



Department of Justice
Canada

Ministère de la Justice
Canada

AUDIT OF OFFICIAL LANGUAGES

**Internal Audit Branch
Department of Justice Canada**

JUNE 28, 2012

TABLE OF CONTENTS

STATEMENT OF ASSURANCE i

EXECUTIVE SUMMARYii

1 INTRODUCTION 1

2 FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES 4

3 AUDIT OPINION/OVERALL CONCLUSION 8

APPENDIX A - AUDIT CRITERIA 9

APPENDIX B - APPROACH AND METHODOLOGY 10

APPENDIX C – RISK ASSESSMENT GUIDELINES 11

STATEMENT OF ASSURANCE

We have completed the internal audit of Official Languages at the Department of Justice. The overall objective of this audit was to provide assurance that the management framework in place to govern the activities of the official languages group in the Corporate Staffing, Official Languages and Recognition Unit is effective and that the Department is complying with the requirements of the *Official Languages Act*.

The internal audit was planned and conducted in accordance with the *Internal Auditing Standards for the Government of Canada*.¹ The audit was undertaken in a manner consistent with the Treasury Board (TB) *Policy on Internal Audit* and related guidelines and procedures, and with generally accepted auditing standards. In our professional judgment, sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the opinion provided and contained in this report. The opinion is based on a comparison of the conditions, as they existed at the time of the audit (September 2011 – January 2012), against pre-established audit criteria that were derived from the Framework of Core Management Controls and Audit Criteria (CMC – May 2010) established by the Office of the Comptroller General of Canada (OCG).

Original signed by

Cheryl Driscoll CIA, CGAP, CCSA, CRMA , CFE
Chief Audit Executive

Date

¹ The Internal Audit Branch has not undergone an external assessment at least once in the past five years or been subject to ongoing monitoring or to periodic internal assessments of its internal activity that would confirm compliance with these standards.

EXECUTIVE SUMMARY

1 Audit Opinion/Overall Conclusion

Overall, we found that the Department has an effective management framework in place to govern the activities of the official languages group in the Corporate Staffing, Official Languages and Recognition Unit, and to comply with the requirements of the *Official Languages Act*. This framework could be strengthened by clarifying roles, responsibilities and accountabilities; formalizing processes for sharing official languages-related issues and trends with the Network of Sectoral and Regional Official Languages Champions; and ensuring that resources have been allocated appropriately within the Corporate Staffing, Official Languages and Recognition Unit.

- 2 In the Department of Justice, the Corporate Staffing, Official Languages and Recognition Unit of the Human Resources and Professional Development Directorate is responsible for applying Parts IV, V, VI, and section 91 of Part XI of the *Official Languages Act*. The unit's mandate includes developing policies, directives, guidelines, strategies, programs, plans, and tools pertaining to official languages. It provides departmental staff with advice and guidance on all official languages matters covered by these parts of the Act. The unit also promotes the Official Languages Program, monitors related programs and policies, and responds to complaints filed with the Office of the Commissioner of Official Languages.
- 3 The Department of Justice has two other organizational units that address the *Official Languages Act*. The Office of La Francophonie, Justice in Official Languages and Legal Dualism fulfills the Department's responsibilities with respect to Part VII of the Act. In addition, the Department has an Official Languages Law Section that supports the Government of Canada with respect to the Act. While these two organizations were interviewed in the context of coordination of official languages programs within the Department, they were not included in the scope of this audit.
- 4 This audit was identified in the 2011-12 Risk-Based Audit Plan. The overall objective of the audit was to provide assurance that the management framework in place to govern the activities of the official languages group in the Corporate Staffing, Official Languages and Recognition Unit is effective and that the Department is complying with the requirements of the *Official Languages Act*.
- 5 Roles, responsibilities and accountabilities for official languages are assigned to three organizational units (i.e. the Office of La Francophonie, Justice in Official Languages and Legal Dualism; the Corporate Staffing, Official Languages and Recognition Unit; and the Official Languages Law Section) within the Department of Justice. Although the roles are clearly

identified in the departmental *Official Languages (OL) Policy*, they are not consistently understood across the Department.

- 6 The Network of Sectoral and Regional Official Languages Champions of the Department of Justice (the Network) includes representatives from each portfolio, sector and division in the National Capital Region and from the regions. The objective of the Network and its members is to support the Departmental Champion and Co-Champion in fulfilling their mandate to provide leadership within their portfolio, sector, division or region by creating a bilingual culture founded on the spirit and letter of the Official Languages Act. However, issues and trends arising from complaints received through the Office of the Commissioner of Official Languages, while brought to the attention of the Departmental Champions are not formally shared with the Network.
- 7 Finally, it was noted that the current organizational structure of the Corporate Staffing, Official Languages and Recognition Unit needs to be formally reviewed to ensure that resources have been allocated appropriately.

1 INTRODUCTION

1.1 Background

- 8 The *Official Languages Act* establishes the official languages rights that Canadians may exercise when dealing with or working for federal institutions. The Act recognizes the constitutional principle that English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in federal institutions.
- 9 The Department of Justice is subject to the requirements of the *Official Languages Act*. This involves ensuring the right of Canadians to communicate with and receive services in either official language (Part IV of the Act); ensuring the right of employees to use the official language of their choice at work in regions designated bilingual for language-of-work purposes (Part V of the Act); supporting the federal government's commitment to ensuring that English- and French-speaking Canadians have equal opportunities for employment and advancement in the Department, and consequently, in the government as a whole (Part VI of the Act). The Department of Justice is also responsible for applying Part XI (specifically section 91) of the Act. This section states that the official languages requirements for the purpose of a staffing action must be objectively established. In other words, these requirements must be genuinely necessary to perform the duties of the position to be filled.
- 10 In the Department of Justice, the Corporate Staffing, Official Languages and Recognition Unit of the Human Resources and Professional Development Directorate is responsible for applying Parts IV, V, VI, and section 91 of Part XI of the *Official Languages Act*. The unit's mandate includes developing policies, directives, guidelines, strategies, programs, plans, and tools pertaining to official languages. It provides departmental staff with advice and guidance on all official languages matters covered by the parts of the Act noted above (e.g. non-imperative staffing and requests for exemption under the *Public Service Official Languages Exclusion Approval Order*). The unit also promotes the Official Languages Program, monitors related programs and policies, and responds to complaints filed with the Office of the Commissioner of Official Languages.

1.2 Audit Objective and Scope

- 11 This audit was identified in the 2011-12 Risk-Based Audit Plan. The overall objective of the audit was to provide assurance that the management framework in place to govern the activities of the official languages group in the Corporate Staffing, Official Languages and Recognition Unit is effective and that the Department is complying with the requirements of the *Official Languages Act*.

- 12 The audit included the official languages-related operations and activities of the Corporate Staffing, Official Languages and Recognition Unit. The Department of Justice has two other organizational units that address the *Official Languages Act*. The Office of La Francophonie, Justice in Official Languages and Legal Dualism fulfills the Department's responsibilities with respect to Part VII of the Act. In addition, the Department has an Official Languages Law Section that supports the Government of Canada with respect to the Act. While these two organizations were interviewed in the context of coordination of official languages programs within the Department, they were not included in the scope of this audit.
- 13 The audit focused on the following areas:
1. Governance and strategic direction (e.g. strategic objectives, oversight bodies, lines of communication with oversight bodies);
 2. Business planning (e.g. establishing objectives; business, annual, and work plans);
 3. Organizing (e.g. accountability elements relating to roles and responsibilities: organizational structure, position descriptions, number of positions, span of control);
 4. Controlling (e.g. workload management, accountability elements relating to performance monitoring and reporting);
 5. Leading and communicating (e.g. providing direction and communicating information to staff (i.e. meetings, minutes, retreats, mentoring, e-mail updates, open door policy);
 6. Reliability of information contained in information systems to support decision-making and accountability; and
 7. Appropriateness of functional direction provided to the Headquarters and selected regional offices (e.g. language designations of positions, staffing of imperative/non-imperative positions, requests for explanation under the Public Services Official Languages Exclusion Approval Order, language training).

1.3 Audit Criteria

- 14 Audit criteria were developed in consideration of the risks identified during the planning phase of the audit and were derived from the Framework of Core Management Controls and Audit Criteria (CMC – May 2010) established by the Office of the Comptroller General of Canada (OCG) and the Management Accountability Framework (MAF VIII) that sets out the Treasury Board's expectations of senior public service managers for good public service management.
- 15 For high level criteria, see *Appendix A*.

1.4 Approach and Methodology

- 16 The planning and on-site examination phases of the audit were carried out between September and December, 2011. A detailed description of the approach and methodology is outlined in *Appendix B*.

1.5 Strengths Identified

17 Throughout the audit fieldwork, the audit team observed several examples of controls being properly designed and applied effectively by management, which are listed below:

- Official languages are provided with effective and adequate governance and strategic direction. As such, the Department of Justice's Official Languages Champion and Co-Champion are formally mandated with oversight responsibilities for official languages. The Department's Executive Committee, along with the Official Languages Champions Network, integrates official languages into the culture and values of the organization and its planning processes. Goals and strategic objectives for these two committees with regard to official languages are documented and approved.
- The Department of Justice has identified and complies with external reporting obligations on official languages. It was also noted that the Department received positive comments from central agencies such as the Treasury Board Secretariat (MAF rating) and the Office of the Commissioner of Official Languages for its performance with regard to official languages.
- Formal complaints pertaining to official languages are resolved in accordance with the requirements of the Official Languages Commissioner.
- A documented and approved departmental policy on official languages is accessible for consultation by departmental staff through the intranet.
- Departmental organizations (headquarters and selected regional offices) and staff are provided with appropriate functional direction with regard to official languages (e.g. tools, training and awareness programs).

2 FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

2.1 Roles, Responsibilities and Accountabilities

Key Finding: There is a lack of consistent understanding across the organization of official languages-related roles, responsibilities and accountabilities.

Audit Criterion: Official Languages at the Department of Justice are supported by an adequate organizational structure. [Audit criterion 3.0]

- 18 Roles, responsibilities and accountabilities pertaining to official languages are assigned to specific individuals, and three organizational units within the Department of Justice (i.e. the Office of La Francophonie, Justice in Official Languages and Legal Dualism; the Corporate Staffing, Official Languages and Recognition Unit; and the Official Languages Law Section) are responsible for different parts of the *Official Languages Act*; however, roles, responsibilities and accountabilities with regard to official languages are not consistently understood across the Department.
- 19 Many staff members mentioned that they were not aware of who the Official Languages Champion, Co-Champion and Sectoral Champions were. Some were also not aware of whom to contact in order to discuss official languages-related issues, challenges or complaints.
- 20 Although the new *Official Languages Policy* provides information on roles, responsibilities and accountabilities, many staff members indicated that they are not yet aware of its contents. The Department's staff members who are co-located with clients (i.e. in legal services units) have indicated that they are not always exposed to the official languages-related awareness campaigns.
- 21 There is a risk that arising issues will not be brought to the attention of the appropriate individuals, particularly those co-located with clients; and that mitigating measures will not be monitored, therefore impacting the Department's ability to respond to its official languages-related obligations.

Recommendation and Management Response

- 22 **It is recommended that the Director General, Human Resources and Professional Development Directorate undertake additional efforts to communicate the distinctive**

official languages-related roles, responsibilities and accountabilities of the Corporate Staffing, Official Languages and Recognition Unit in relation to those of the other areas within the Department (i.e. the Office of La Francophonie, Justice in Official Languages and Legal Dualism; and the Official Languages Law Section). (Medium Risk)²

Agreed. The Director General, Human Resources and Professional Development Directorate (HRPDD) agrees to:

- Offer new employee NCR orientation sessions, which include an OL component to highlight and clarify the roles and responsibilities of the various units
- Make further updates to OL site on HR and You ensuring that roles and responsibilities are clearly defined
- Work in collaboration with the other units to ensure that their websites provide a link to the OL site contained within HR and You (i.e. cross referencing with the sites from the Office of La Francophonie, Justice in OL and Legal Dualism and the OL Law Section) and that their sites reflect the roles as outlined in the new OL Framework
- Develop and disseminate a communiqué to all delegated managers detailing the roles with in the new OL Framework
- Raise awareness through ad hoc attendance at Portfolio/Branch/Sector management team meetings
- Ensure that OL Champions Network clarify roles within their respective organizations.

2.2 Mechanism to Share Issues Internally

Key Finding: There are no formal internal processes for sharing official languages-related issues and trends with the Network of Sectoral and Regional Official Languages Champions.

Audit Criteria: Official Languages at the Department of Justice are supported by an adequate organizational structure. [Audit Criterion 3.0]; and

The Department of Justice's Official Languages are supported by adequate leadership and communication. [Audit Criterion 5.0]

- 23 The Network of Sectoral and Regional Official Languages Champions of the Department of Justice (the Network) includes representatives from each portfolio, sector and division in the National Capital Region and from the regions. The objective of the Network and its members is

² The Risk Assessment Guidelines for Audit recommendations are found in **Appendix C**.

to support the Departmental Champion and Co-Champion in fulfilling their mandate to provide leadership within their portfolio, sector, division or region by creating a bilingual culture founded on the spirit and letter of the Official Languages Act. However, issues and trends arising from complaints received through the Office of the Commissioner of Official Languages, while brought to the attention of the Departmental Champions are not formally shared with the Network.

- 24 The Corporate Staffing, Official Languages and Recognition Unit is responsible for managing all official languages complaints investigated by the Office of the Commissioner of Official Languages. A process to share issues and trends arising from these complaints with the Network was not developed as it had not been identified as a requirement.
- 25 In the absence of information on issues and trends in relation to official languages complaints, there is a risk that members of the Network will not have a complete picture of official languages-related matters. This could reduce the ability of the Network to effectively raise awareness of Official Languages within the Department.

Recommendation and Management Response

- 26 **It is recommended that the Director General, Human Resources and Professional Development Directorate formalize and communicate an internal process to ensure that issues (e.g. number of complaints, trends) arising from complaints received through the Office of the Commissioner of Official Languages, are brought to the attention of the Network of Sectoral and Regional Official Languages Champions. (Low Risk)**

Agreed. The Director General, Human Resources and Professional Development Directorate agrees that there is a need to ensure that official languages issues are effectively addressed internally and that there is a scope for reporting to the OL Sectoral Champions Network globally on issues relating to official languages given the role these champions play in raising awareness of OL in the workplace. The Director General, Human Resources and Professional Development Directorate will accordingly formalize and communicate internal processes to ensure that aggregate information about official languages-related matters, are brought to the attention of the OL Sectoral Champions. Since the conduct of the audit, a new OL Steering Committee has been put in place and serves as a forum to discuss OL issues and trends.

2.3 Resources

Key Finding: There is a lack of alignment between the current organizational structure and service level expectations.

Audit Criterion: Official Languages at the Department of Justice are supported by an adequate organizational structure. [Audit Criteria 3.0]

- 27 Of the four positions currently included in the organizational structure of the Corporate Staffing, Official Languages and Recognition Unit, three have been vacant for some time, and one has been recently staffed. This situation limits the Unit's ability to provide the expected level of service. As such, it was noted that certain monitoring activities (e.g. preparation and review of Demographic Reports by portfolios, review of linguistic competencies of staff members) are not being performed on a regular basis.
- 28 High turnover rates, along with the Department's efforts to reduce overall spending and uncertainty over next year's budget allocations have resulted in challenges to staff recruitment and retention.
- 29 Inappropriate allocation of resources to the Corporate Staffing, Official Languages and Recognition Unit places stress on current staff members and could negatively impact implementation of the *Official Languages Policy* across the organization. It could also have an impact on the Department's ability to perform internal monitoring activities and comply with its official languages-related obligations.

Recommendation and Management Response

- 30 **It is recommended that the Director General, Human Resources and Professional Development Directorate formally review the current organizational structure of the Corporate Staffing, Official Languages and Recognition Unit in light of current requirements and expected level of service to ensure that resources have been allocated appropriately. (Low Risk)**

Agreed. The Director General, Human Resources and Professional Development Directorate will review the current organizational structure of the OL unit to ensure that it is adequately resourced and that expected levels of service can be met. Some changes have already been made. The work description for the OL Advisor has been reviewed and is now classified at the AS-5 level rather than PE. This has allowed the Department to have access to a much broader pool of candidates given that the majority of OL coordinators in government are classified in the AS Group. In addition, 50% of another resource is now dedicated to providing support to the OL Advisor and 50% of the Manager position. Further consideration will be given in the context of changes to internal services as appropriate.

3 AUDIT OPINION/OVERALL CONCLUSION

31 Overall, we found that the Department has an effective management framework in place to govern the activities of the official languages group in the Corporate Staffing, Official Languages and Recognition Unit, and to comply with the requirements of the *Official Languages Act*. This framework could be strengthened by clarifying roles, responsibilities and accountabilities; formalizing processes for sharing official languages-related issues and trends with the Network of Sectoral and Regional Official Languages Champions; and, ensuring that resources have been allocated appropriately within the Corporate Staffing, Official Languages and Recognition Unit.

APPENDIX A - AUDIT CRITERIA

The following high level audit criteria were developed during the planning phase of the audit and included relevant criteria to address specific risks identified in the planning phase.

High Level Criteria	Results
Governance and Strategic Direction 1.0 Official Languages at the Department of Justice are supported by effective governance and strategic directions (e.g. strategic objectives, oversight bodies, lines of communication with oversight bodies).	Met
Business Planning 2.0 Official Languages at the Department of Justice are supported by appropriate business planning activities (e.g. established objectives; business, annual and work plans).	Met
Organizing 3.0 Official Languages at the Department of Justice are supported by an adequate organizational structure (e.g. accountability elements relating to roles and responsibilities: organizational structure, position descriptions, number of positions, span of control).	Partially Met
Controlling 4.0 Official Languages at the Department of Justice are supported by adequate controlling mechanisms (e.g. workload management, accountability elements relating to performance monitoring and reporting).	Met
Leading and Communicating 5.0 The Department of Justice's Official Languages are supported by adequate leadership and communication (e.g. providing direction and communication information to staff during meetings, minutes, retreats, mentoring, e-mail updates, and open-door policy).	Partially Met
Reliability of Information 6.0 Official Languages information at the Department of Justice contained in systems is relevant for decision making and accountability purposes.	Met
Appropriateness of Functional Direction 7.0 Official Languages are supported by an appropriate functional direction provided by the Department of Justice (e.g. language designations of positions, staffing of imperative/non-imperative positions, requests for exemption under the Public Services Official Languages Exclusion Approval Order and language training).	Met

APPENDIX B - APPROACH AND METHODOLOGY

The approach and methodology used for the audit were consistent with the Internal Audit standards as outlined by the Institute of Internal Auditors and were aligned with the Treasury Board (TB) *Policy on Internal Audit* and related guidelines and procedures.

Through the audit planning phase, risks were identified related to the objective of the audit. A risk-based audit program was developed that details the audit criteria and audit procedures to be carried out in order to conclude on the objective of the audit. The audit criteria were developed in consideration of the risks identified during the planning phase of the audit and were derived from the Framework of Core Management Controls and Audit Criteria (CMC – May 2010) established by the Office of the Comptroller General of Canada (OCG) and the Management Accountability Framework (MAF VIII) that sets out the Treasury Board's expectations of senior public service managers for good public service management.

In conducting the audit, the team performed the following activities:

- Interviewed staff members, managers and/or directors from the three units responsible for official languages (i.e. the Office of La Francophonie, Justice in Official Languages and Legal Dualism; the Corporate Staffing, Official Languages and Recognition Unit; and the Official Languages Law Section);
- Interviewed the Official Languages Champion and Co-Champion;
- Interviewed managers and staff members of 10 different legal services units;
- Interviewed members of the Official Languages Champions Network and other staff members;
- Interviewed central agencies' personnel (Treasury Board, Office of the Commissioner of Official Languages, Public Service Commission);
- Reviewed the *Official Languages Policy* and supporting guidelines;
- Reviewed the Terms of Reference and meeting minutes of official languages oversight bodies;
- Reviewed integrated business plans, operational plans, HR plans, corporate risk profile, etc.;
- Reviewed job descriptions, performance agreements, etc.;
- Reviewed information posted on the Department's intranet and communicated through internal e-mails;
- Reviewed the Department's Internet website;
- Reviewed internal monitoring reports;
- Reviewed a sample of official languages-related complaint files;
- Reviewed training materials; and,
- Reviewed a sample of staffing action files.

APPENDIX C – RISK ASSESSMENT GUIDELINES*

Assessment	Significance Level and Impact
High	<p><u>Immediate Management Attention Required</u></p> <p>IMPACT:</p> <ul style="list-style-type: none"> • Weaknesses exist that could impact the Department’s financial statements, reputation and/or the Department’s goals or objectives. • Weaknesses could impact the Department’s efficiency and effectiveness of operations. • Risk to the Department is significant.
Medium	<p><u>Monitoring and Mitigation Required</u></p> <p>IMPACT:</p> <ul style="list-style-type: none"> • Weaknesses exist that could impact the entity’s financial records, the entity’s reputation, the entity’s goals or objectives or the efficiency and effectiveness of the entity’s operations. • Risk to the Department is moderate.
Low	<p><u>Improvement Required</u></p> <p>IMPACT:</p> <ul style="list-style-type: none"> • Opportunities are identified that could enhance operations by improving efficiency, effectiveness or control. • Risk to the Department is low.

* It should be noted that, in applying the above criteria to a recommendation, Internal Audit Branch takes into consideration the nature, scope, and significance of the audit finding(s), the impact of the recommendation on the organization, and the auditors’ professional judgment.