." Only a few days later, the Commissioner received a letter from PWGSC's Associate Deputy Minister stating that "the Department will institute a control and reporting process and will determine whether

current and new tenants are complying with the language clauses in their leases. [...] PWGSC will implement a monitoring program that involves having a “secret shopper” complete a form every six months to confirm whether commercial tenants are meeting their language responsibilities regarding service and signage. Tenants will be notified of the results and encouraged to resolve any issues of non-compliance.”

The Commissioner notes that none of these measures has been implemented to date. According to the Department, the City of Ottawa already conducts spot checks of downtown businesses, including those leasing from PWGSC. However, there is no formal agreement between the City and PWGSC in this regard, and the Department therefore has no control over the methodology used during these spot checks.

The Commissioner deplores the fact that PWGSC has not followed up on its commitments to the Committee or to her. Given the disappointing results of our spot checks in 2003 and 2005, this attitude on the part of a federal department is unacceptable and indicates PWGSC’s great hesitancy when it comes to fulfilling its responsibilities concerning official languages. This situation also confirms the conclusions in the recent PWGSC audit report⁸ in which the Commissioner noted insufficient leadership among senior management regarding the official languages program. The Commissioner expects PWGSC to follow up on Recommendation 6 without delay, as it has clearly committed to do. The Commissioner expects to receive a report on the implementation status of this recommendation by April 30, 2006.

Follow-up to Recommendation 6: Recommendation not implemented.

8. *Audit of the Management of the Official Languages Program at Public Works and Government Services Canada.* Office of the Commissioner of Official Languages, September 2005.

PROMOTING LINGUISTIC DUALITY

In her 2004 report, the Commissioner made four recommendations to Canadian Heritage concerning the promotion of bilingual service among private-sector businesses, particularly those in the NCR, in accordance with its responsibilities set out in subsection 43(1) of the *Official Languages Act*.

Recommendation 8

The Commissioner recommends that the Department of Canadian Heritage review, by December 2004, its current programs in order to include activities designed specifically at encouraging and assisting private business to offer services in both official languages.

To help promote and support linguistic duality, Canadian Heritage has implemented the Enhancement of Official Languages Program. Through the program's Promotion of Linguistic Duality component, the Department provides funds to various volunteer and non-profit organizations. Its funding supports activities to enhance linguistic duality and encourage the provision of services in both official languages. The Promotion of Linguistic Duality component offers three funding vehicles:

- Collaboration in Promotion supports the ongoing commitment and actions of organizations involved primarily in promoting linguistic duality and the provision of services in both official languages, with a focus on long-term outcomes.
- Support for Innovation encourages innovative projects that promote linguistic duality and the provision of services in both official languages.
- Support for Interpretation and Translation assists organizations that encourage the participation of Canadians in both official languages at public events and aims to increase the number of documents available in both official languages.

According to Canadian Heritage, it conducts regular reviews to ensure that its programs are effective and efficient. In particular, it reviewed the Promotion of Linguistic Duality component and revised some of the eligibility criteria to broaden its scope and better meet organizations' funding needs for projects that help private-sector businesses offer bilingual service.

The City of Ottawa project is one of the projects funded by Canadian Heritage. In 2002, the Department concluded a \$2.5-million agreement to improve the city's bilingual services, \$250,000 of which was allocated to the Business Assistance Project,

which helps businesses provide bilingual service to their customers and post signs in both official languages. This funding was given to the City of Ottawa through Canadian Heritage's Support for Innovation initiative, which encourages innovative activities and projects.

The NCC and PWGSC have both stated that they participate in the Business Assistance Project and provide their tenants with tools developed by the City of Ottawa. The funding agreement between the City and Canadian Heritage ends in March 2006. The Commissioner feels that the work of the City of Ottawa and its partners should not be abandoned for lack of funding. She points out that, as Canada's capital, Ottawa should be a reflection of the country and represent the linguistic duality of Canadian society. Canadian Heritage has already indicated that it would be open to a request from the Province of Ontario, through the Intergovernmental Cooperation on Minority-Language Services program, to ensure continued funding for the City of Ottawa project.

Follow-up to Recommendation 8: Recommendation implemented.

BUSINESS ASSISTANCE PROJECT

Phase I of the project, launched in the fall of 2002, focused on assessing merchants' interest in offering bilingual service and identifying their needs. The City began phase II of the project in the fall of 2003, providing merchants in the pilot areas of the Byward Market and the St. Laurent Shopping Centre with services and tools to promote bilingual service to their customers. These services and tools included: a low-cost translation service; communications skills workshops for merchants and staff; tips on hiring bilingual staff; and a tool kit featuring a glossary, a poster and stickers with the campaign symbol, and a lapel pin showing the active offer of service symbol. Evaluation of phase II ended in the summer of 2004. The City of Ottawa noted an improvement in the level of bilingual service and signage among businesses in the Byward Market and the St. Laurent Shopping Centre.

Phases I and II of the Business Assistance Project enabled the City of Ottawa and its partners to assess bilingualism in the pilot areas and identify the services necessary to achieve the program's objectives. The City noted a high demand for translation services and communications skills workshops. It also upgraded its tool kit. The City launched phase III in the fall of 2004, extending the project to all Ottawa merchants, in particular the Rideau Centre and businesses on Rideau, Sparks, Bank and Elgin streets. Implementation of phase III ended in the spring of 2005. The City recommended that its partners be more involved in distributing tool kits and that new partners be recruited.

Recommendation 11

The Commissioner of Official Languages recommends that the Department of Canadian Heritage determine, in cooperation with the National Capital Commission, the most effective means of sensitizing the private sector in the National Capital Region to linguistic duality and conduct an awareness campaign aimed at encouraging private sector businesses to respect Canada's bilingual character by providing their services in both official languages.

In response to Recommendation 11, Canadian Heritage stated that the City of Ottawa's Business Assistance Project was the best method to increase awareness of linguistic duality within the private sector in the NCR. The Department said that it meets regularly with the NCC, PWGSC and the City of Ottawa to check on progress and explore other avenues of co-operation. The Department's contribution to the project is mainly financial. Financial contributions are, according to the Department, its only way to influence results.

Although the Department co-operates in many projects promoting linguistic duality and is committed to ensuring the file moves forward, its participation remains mainly one of financial support. The Commissioner feels this position demonstrates that Canadian Heritage sees its roles and responsibilities under sections 41 to 43 of the *Official Languages Act* in terms of a limited interpretation of Part VII of the Act. The Commissioner is asking Canadian Heritage to play a more proactive role in the promotion of the bilingual character of the NCR. Therefore, as indicated in the recommendation, the Commissioner expects the Department to take the lead on some projects, such as an awareness campaign aimed at the private sector in the NCR, and demonstrate greater leadership in this matter.

Canadian Heritage's responsibilities under section 43 of the Act are not restricted to the areas of activity outlined in subsection 43(1). Furthermore, in accordance with paragraph 43(1)(f), the Department must take measures not only to "encourage" the business community to provide services in both official languages, but also to "cooperate" with it in this regard. Taking proactive measures to encourage businesses in the NCR to provide service in both official languages would be in keeping with the type of activity provided for in paragraph 43(1)(f), and would support the government's commitment to "enhancing the bilingual character of the National Capital Region," as stated in the preamble to the Act.

The Commissioner believes that, to fulfill its responsibilities towards the NCR, Canadian Heritage should put in place a program specifically dedicated to the promotion of linguistic duality in the NCR. The Commissioner is of the opinion that the current programs, which are national in scope, do not necessarily meet the specific needs of the NCR.

Although Canadian Heritage did not fully implement the Commissioner's recommendation, its support of initiatives aimed at the promotion of linguistic duality in the NCR and its involvement in the City of Ottawa's Business Assistance Project allows us to conclude that the recommendation has been partially implemented.

Follow-up to Recommendation 11: Recommendation partially implemented.

Recommendation 12

The Commissioner of Official Languages recommends that the Department of Canadian Heritage ensure, by December 31, 2004, that it has met with representatives of provincial and municipal governments to determine the measures that could be taken to encourage the business community to provide services in both English and French.

Canadian Heritage states that it has acted on this recommendation by initiating discussions with several provincial and municipal governments on the promotion of linguistic duality. The Department explains that it acts as an intermediary, promoting the exchange of best practices in providing bilingual services. Discussions are still at the preliminary stage, and no strategy has been put in place. The Commissioner feels that, although work is underway, progress is slow and she encourages the Department to step up its efforts.

Follow-up to Recommendation 12: Implementation underway.

Recommendation 13

The Commissioner of Official Languages recommends that the Department of Canadian Heritage ensure collaboration between the federal, provincial and municipal governments and their private sector partners with a view to promoting the bilingual nature of the National Capital Region as part of an economic development strategy for the Region.

As the department coordinating implementation of Part VII, Canadian Heritage must act in collaboration with other federal institutions responsible for helping to promote the bilingual character of the national capital, such as the NCC and PWGSC, as well as other levels of government. The Commissioner recognizes that the Department regularly meets with its partners to discuss various projects to promote linguistic duality in the NCR.

The Commissioner believes that, as the lead department for implementing Part VII of the *Official Languages Act*, Canadian Heritage should be more proactive and demonstrate the leadership necessary to fulfill the Government of Canada's obligations. This is especially important given that the Department has said that it has difficulty in generating interest in its programs for the promotion of linguistic duality and in eliciting innovative projects. The Commissioner thus feels that the Department should also promote its funding programs more actively.

Follow-up to Recommendation 13: Recommendation partially implemented.

New Recommendation 3

The Commissioner of Official Languages recommends that Canadian Heritage take concrete steps to promote the bilingual character of the National Capital Region, initiate projects promoting linguistic duality with the private sector, and undertake a more active promotion of its Promotion of Linguistic Duality component among eligible organizations in order to encourage greater participation. The Commissioner expects to receive a report on the implementation status of this recommendation by March 30, 2007.

The Commissioner believes that the NCC and PWGSC must ensure that their tenants comply with the language clauses in their leases. However, to fulfill their responsibilities under Part VII of the *Official Languages Act*, the NCC and PWGSC must ensure that they provide their tenants with the necessary tools to meet their language obligations. In her previous report, the Commissioner made two recommendations in this regard.

Recommendation 9

The Commissioner of Official Languages recommends that the National Capital Commission and Public Works and Government Services Canada assist their commercial tenants in meeting the linguistic obligations outlined in the language clauses in their lease through direct action or referral, as appropriate.

Each year, Minto Properties Ltd. sends a letter to all NCC tenants reminding them of their linguistic responsibilities and promoting the City of Ottawa's Business Assistance Project. This letter serves to inform tenants of the resources available to help them fulfill their linguistic responsibilities. According to the NCC, this process enables it to ensure that tenants are co-operating and demonstrates the importance that the NCC places on official languages issues.

When a new lease is signed, the NCC mails the tenant a tool kit from the City of Ottawa and a letter explaining the Business Assistance Project. The tenant is encouraged to use the available resources as needed. The NCC states that it obtains very good results with this process.

The NCC works with the City of Ottawa on the preparation and mailing of the letters. The City also stated that it received outstanding co-operation from the NCC in the promotion of its project and the distribution of tool kits.

The NCC told us that it prefers to take a personal approach with its tenants when encouraging them to meet their linguistic responsibilities and enlisting their co-operation. The NCC points out that it tries to resolve any problems as they arise by identifying solutions and communicating with tenants. The Commissioner feels these actions demonstrate that the NCC has responded to the recommendation.

In response to the Commissioner's Recommendation 5 (see the section on Language Requirements in Leases), PWGSC sent its tenants a letter in the summer of 2004, with information on the free resources on its Web site and a list of additional resources. At a meeting a few months later with Office of the Commissioner of Official Languages representatives, PWGSC stated that it would look into providing a translator for a specific period to help tenants translate signs, menus and other written material. Despite its intentions, however, the Department had not followed up on the proposal by July 2005 or sent its tenants a new mail-out.

To help tenants meet their linguistic responsibilities, PWGSC currently provides them with the City of Ottawa's tool kit when they sign a lease. The Commissioner feels the Department has only partially met the recommendation, since it does not ensure that tenants receive regular reminders of the tools available to them.

The Commissioner does not understand PWGSC's attitude toward implementing her recommendation. The Department seemed to have good intentions in 2004, and the Commissioner was encouraged by the ideas it put forward. She therefore hopes that the Department will take quick and concerted action, and work more closely with the NCC and the City of Ottawa to promote the NCR's bilingual character.

Follow-up to Recommendation 9: Implemented by the NCC and partially implemented by PWGSC.

New Recommendation 4

The Commissioner of Official Languages recommends that Public Works and Government Services Canada work more actively with Canadian Heritage, the National Capital Commission and the municipal governments of Gatineau and Ottawa to promote the bilingual character of the National Capital Region more actively in the business community.

Recommendation 10

The Commissioner of Official Languages recommends that Public Works and Government Services Canada provide as soon as possible technolinguistic tools, including writing and translation aids and terminology banks like Termium, at no cost to its commercial tenants, including those of the National Capital Commission.

The Commissioner believes that PWGSC, which is responsible for the Translation Bureau, is well positioned to help its tenants and those of the NCC with translation. That is why the Commissioner asked PWGSC to provide its commercial tenants with all of its technolinguistic tools free of charge. To comply with this recommendation (and similar recommendations in other Office of the Commissioner of Official Languages reports), the Translation Bureau conducted a feasibility study on making Termium and other linguistic tools available to the Canadian public free of charge. The study has been completed, and the Translation Bureau is currently examining the options open to it.

The Commissioner hopes PWGSC selects an option that will enable all Canadians to take advantage of the Translation Bureau's specialized tools free of charge. However, this is a long-term project. The Commissioner believes that PWGSC and NCC tenants should be able to have immediate access to the Translation Bureau's tools and expertise. Furthermore, the Commissioner believes that Termium will not meet the needs of the private sector, particularly merchants, since it is a database created specifically for the public sector. She therefore suggests that tools be developed to meet the private sector's translation needs. The Commissioner has therefore decided to reword Recommendation 10. The Commissioner expects to receive a report on the implementation status of this recommendation by September 29, 2006.

Recommendation 10 (*reworded*)

The Commissioner of Official Languages recommends that Public Works and Government Services Canada provide as soon as possible, and at no cost, technolinguistic tools, such as text editing tools and lexicons, developed specifically for commercial businesses, to its commercial tenants as well as those of the National Capital Commission.

Follow-up to Recommendation 10: Recommendation not implemented.

C ONCLUSIONS

Only 5 of the 13 recommendations in the Commissioner's 2004 report have been fully implemented. Of the 7 recommendations addressed to PWGSC, 3 have been implemented, 2 have been partially implemented and 2 remain unimplemented. Of the 5 recommendations addressed to the NCC, 4 have been implemented and 1 has been partially implemented. Of the 4 recommendations addressed to Canadian Heritage, 1 has been implemented, 2 have been partially implemented and 1 is underway.

The NCC is ahead in promoting bilingualism among its tenants in the NCR. Nevertheless, the NCC must increase its efforts to further encourage tenants, particularly those on the Ontario side, to provide services in both official languages.

PWGSC not only lags behind in dealing with commercial leases in the NCR, but it has taken a step backward in the past two years in terms of the level of bilingualism among its tenants. The Department's senior management must take charge of this issue and show the leadership required to implement corrective measures as soon as possible.

Canadian Heritage must promote the bilingual character of the NCR more proactively and initiate projects to promote linguistic duality. Only then will the Department fully meet its obligations under Part VII of the *Official Languages Act*.

APPENDIX A

List of new recommendations, responses from institutions and our responses

New Recommendation 1

The Commissioner of Official Languages recommends that Public Works and Government Services Canada amend its service clause so that all commercial tenants located in the National Capital Region are required to serve the public in both official languages. The Commissioner expects to receive a report on the implementation status of this recommendation by April 28, 2006.

Response from PWGSC's Deputy Minister

PWGSC insists on reiterating its commitment towards the advancement of English and French in Canadian society. The Department, in collaboration with its legal services, is looking into the possibility of modifying the wording of its service clause in order to reinforce it.

Our response

The Commissioner will closely follow this issue to ensure that PWGSC implements her recommendation.

New Recommendation 2

The Commissioner of Official Languages recommends that Public Works and Government Services Canada take the necessary steps to ensure that tenants provide service in both official languages, in particular by clarifying the language requirements in the leases and providing tenants with regular reminders of these requirements. The Commissioner expects to receive a report on the implementation status of this recommendation by September 29, 2006.

Response from PWGSC's Deputy Minister

PWGSC recognizes the importance of clarifying the language requirements in its leases and providing tenants with regular reminders. In the action plan it is currently developing to address this file, PWGSC will improve its communication and awareness strategy so that tenants are able to offer their services in both official languages.

Our response

The Commissioner expects to receive PWGSC's action plan, currently under development, within a reasonable time.

New Recommendation 3

The Commissioner of Official Languages recommends that Canadian Heritage take concrete steps to promote the bilingual character of the National Capital Region, initiate projects promoting linguistic duality with the private sector, and undertake a more active promotion of its Promotion of Linguistic Duality component among eligible organizations in order to encourage greater participation. The Commissioner expects to receive a report on the implementation status of this recommendation by March 30, 2007.

Response from the Deputy Minister of Canadian Heritage

Canadian Heritage has requested a change of deadline for the implementation of this recommendation to March 2007, since the file involves agreements with other partners such as the NCC, the City of Ottawa and PWGSC, a process that requires time. As regards initiatives receiving financing through Canadian Heritage programs, it is easiest to access financial information at the end of the fiscal year when recipients report on their results.

Our response

The Commissioner agrees with the time frame proposed by Canadian Heritage.

New Recommendation 4

The Commissioner of Official Languages recommends that Public Works and Government Services Canada work more actively with Canadian Heritage, the National Capital Commission and the municipal governments of Gatineau and Ottawa to promote the bilingual character of the National Capital Region more actively in the business community.

Response from PWGSC's Deputy Minister

PWGSC has participated and intends to collaborate more actively with Canadian Heritage, the National Capital Commission and the municipal administrations of Ottawa and Gatineau to develop tools that will help actively promote the bilingual character of the NCR with its tenants.

Our response

The Commissioner expects that the action plan submitted by PWGSC will report on its activities in this regard.

APPENDIX B

Implementation of the 2004 recommendations

Recommendation 1

The Commissioner of Official Languages recommends that the National Capital Commission and Public Works and Government Services Canada take the necessary measures to ensure that the content of the language clauses is discussed and clarified with commercial tenants when they sign or renew their lease and inform them of the concrete actions that must be taken in order to meet their linguistic obligations.

Follow-up to Recommendation 1: Recommendation implemented.

Recommendation 2

The Commissioner of Official Languages recommends that the National Capital Commission and Public Works and Government Services Canada put in place, within two months of receiving this report, a monitoring mechanism to ensure that both language clauses are automatically added to any new or renewed commercial lease and provide the Office of the Commissioner of Official Languages with the results of this activity by December 31, 2004.

Follow-up to Recommendation 2: Recommendation implemented.

Recommendation 3

The Commissioner of Official Languages recommends that the National Capital Commission ensure the addition and enforcement of language clauses for service and written material in any new or renewed long-term leases negotiated with development companies and ensure that commercial tenants renting space from them are informed of their linguistic obligations.

Follow-up to Recommendation 3: Recommendation implemented.

Recommendation 4

The Commissioner of Official Languages recommends that the National Capital Commission ensure, within three months of receiving this report, that Minto Properties Ltd. modifies its methodology for evaluating service in person so that the data obtained better reflect the availability of services in both official languages from businesses located on National Capital Commission property.

Follow-up to Recommendation 4: Recommendation partially implemented.

Response from NCC President

The NCC is aware that the Commissioner does not share its view that some provisions of the *Ontario Commercial Tenancies Act* and of the *Civil Code of Québec* do not allow for spot checks of its businesses using a “secret shopper.” Consequently, the NCC President has asked that the issue be further discussed between his representatives and those of the Commissioner.

Recommendation 5

The Commissioner of Official Languages recommends that Public Works and Government Services Canada inform, within two months of receiving this report, all commercial tenants in the National Capital Region that have language clauses in their lease of what is expected of them with regard to service and signage.

Follow-up to Recommendation 5: Recommendation implemented.

Recommendation 6

The Commissioner of Official Languages recommends that Public Works and Government Services Canada put in place, within three months of receiving this report, monitoring and control mechanisms to ensure that commercial tenants are complying with their linguistic obligations and provide the Office of the Commissioner of Official Languages with the results of these activities by December 31, 2004.

Follow-up to Recommendation 6: Recommendation not implemented.

Our response

The Commissioner expects that the action plan submitted by PWGSC will clearly indicate what the Department intends to do to implement this recommendation.

Recommendation 7

The Commissioner of Official Languages recommends that Public Works and Government Services Canada take, within three months of receiving this report, appropriate measures to ensure that the language clauses added to any new lease clearly identify what is required in the way of signage and bilingual services and that the elements of service found in the clauses are similar to those used by the National Capital Commission.

Follow-up to Recommendation 7: Recommendation partially implemented.

Please refer to the New Recommendation 1.

Recommendation 8

The Commissioner of Official Languages recommends that the Department of Canadian Heritage review, by December 2004, its current programs in order to include activities designed specifically at encouraging and assisting private business to offer services in both official languages.

Follow-up to Recommendation 8: Recommendation implemented.

Recommendation 9

The Commissioner of Official Languages recommends that the National Capital Commission and Public Works and Government Services Canada assist their commercial tenants in meeting the linguistic obligations outlined in the language clauses in their lease through direct action or referral, as appropriate.

Follow-up to Recommendation 9: Recommendation implemented by the NCC and partially implemented by PWGSC.

Recommendation 10

The Commissioner of Official Languages recommends that Public Works and Government Services Canada provide as soon as possible technolinguistic tools, including writing and translation aids and terminology banks like Termium, at no cost to its commercial tenants, including those of the National Capital Commission.

Recommendation 10 (reworded)

The Commissioner of Official Languages recommends that Public Works and Government Services Canada provide as soon as possible, and at no cost, technolinguistic tools, such as text editing tools and lexicons, developed specifically for commercial businesses, to its commercial tenants as well as those of the National Capital Commission.

Follow-up to Recommendation 10: Recommendation not implemented.

Response from PWGSC's Deputy Minister

The Translation Bureau already offers the Canadian public some 30 lexicons which can be accessed at no charge from its Web site (www.translationbureau.gc.ca), some of which might be of interest to certain types of business. Given the current situation, the Translation Bureau does not have the financial resources required to deliver Termium at no cost or to develop specific tools to meet the private sector's translation needs. Moreover, it cannot use its current financial resources to other ends than to give direct support to government activities. The Translation Bureau is already involved in a process that should lead to a decision regarding solutions and options being considered to give the public access to its tools.

Our response

The Commissioner recognizes that the Translation Bureau operates on a cost-recovery basis and that its primary mandate is to support the government's linguistic needs. However, the implementation of the recommendation does not rest solely on the involvement of the Translation Bureau. Moreover, the Translation Bureau does not have to assume by itself the cost involved in the development of those tools.

Recommendation 11

The Commissioner of Official Languages recommends that the Department of Canadian Heritage determine, in cooperation with the National Capital Commission, the most effective means of sensitizing the private sector in the National Capital Region to linguistic duality and conduct an awareness campaign aimed at encouraging private sector businesses to respect Canada's bilingual character by providing their services in both official languages.

Follow-up to Recommendation 11: Implementation underway.

Response from the Deputy Minister of Canadian Heritage

Canadian Heritage has met on several occasions with the NCC, PWGSC and the City of Ottawa to review the success of the strategy and to explore other avenues of collaboration. For example, Canadian Heritage has been discussing with its partners different format options for a case study presentation to promote the benefits of bilingual services to a broad group of primarily English-speaking businesspersons in the NCR.

Our response

The Commissioner continues to hold that Canadian Heritage should demonstrate better leadership in this file and give greater priority to the NCR's needs when it comes to the promotion of linguistic duality to completely fulfill its obligations under the *Official Languages Act*.

Recommendation 12

The Commissioner of Official Languages recommends that the Department of Canadian Heritage ensure, by December 31, 2004, that it has met with representatives of provincial and municipal governments to determine the measures that could be taken to encourage the business community to provide services in both English and French.

Follow-up to Recommendation 12: Implementation underway.

Recommendation 13

The Commissioner of Official Languages recommends that the Department of Canadian Heritage ensure collaboration between the federal, provincial and municipal governments and their private sector partners with a view to promoting the bilingual nature of the National Capital Region as part of an economic development strategy for the Region.

Follow-up to Recommendation 11: Recommendation partially implemented.