



Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles



Audit

Direct health care services
by four federal institutions:

Health Canada
Veterans Affairs Canada
Royal Canadian Mounted Police
Correctional Service Canada

July 2007



Highlights

The House of Commons Standing Committee on Official Languages asked the Office of the Commissioner of Official Languages to verify whether the Government of Canada is complying with the Act when it provides health care directly to certain groups or communities and whether it ensures that its obligations are met when it transfers responsibility to third parties.

The audit focused on four federal institutions that deliver health care directly: Health Canada (health care for First Nations and Inuit communities), Veterans Affairs Canada, the Royal Canadian Mounted Police and Correctional Service Canada.

In general, the audit showed that managers from the four institutions were well aware of their responsibilities in terms of official languages. However, the Commissioner noted shortcomings regarding the active offer of service in the four institutions. The weaknesses that were observed include the lack of signage for visual active offer (at Veteran Affairs Canada), and active offer by staff, either in person (at the Royal Canadian Mounted Police and Correctional Service Canada) or over the telephone (at Health Canada, the Royal Canadian Mounted Police and Correctional Service Canada). These weaknesses have the effect of reducing the number of instances in which the language of the minority can be used.

Moreover, Health Canada, Veterans Affairs Canada and Correctional Service Canada require a level of bilingualism from their health professionals that is too low when it comes to oral interaction, given the complexity of the interactions involved in carrying out the duties.

Our audit also revealed that, with the exception of Health Canada, language clauses are not systematically included in contractual agreements with health professionals when bilingual services are required. The same is also true of financial agreements with the provinces and health centres that have bilingual requirements. The institutions must ensure that their official languages obligations continue to be met when they transfer health care services to third parties.

Additionally, the Commissioner noted the general absence of official languages quality assurance monitoring mechanisms within the four institutions. Such mechanisms would ensure not only greater respect of their obligations in terms of health care delivery, but more importantly, would demonstrate the institutions' respect towards the clientele who require the services.

The Commissioner issued 30 recommendations to the four institutions concerned in order to help them improve direct bilingual health care services to their respective restricted and identifiable clientele. Of these, six each were made to Health Canada and the Royal Canadian Mounted Police, while seven recommendations were addressed to Veterans Affairs Canada, and 11 to Correctional Service Canada.

Following the audit, all four institutions prepared an action plan to implement the recommendations. They are found in appendices A to D of this report. We are generally satisfied with many of the measures proposed by the institutions to implement the recommendations addressed to them and, in cases where the measures proposed by the institutions do not seem entirely satisfactory, we have added specific comments in this regard.

We understand that, due to the nation-wide shortage of bilingual health care professionals, the implementation of the recommendations regarding language skills for staff and professionals hired under contract will be difficult to carry out. These challenges will require greater commitment, creativity and initiative on the part of the institutions so that they can meet their official languages obligations.

We are pleased to report that, since our audit, these institutions have already taken several measures to implement a number of recommendations. We will assess the implementation of the recommendations at the time of our audit follow-up. We maintain that full implementation of the recommendations will enable the institutions to meet their obligations in providing direct health care services in the language of choice of their clientele.

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Introduction

In October 2003, the House of Commons Standing Committee on Official Languages presented its report entitled *Access to Health Care for the Official Language Minority Communities: Legal Bases, Current Initiatives and Future Prospects*. In this report, the Committee asked the Office of the Commissioner of Official Languages to verify whether the Government of Canada is complying with the

Official Languages Act when it provides care directly to certain groups or communities and whether it ensures that its obligations are met when it transfers its responsibilities to third parties. The Committee asked the Office of the Commissioner to report to it at the conclusion of the audit.

Objective

The objective is to verify whether official language minority clientele served by federal institutions have access to direct health care in the language of their choice. The clientele is described in the table below.

Institutions audited ¹	Targeted clientele
Health Canada	Members of First Nations and Inuit communities
Veterans Affairs Canada	Veterans (and their close relatives, for the information that is provided to them)
Royal Canadian Mounted Police	Recruits (cadets)
Correctional Service Canada	Inmates

1 The Canadian Forces are not part of this exercise but may be the subject of a subsequent audit.

Scope of Audit

This audit does not cover all health care services. It focuses on direct curative or preventive health care, such as diagnostic procedures, medical consultations and treatments provided by health care providers as defined in the 2003 First Ministers Accord on Health Care Renewal.²

Direct health care includes the following:

Medical care
Nursing care
Dental care
Pharmaceutical services
Mental health (psychiatric and psychological services)
Specialized services (physiotherapy, occupational therapy, radiology, respiratory therapy and electrocardiography)
Laboratory analysis services
Dietician services
Vision care
End-of-life care
Preventive treatment
Non-insured health benefits
Admission of recipients and telephone services (including contact with the families of recipients)
Administrative services related to health care (communication, displays and file maintenance)

For the purposes of this audit, the following activities are not considered part of direct health care:

- information sessions on prevention (such as seminars on fetal alcohol syndrome);
- health promotion;
- specialized non-medical home care (such as services provided by social workers or early childhood care for Aboriginals).

The audit also excludes health care provided in Canadian hospital facilities that are not under the direct jurisdiction of the Government of Canada because they are under the authority of the provincial and territorial governments as per the Constitution of Canada, with the exception of health care facility transfers. Similarly, it does not cover primary health care provided to all Canadians. These services are defined as the initial contact between the patient and the health care system, and health practitioners (physicians, nurses and pharmacists) are under the jurisdiction of the provincial and territorial governments.

The audit criteria can be found in Appendix E of this report.

² The 2003 Accord on Health Care Renewal concluded in February 2003 includes an action plan for health care reform, which confirms the commitment by governments to work in partnership with each other, with health care professionals and with Canadians in shaping the future of our public health care system.

Methodology

Our audit was conducted between May 2005 and May 2006 in four federal institutions that provide health care to a restricted and identifiable clientele: Health Canada (HC), Veterans Affairs Canada (VAC), the Royal Canadian Mounted Police (RCMP) and Correctional Service Canada (CSC). Taking into consideration our limited access to some of the clientele or their health status, our audit focused more on the infrastructure established by each of these institutions in order to fulfil their obligations in relation to bilingual health care services.

We conducted interviews with representatives from the headquarters of the four institutions concerned and with managers, health professionals and some recipients in their designated bilingual offices. The selected offices were as follows:

- at HC, the Quebec regional office in Montréal;
- at VAC, the Sainte-Anne Hospital in Sainte-Anne-de-Bellevue, Quebec;
- at the RCMP, its academy in Regina;
- at CSC, 14 correctional institutions and the regional offices in Quebec and New Brunswick.

We also reviewed and analyzed policies, operational guidelines, procedures, documentation on organizational structure, third party contribution agreements, health care institution transfer records, contracts concluded with health professionals and reports produced by the institutions.

Legislative and Administrative Framework

Part IV of the *Official Languages Act* deals with service to the public and states that federal institutions must ensure that any member of the public can communicate with them and obtain available services from their head office in English and French within the National Capital Region or where there is significant demand or service is justified by the nature of the office. To this end, federal institutions are obliged to designate offices that must provide services in both official languages in accordance with the *Official Languages (Communications with and Services to the Public) Regulations*. The audited institutions are covered by the following sections of the Act and Regulations:

- section 22 of the Act states that federal institutions must ensure the delivery of services in either official language where there is significant demand for that language;
- section 25 of the Act as well as Appendix C of the Treasury Board Policy on Alternative Service Delivery sets out the federal government's duties when transferring its responsibilities to third parties acting on its behalf in order to comply with the provisions of Part IV of the Act in relation to service to the public;

- section 27 of the Act sets out the duty to use both official languages in oral and written communications and services; and
- section 28 of the Act specifies that federal institutions that provide communications and services in both official languages must make this known to the public by ensuring an active offer of service.

Paragraph 6(1)(a) of the Official Languages (Communications with and Services to the Public) Regulations defines the concept of significant demand in the case of a restricted and identifiable clientele as being a demand for services in English or French that is at least 5% of the total volume of the demand for service over a period of one year.

“Restricted clientele” refers to the clientele of an office that provides services to a specific group or category of clients. The institution must be able to show that the services in question are for a stable clientele whose composition can be clearly specified. The term “identifiable” means that it is

possible to determine both the name of each client and the official language in which the client wishes to receive services. Institutions must take a census of the clientele of those offices that are subject to the provisions regarding a restricted clientele in order to determine the official language in which clients wish to receive their services.

Treasury Board Directive C, which provides an operational definition of the concept of restricted and identifiable clientele, can be found in Appendix F of this report.

Examination of the Institutions

Health Canada

A. METHODOLOGY

Our audit was conducted at the Department's head office in the National Capital Region and at the Quebec regional office.

We interviewed various managers and staff members at the head office and at the First Nations and Inuit Health Directorate in Quebec, as well as persons responsible for official languages. We also made a few telephone calls to the Quebec offices.

We mainly reviewed the policies, directives, organizational structure, third party contribution agreements, contracts awarded to health professionals, institutional reports and other documents provided by the Department. We also reviewed relevant procedures and systems implemented by HC.

B. OBSERVATIONS AND RECOMMENDATIONS

Our observations and recommendations are based on the audit criteria listed in Appendix E of this report.

1. Identifying the clientele and measuring significant demand

In the Quebec region, the First Nations and Inuit Health Directorate provides nursing care and oral health care. This care is provided on the reserves where there are no contribution agreements with the bands for managing these services. The First Nations and Inuit represent a restricted and identifiable clientele because they meet the criteria of paragraph 6(1)(a) of the Official Languages (Communications with and Services to the Public) Regulations and Treasury Board Directive C.

HC has mandated Statistics Canada to assess its restricted and identifiable clientele. Information on the language preferences of Aboriginal community members was collected through a questionnaire mailed to the band chiefs. However, Statistics Canada received a low response rate (approximately 50%). According to this assessment, published in March 2005, HC is required to provide direct health care in both official languages in Quebec only.

HC also examined how Indian and Northern Affairs Canada (INAC) sets about establishing the demand for service in the minority official language of its restricted and identifiable clientele, which is more or less the same as that of HC. INAC conducted a telephone census of the band chiefs. The results of this exercise, which had a response rate of 96.2%, confirm the results of the assessment conducted by Statistics Canada for HC.

The assessment of significant demand of its restricted and identifiable clientele concluded that HC is required to provide bilingual services to the following communities:

Nursing care

- a) Lac-Rapide
- b) Winneway (Longue-Pointe First Nation)
- c) Timiskaming (Notre-Dame-du-Nord)

Dental care

- a) Gesgapegiag (Maria)
- b) Listuguj (Restigouche)
- c) Winneway (Longue-Pointe First Nation)
- d) Timiskaming (Notre-Dame-du-Nord)

Therefore, HC meets the audit criterion in relation to identifying the clientele and measuring significant demand.

2. Informing managers of their official languages responsibilities

The managers whom we interviewed are well aware of their linguistic obligations. Senior management informs them of new official languages policies and regularly issues reminders. The managers, in turn, inform their employees of their rights and obligations with regard to official languages and, among other things, stress the importance of drafting and recording bilingual out-of-office messages on the telephone and computer.

Moreover, the First Nations and Inuit Health Directorate has a regional official languages action plan for section 41 of Part VII (Advancement of English and French) of the *Official Languages Act*. This plan focuses on raising awareness among managers and employees with respect to linguistic duality and the priorities of official language minority communities.

In view of the preceding, we find that HC satisfies this audit criterion.

3. Active offer to health care clientele

We conducted 16 telephone spot checks in the sectors of nursing care, dental care and non-insured health benefits. We spoke directly to almost half of the employees and, in other cases, left messages on employees' voice mail. We noticed that the staff's telephone greetings and recorded voice mail messages were often unilingual or partially bilingual, which is contrary to section 28 of the Act concerning active offer.

We did not visit the facilities where services are provided by the staff. Therefore, we are unable to comment on the visual and verbal active offer provided on-site or on the availability of services and publications in the language of the minority. However, the managers we interviewed assured us that in-person service is available in both official languages and signs are posted indicating that services are available in both official languages.

In view of the preceding, we find that HC does not fully satisfy this audit criterion.

Recommendation 1

The Commissioner recommends that Health Canada ensure its designated bilingual offices fully comply with the requirements of section 28 of the *Official Languages Act* concerning active offer in person, on the telephone and on voice mail.

4. Language skills requirements for health care services

Nursing care: At the time data were collected, there were 11 nursing care positions serving three official language minority communities in Quebec (Lac-Rapide, Winneway and Timiskaming). The communities of Lac-Rapide and Winneway provide health care 24 hours a day. Of these positions, eight were designated bilingual BBB³ and the three others were identified as "French essential." The incumbents in bilingual positions met the language requirements of their position. We noted irregularities in the documents submitted to us, which showed one employee in a "French essential" position served the Anglophone community of Winneway and one vacant "French essential" position was assigned to that same community. The Anglophone community served by the other "French essential" position, also vacant, was not identified.

According to the Public Service Commission's guide entitled *Determining the Linguistic Profile for Bilingual Positions*, level BBB is not sufficient for this type of position, given the complexity of the issues handled by the incumbents. The nature of the duties (nursing care and appropriate treatment, screening, consultations, examinations, immunizations in schools, at-home visits, etc.) instead requires level C for oral interaction. Nurses must give and understand complex explanations, effectively participate in discussions that include the rapid exchange of ideas and give advice on sensitive and complex issues.

Dental hygienists: At the time that the data were collected, there were two dental hygienist positions serving four minority communities in Quebec. One position was designated bilingual BBB and served the Anglophone communities of Gesgapegiag (Maria) and Listuguj (Restigouche). The position was vacant. The other position was identified as "French essential" and provided services to the Anglophone communities of Winneway (Longue-Pointe) and Timiskaming

3 The three letters represent the levels of proficiency in the second official language, which may be A (lowest), B (intermediate) or C (highest). The first letter represents reading skills; the second, writing skills; and the last, oral interaction.

(Notre-Dame-du-Nord). The Department has since revised the linguistic designation for the “French essential” position to the bilingual level BBB. The incumbent met the language requirements of the position.

Dental hygienists perform oral screening of children aged 0 to 7, apply fluoride to their teeth and conduct home visits. Based on *Determining the Linguistic Profile for Bilingual Positions*, we believe that level B for oral interaction is sufficient, given the nature of the tasks, such as responding to routine enquiries about the services provided, describing the procedures, and giving instructions and explanations regarding oral health issues.

Non-insured health benefits: HC also provides First Nations members and Inuit with a range of medical goods and services that are not covered by private insurance plans or by provincial and territorial health insurance and social programs. This program is offered to all Aboriginal communities, with the exception of the Naskapi, Cree and Inuit who are governed by the James Bay and Northern Quebec Agreement. It covers medication, dental care, vision care, medical supplies and equipment, emergency mental health response and transportation for medical purposes.

There were 13 eligibility officer positions in this sector that had direct contact with the target clientele to provide information about the program. Eleven of these positions were designated bilingual, of which nine had a BBB profile and two had asymmetrical linguistic profiles, in other words, the profile differed between one language and the other (ABB and BAB). Most of the employees met the requirements of their position, and the Department is aware of the asymmetrical problem and will need to take measures to remedy the situation. Meanwhile, the managers have assured us that administrative procedures are in place to compensate for the linguistic weaknesses of some officers and ensure service in the preferred official language of their clientele.

According to the guide *Determining the Linguistic Profile for Bilingual Positions*, level B for oral interaction is sufficient, given the nature of the duties of eligibility officers, who are mainly required to respond to routine enquiries about this program.

In view of the preceding, we find that the Department does not satisfy this audit criterion in relation to language skills required to provide health care services.

Recommendation 2

The Commissioner recommends that Health Canada raise the linguistic profile of nursing positions for oral interaction and of non-insured health benefits eligibility officers who have an asymmetrical profile, and review the number of bilingual positions required in these two job categories in the Quebec region.

Recommendation 3

The Commissioner recommends that Health Canada verify whether the incumbents of nursing positions and non-insured health benefits eligibility officer positions, whose linguistic profiles have been raised, meet these new requirements. In cases where the incumbents do not meet these new requirements, the Department must take measures to ensure equal health care in both official languages at all times.

5. *Monitoring the application of the Official Languages Act in relation to health care*

The regional managers in Quebec whom we interviewed admitted that there is no monitoring mechanism in place to ensure compliance with the Department's linguistic obligations in relation to health care services.

Therefore, we find that the Department does not satisfy this audit criterion.

Recommendation 4

The Commissioner recommends that Health Canada implement a monitoring mechanism to ensure compliance with its linguistic obligations in relation to the provision of health care services in Quebec.

6. *Third party transfer agreements in accordance with section 25 of the Official Languages Act, monitoring mechanisms and institutional transfers*

Compliance with section 25 of the Official Languages Act: Contractual agreements with health care professionals contain appropriate language clauses. However, we noted that the First Nations and Inuit Health Directorate did not have mechanisms in place to ensure that people hired on contract have the required language skills. Moreover, there are no monitoring mechanisms for assessing the quality of services provided in both official languages by contract employees.

Administrative transfers: Paragraph 6(1)(a) of the Official Languages (Communications with and Services to the Public) Regulations is included in the provisions on specific circumstances related to significant demand and came into effect on December 16, 1993.

Since 1988, HC has transferred the administration of five federal hospitals to the provinces, communities or territories, while one other has been demolished (Blood Indian Hospital, Cardston, Alberta, October 1999).

We reviewed the transfer agreements of four of the hospitals, which have been signed since December 16, 1993, and we determined that none contained a language clause. These hospitals are located outside of Quebec in regions where English is the predominant language and serve an Anglophone Aboriginal clientele, which justifies the absence of a language clause:

- Fort Qu'Appelle Indian Hospital, Fort Qu'Appelle, Saskatchewan, 1995;
- Weeneebayko General Hospital, Moose Factory, Ontario, 1996;
- Sioux Lookout Hospital, Sioux Lookout, Ontario, 2002;
- Norway House Hospital, Norway House, Manitoba, 2003.

The Department has also signed contribution agreements with band councils for which the language of service was specified.

In view of the preceding, we find that the Department does not satisfy the audit criterion concerning monitoring mechanisms.

Recommendation 5

The Commissioner recommends that Health Canada ensure health professionals hired on contract in Quebec have the required language skills.

Recommendation 6

The Commissioner recommends that Health Canada implement a monitoring mechanism to ensure the quality of services provided in both official languages by health professionals hired on contract in Quebec.

C. CONCLUSION

We observed that HC managers are determined to comply with their linguistic obligations in relation to health care services and that the Department has appropriate official languages policies in place and is making significant efforts to communicate them to its managers. Moreover, the Department complies with Treasury Board Directive C in identifying the offices that must provide health care to a restricted and identifiable clientele.

However, we identified shortcomings in terms of follow-up mechanisms. The Department does not have appropriate monitoring mechanisms in place to ensure compliance with the *Official Languages Act* in relation to the provision of health care services. We also noted a lack of active offer in both official languages in several cases, both on the telephone and on voice mail.

Furthermore, we noted that the First Nations and Inuit Health Directorate did not have mechanisms in place to assess the language skills of persons hired on contract. In addition, there are no monitoring mechanisms for assessing the quality of services provided in both official languages by health professionals hired on contract.

Our review of the positions that serve official language minority communities revealed some shortcomings. The language level B is too low, given the complexity of the issues handled by the nursing staff (appropriate care and treatment, screening, consultations, examinations, etc.). These tasks instead require level C for oral interaction. However, level B for oral interaction is sufficient for the dental hygienist and eligibility officer positions.

In order to ensure that equal health care is provided to its official language minority clientele in their language of choice, HC will have to address these shortcomings by implementing the Commissioner's six recommendations.

A. METHODOLOGY

We had several telephone conversations with the person responsible for official languages and with various managers at the VAC head office located in Charlottetown, Prince Edward Island.

An on-site audit was conducted at Sainte-Anne Hospital (SAH) located in Sainte-Anne-de-Bellevue on Montreal Island in Quebec. It is the only institution where there is significant demand pursuant to paragraph 6(1)(a) of the *Official Languages (Communications with and Services to the Public) Regulations*. We interviewed members of the Hospital's management team, representatives of the Nursing Branch and of the Human Resources Branch, as well as the institution's ombudsman.

We reviewed the policies and directives, organizational structure, professional service contracts, institutional transfer files and reports prepared by the Department. We also reviewed the procedures and systems in place at the SAH.

B. OBSERVATIONS AND RECOMMENDATIONS

Our observations and recommendations are based on the audit criteria listed in Appendix E of this report.

1. Identifying the clientele and measuring significant demand

Veterans represent a restricted and identifiable clientele as set out in paragraph 6(1)(a) of the *Official Languages (Communications with and Services to the Public) Regulations*. Under the Regulations and Treasury Board Directive C, the Department has no obligation under the *Official Languages Act* concerning direct health care, except at the SAH. According to the Department, the Anglophone clientele of the SAH by far exceeds the 5% threshold set by this provision of the Regulations.

The SAH's mission is to provide veterans and other clients with a wide range of programs and with a variety of high quality health care and services, while respecting their dignity and their independence.

The SAH provides direct health care to a clientele that is both Anglophone and Francophone. It provides veterans with long-term and respite care. The SAH provides services to 475 residents for curative care, treatment and diagnosis. The Hospital's Liaison Centre provides therapeutic and preventive services to 162 veterans. It also supports veterans' families and informal caregivers. Finally, the Sainte-Anne Centre, also attached to the Hospital, provides general mental health services to 388 veterans, including specialized services for trauma suffered during military operations.

In view of the preceding, we find that the Department satisfies the audit criterion in relation to identifying the clientele and measuring significant demand.

2. Informing managers of their official languages responsibilities

The managers we interviewed demonstrated that they are well aware of their official languages responsibilities. VAC makes central agency guidelines and policies on official languages available to its managers. It has also published a brochure entitled *Official Languages: Your Rights and Responsibilities* that includes information on Part IV (service to the public) of the *Official Languages Act*. In addition, it conducts a client satisfaction survey every three years that includes a question on the availability of service in the language of choice of SAH patients. This initiative helps to make managers aware of the Hospital's linguistic obligations.

In view of the preceding, we find that the Department satisfies this audit criterion.

3. Active offer to health care clientele

In view of the SAH's exceptional situation, that of a Hospital that provides long-term care, we did not audit active offer in person or on the telephone. However, the auditors noted the lack of signage for active offer informing the clientele about the availability of services in both official languages in most of the Hospital's reception areas, with the exception of Admissions and the Liaison Centre.

Therefore, we find that the Department does not satisfy this audit criterion.

Recommendation 7

The Commissioner recommends that Veterans Affairs Canada display signage for active offer in all reception areas of Sainte-Anne Hospital informing patients of the availability of services in both official languages.

4. Language proficiency requirements for health care services

When we interviewed those responsible for nursing care, we learned that a large majority of the positions in this sector are designated bilingual and subject to imperative staffing.⁴ A review of the documentation confirmed that 553 of the 579 positions are identified as bilingual. The other 26 positions are either "English essential," "French essential" or "either/or"⁵ positions. The linguistic profiles of the bilingual positions are different, depending on whether they are orderly, nurse, assistant head nurse or head nurse positions. The profiles range from - - A ("-") denoting that there are no requirements for reading or writing) to BBB, including AAB and BAB.

The following table illustrates the linguistic profiles for the positions and the number of positions with each linguistic profile. It was prepared from a list provided by the SAH.

Position	Bilingual and Profile	English Essential	French Essential	Either/Or	Total
Orderly	- - A 297	--- 2	--- 8	--- 3	310
Nursing team leader (NU-02)	AAB 80	--- 1	--- 1	--- 11	93
Assistant head nurse (NU-03)	BAB 131	--- 0	--- 0	--- 0	131
Head nurse (NU-04)	BBB 25	--- 0	--- 0	--- 0	25
Nursing coordinator (NU-05)	BBB 15	--- 0	--- 0	--- 0	15
Assistant director of nursing (NU-06)	BBB 5	--- 0	--- 0	--- 0	5
Total	553	3	9	14	579

4 Imperative staffing: requires a person who meets the language requirements of the position upon appointment to be appointed to a bilingual position.

5 Either/Or: a unilingual position that allows incumbents to choose their language of work when taking up their duties.

Out of the 310 orderly positions, 297 are - - A. More than 50% of incumbents have language skills that exceed this level. The job description for orderlies describes client-service results as the delivery of physical, psychological, social and recreational care in the care unit of a geriatric or psycho-geriatric Hospital.

When we consult the guide *Determining the Linguistic Profile for Bilingual Positions*, it is obvious that the level A is not sufficient, since the nature of some of the duties require level B for oral interaction. As well as providing basic care to patients and ensuring a healthy, safe and comfortable environment, orderlies must establish and maintain effective communication with patients and their families and respond to requests for information on the services available in the Hospital.

The linguistic profiles of nursing positions are AAB for level NU-02 positions, BAB for NU-03 positions and BBB for NU-04 positions. Yet, the statements of work for the NU-02, NU-03 and NU-04 positions have the following in common: the delivery of nursing care affecting biological, psychological and social aspects as well as the quality of life of patients in a geriatric or psycho-geriatric unit. The primary nursing activities include providing preventive, curative, palliative and emergency care, and offering psychological support to patients.

When we consult the guide *Determining the Linguistic Profile for Bilingual Positions*, it is obvious that the BBB profile is not sufficient, given the complexity of the issues that are handled. The nature of the duties instead requires level C for oral interaction because the nurses' duties include handling sensitive issues, providing and understanding complex explanations and descriptions, participating in discussions that involve the rapid exchange of ideas and giving advice to patients.

The Department must raise the language requirements for oral interaction for the orderly and nursing positions. This should not be a problem as a large number of incumbents have second language skills that already exceed the current requirements of their position.

In view of the preceding, we find that the Department does not satisfy the audit criterion in relation to language skills required to provide health care services.

Recommendation 8

The Commissioner recommends that Veterans Affairs Canada raise the linguistic profile for oral interaction for bilingual orderly positions and various bilingual nursing positions at Sainte-Anne Hospital.

Recommendation 9

The Commissioner recommends that Veterans Affairs Canada verify whether the incumbents of bilingual orderly positions and various bilingual nursing positions at Sainte-Anne Hospital, whose language requirements have been raised, meet these new requirements. In cases where the incumbents do not meet these new requirements, the Department must take measures to ensure equal health care in both official languages at all times.

5. Monitoring the application of the Official Languages Act in relation to health care

Every three years, the Department publishes the results of a client satisfaction survey at the SAH, which includes an appropriate question on service in the client's preferred official language. The results of the 2003 survey indicated a 97% satisfaction rate regarding service in the client's language of choice. The survey results are not surprising, given that most of the incumbents exceed the language requirements of their position.

There are no other monitoring mechanisms aside from this survey. Although we consider the survey to be a good initiative, we are of the opinion that it is not sufficient to fully ensure compliance with the Department's linguistic obligations in relation to the provision of health care services.

In view of the preceding, we find that the Department does not fully satisfy this audit criterion.

Recommendation 10

The Commissioner recommends that Veterans Affairs Canada implement a monitoring mechanism to ensure compliance with its linguistic obligations in relation to the provision of health care services at Sainte-Anne Hospital.

6. Third party transfer agreements in accordance with section 25 of the Official Languages Act, monitoring mechanisms and institutional transfers

Compliance with section 25 of the Official Languages Act:

- a) The SAH enters into contracts to obtain services from health professionals such as speech-language pathologists, radiologists, physicians, psychiatrists, nurses and occupational therapists. All of the contracts that we reviewed contained an appropriate language clause.
- b) However, we noted that the SAH does not have mechanisms in place to ensure that health professionals hired on contract actually have the required language skills. Moreover, there is no monitoring mechanism to assess the quality of services provided by these health professionals in both official languages.

Institution transfers: Paragraph 6(1)(a) of the Regulations, which involves restricted and identifiable clientele, came into effect on December 16, 1993, two years after the Regulations came into force.

In 1963, in response to the report of the Glassco Commission,⁶ Cabinet approved the transfer to the provinces of 17 health care institutions managed by the Department of Veterans Affairs. Some institutional transfers were negotiated on the condition that a certain number of priority access beds remain available to veterans. Since the Regulations were passed on December 16, 1991, VAC has transferred two institutions to the provinces: the Perley and Rideau Veterans' Health Centre of Ottawa in March 1992, and the Saskatoon Veterans' Home in April 1995. An appropriate language clause was included in the transfer documents for the Perley and Rideau Veterans' Health

Centre. The Saskatoon Veterans' Home, however, did not constitute a "significant demand" office under paragraph 6(1)(a) of the Regulations.

Operating agreements: The Department has signed agreements with almost 30 institutions located in nine provinces to house and provide care for veterans. All of the agreements signed since 1993 include a language clause, with the exception of the agreement with the province of Saskatchewan. However, there are still 12 institutions with agreements signed prior to 1993 that do not contain a language clause. The Department must review these 12 agreements when they are renewed and decide whether they should include a language clause in accordance with its obligations in relation to the provision of health care services in both official languages, as set out in paragraph 6(1)(a) of the Regulations.

In view of the preceding, we find that the Department does not fully satisfy the audit criterion concerning language clauses in third party agreements and associated monitoring mechanisms.

Recommendation 11

The Commissioner recommends that Veterans Affairs Canada ensure health professionals hired on contract by Sainte-Anne Hospital have the required language skills.

Recommendation 12

The Commissioner recommends that Veterans Affairs Canada implement a monitoring mechanism to ensure the quality of services provided in both official languages by health professionals hired on contract at Sainte-Anne Hospital.

6 The Royal Commission on Government Organization (also called the Glassco Commission), set up in September 1960, was given the mandate to inquire into and report on the organization and methods of operation of the departments and agencies of the Government of Canada and to recommend changes in an effort to ensure efficient and improved public services while saving money at the same time.

Recommendation 13

The Commissioner recommends that Veterans Affairs Canada review its 12 operating agreements with provincial health services and health institutions signed prior to 1993 to determine whether, when they are renewed, they should include a language clause in accordance with the obligations set out in section 25 of the *Official Languages Act* and paragraph 6(1)(a) of the Regulations.

We also noted that, in several reception areas of the SAH, there was no signage indicating the availability of services in both official languages.

Finally, a number of funding agreements signed since 1993 with health services or the provinces include an appropriate language clause. However, the VAC must review the agreements signed prior to 1993 and add a language clause if necessary.

In order to ensure that equal health care is provided to its official language minority clientele, VAC must address these shortcomings by implementing the Commissioner's seven recommendations.

C. CONCLUSION

The VAC managers interviewed at the Department's head office and at the Sainte-Anne Hospital demonstrated that they are well aware of the Department's linguistic obligations in relation to the provision of health care services. In addition, VAC complies with Treasury Board Directive C in identifying significant demand from its restricted and identifiable clientele in the official language of the minority.

However, we find that the Department needs to review the language requirements of positions that provide health care to SAH patients and evaluate the language skills of their incumbents. We also noted a lack of appropriate monitoring mechanisms that would allow the Department to ensure compliance with its linguistic obligations in relation to health care services by its staff and by health professionals whom it hires on contract.

Royal Canadian Mounted Police

A. METHODOLOGY

We interviewed the managers in charge of the occupational health and safety sector at the head office in the National Capital Region.

An on-site audit was conducted in September 2005 at the Royal Canadian Mounted Police Academy (also called Depot Division) in Regina, Saskatchewan. There we met with the staff of the Medical Treatment Centre and 20 Francophone cadets.

We also reviewed the internal policies of the RCMP regarding the application of the *Official Languages Act*, organizational structure, agreements and other documents provided by the institution.

B. OBSERVATIONS AND RECOMMENDATIONS

Our observations and recommendations are based on the audit criteria listed in Appendix E of this report.

1. Identifying the clientele and measuring significant demand

The RCMP Academy is a national police training centre that provides services to cadets from all across Canada. During their training, cadets are not considered employees and, consequently, are members of the public for application of the *Official Languages Act*.

The cadets represent a restricted and identifiable clientele as defined in paragraph 6(1)(a) of the Official Languages Regulations and Treasury Board Directive C concerning the operational definition of the concept of restricted and identifiable clientele. Because the percentage of Francophone cadets measured by the RCMP always exceeds the 5% threshold set by this provision of the Regulations, the delivery of services in both official languages is required.

As a general rule, the Depot Division in Regina trains between 400 and 700 cadets per year. However, the RCMP plans to recruit 1,000 to 1,200 cadets per year over the next few years.

All cadets receive direct health care from the team at the academy's Medical Treatment Centre. The main services provided are medical care and minor surgery, nursing care, vaccinations, physiotherapy and psychology. Six beds are available for quarantine cases.

In view of the preceding, we find that the RCMP satisfies the audit criterion in relation to identifying the clientele and measuring demand.

2. Informing managers of their official languages responsibilities

The RCMP has internal procedures for complying with the *Official Languages Act*, a language of work policy entitled Rights and Obligations and a document on communications with and service to the public that includes a list of bilingual RCMP offices for language of work purposes.

Our interviews in Regina revealed that these documents are not distributed to the manager and staff members at the Medical Treatment Centre.

Therefore, we find that the RCMP does not satisfy this audit criterion.

Recommendation 14

The Commissioner recommends that the Royal Canadian Mounted Police take measures to distribute its official language policies and directives with regard to service to the public in both official languages to the manager and staff members of the Medical Treatment Centre at the Depot Division in Regina.

3. Active offer to health care clientele

We noted that the employees at the Medical Treatment Centre do not make a verbal active offer in both official languages. They greet patients who arrive at the Centre in English only. However, we noticed the presence of signage for active offer in the reception area of the Centre's clinic.

Based on what we learned during the interviews, the Centre's employees do not always answer the telephone with a bilingual greeting. Similarly, some voice mail messages are in English only.

In addition, we noted that the preferred language of cadets is not indicated in their medical records. Doing so could improve health care services in the cadets' preferred official language by actively providing Francophones, who are in the minority, with medical care in French.

In view of the preceding, we find that the RCMP does not satisfy the audit criterion concerning the active offer of service in both official languages.

Recommendation 15

The Commissioner recommends that the Royal Canadian Mounted Police ensure staff members at the Medical Treatment Centre fully comply with the requirements of section 28 of the *Official Languages Act* concerning active offer in person, on the telephone and on voice mail.

Recommendation 16

The Commissioner recommends that the Royal Canadian Mounted Police indicate the preferred official language of cadets in their medical records.

4. Language skills requirements for health care services

At the time of data collection, there were six positions at the Regina Medical Treatment Centre, of which five had appropriate bilingual linguistic profiles. Three of these positions were designated CBC and the other two, CCC. The sixth position, designated English essential, was vacant. The Centre's management has since revised the linguistic profile of the vacant English essential position to bilingual CCC and filled it using imperative staffing.

One of the incumbents does not meet the language requirements of his position, but he has incumbent rights. The Centre's management is committed to using imperative staffing when the position becomes vacant.

Furthermore, the psychological tests administered to cadets are not available in French. Therefore, the RCMP should ensure that these tests are available in the cadets' language of choice.

In view of the preceding, we find that the RCMP does not fully satisfy this audit criterion.

Recommendation 17

The Commissioner recommends that the Royal Canadian Mounted Police take the necessary measures to ensure that the psychological tests administered to cadets by the Regina Medical Treatment Centre are in the cadets' official language of choice.

5. Monitoring the application of the Official Languages Act in relation to health care

We noted a lack of effective monitoring mechanisms at the Medical Treatment Centre that would allow the Centre's manager or those responsible for health and safety at the head office to ensure that Centre employees comply with the RCMP's linguistic obligations when providing health care in both official languages.

Therefore, we find that the RCMP does not satisfy this audit criterion.

Recommendation 18

The Commissioner recommends that the Royal Canadian Mounted Police implement a monitoring mechanism to ensure that the Regina Medical Treatment Centre provides effective health care in both official languages.

6. Third party transfer agreements in accordance with section 25 of the Official Languages Act, monitoring mechanisms and institutional transfers

The Medical Treatment Centre often uses the same contract health professionals to ensure continuity of services when its employees are absent. They use short-term contractual agreements that do not contain a language clause. Unilingual English health professionals who are hired on contract occasionally have access to a bilingual colleague at the Centre, if necessary, when one is available. The RCMP says it is difficult to find bilingual human resources in the health sector in Regina.

The Medical Treatment Centre must include a language clause in the contracts for health professionals and create a bilingual human resources data bank for the health field in order to ensure that the language rights of the Centre's patients are respected at all times.

In view of the preceding, we find that the RCMP does not satisfy this audit criterion.

Recommendation 19

The Commissioner recommends that the Royal Canadian Mounted Police include a language clause in all of the Regina Medical Treatment Centre's service contracts with health professionals and create a bilingual human resources data bank for the health field in order to ensure that the language rights of the Centre's patients are respected at all times.

C. CONCLUSION

The RCMP complies with regulatory and administrative provisions in relation to identifying its clientele and measuring demand. The language requirements of the positions at the Regina Medical Treatment Centre are appropriate, and the language skills of all incumbents, except one, are sufficient.

However, the Centre's manager and employees are not sufficiently informed of the RCMP's linguistic obligations, and there is no monitoring mechanism in place to ensure the provision of bilingual health care services.

The Medical Treatment Centre has signage for active offer in the clinic. However, the RCMP must also give clear instructions and specific information to Medical Treatment Centre staff concerning the concept of active offer of service and indicate the cadets' preferred language in their medical records in order to ensure better health care services in their language of choice. The Medical Treatment Centre must also insert a language clause in the service contracts that it signs with health professionals and create a bilingual human resources data bank for the health field in order to respect its patients' language of choice at all times.

In order to ensure the delivery of health care to its official language minority clientele in their language of choice, the RCMP must address these shortcomings by implementing the Commissioner's six recommendations.

A. METHODOLOGY

An audit was conducted at the head office of Correctional Service Canada (CSC) in the National Capital Region, and telephone interviews were conducted at 14 designated bilingual institutions in Quebec and New Brunswick, and at the Quebec and Atlantic regional offices.

We mainly reviewed the relevant policies and operational directives, the organizational structure, the professional service contracts and a third party operating agreement in Quebec.

Some of the data used for this audit were collected from a study conducted by the Office of the Commissioner of Official Languages on services to inmates in institutions not designated to provide services (including health care) in both official languages.

B. OBSERVATIONS AND RECOMMENDATIONS

Our observations and recommendations are based on the audit criteria listed in Appendix E of this report.

1. Identifying the clientele and measuring significant demand

CSC does not know its clientele in advance; therefore, it must identify the offenders' preferred language at the time of their admission. The admission departments are located in the Atlantic, Quebec, Ontario and British Columbia Regional Reception Centres and in seven institutions in the Prairie region. These reception and admission departments conduct a complete assessment of the offenders' background, including a medical examination, and prepare them to adjust to life in the correctional institution where they will subsequently be held. The procedure for receiving offenders and collecting data on their preferred language varies according to region and institution. However, we note that a single bilingual admission form is used by all institutions. This information is subsequently recorded in the Offender Management System.⁷

CSC complies with paragraph 6(1)(a) of the Official Languages (Communications with and Services to the Public) Regulations by taking into account Treasury Board Directive C on the operational definition of the concept of restricted clientele. Consequently, at this time, only those institutions located in Quebec and New Brunswick have been designated bilingual. These institutions are listed in the following table.

⁷ The Offender Management System is the computerized case file management system used by Correctional Service Canada, the National Parole Board and other criminal justice partners to manage information on federal offenders throughout their sentence. The system gathers, stores and retrieves information required for tracking offenders and making decisions concerning their cases.

PROVINCE	BILINGUAL INSTITUTIONS ⁸
Quebec	Archambault Institution
	Cowansville Institution
	Donnacona Institution
	Drummond Institution
	Joliette Institution
	La Macaza Institution
	Leclerc Institution
	Montée Saint-François Institution
	Port-Cartier Institution
	Sainte-Anne-des-Plaines Institution
New Brunswick	Atlantic Institution
	Dorchester Penitentiary
	Shepody Institution
	Westmorland Institution

However, a study conducted by the Office of the Commissioner of Official Languages on services to inmates in institutions not designated to provide services in both official languages revealed a discrepancy.

When they arrive at the admissions department of one of the four Reception Centres—Atlantic, Quebec, Ontario or British Columbia—or one of the seven institutions in the Prairie Region, offenders are not yet part of the restricted and identifiable clientele as defined in paragraph 6(1)(a) of the Regulations for the application of section 22 of the *Official Languages Act*. They have not yet been fully informed of their language rights as inmates and they have not yet indicated their preferred language. Consequently, the admission departments are subject to the general demographic rules concerning significant demand.⁹ We are of the opinion that the simple fact that offenders sign an admission form without previously being informed of their

language rights does not constitute proof of their preferred official language. Therefore, our report concludes that the reception centres in Ontario and British Columbia as well as the seven institutions that receive offenders in the Prairie Region do not meet their linguistic obligations. Thus, the Commissioner has recommended that CSC review its admission procedures for offenders.

In view of the preceding, we find that the Department does not fully satisfy the audit criterion in relation to identifying the clientele and measuring significant demand.

The Commissioner upholds the recommendation made to CSC in its January 2006 report entitled *Study on Services to Inmates in Institutions Not Designated to Provide Services in Both Official Languages*.

⁸ The Regulations state the data from the most recent decennial census of the population is to be used to define the “minority Francophone or Anglophone population” in order to determine the federal offices for which there is “significant demand” for service under section 22 of the Act. At the time of data collection, CSC had not provided us with the results of the most recent exercise on the implementation principle for the *Official Languages (Communications with and Services to the Public) Regulations*.

⁹ Under demographic rules, as soon as an office in its service area serves a minority language population of 5,000 people or more, or 500 people who represent 5% of the population, that office must provide its services in both official languages. There is significant demand and it is not necessary to demonstrate this to have a duty to comply.

Recommendation 20

The Commissioner recommends that Correctional Service Canada review its procedures for admitting offenders in the Regional Reception Centres and other institutions performing this function, in order to provide this service in both official languages, in accordance with the *Official Languages Act* and the Regulations.

2. Informing managers of their official languages responsibilities

In order to help managers and staff comply with their operational obligations to inmates in terms of official languages, CSC issued, under its Standard Operating Practices, Directive 087, which is related to official languages and services provided to offenders and the general public. This directive, which was updated in October 2003, was adopted by the CSC Commissioner by virtue of the powers conferred on him under the *Corrections and Conditional Release Act*.

The Directive sets out the far-reaching obligations of institutions that must provide all their services to a restricted and identifiable clientele in both official languages under paragraph 6(1)(a) of the Regulations. CSC has also established more limited obligations aimed at providing basic services, including health care, in institutions where the demand for services in the minority language is not 5% of the total volume of the demand over a period of one year.

The managers we interviewed are familiar with this directive, which is easily accessible and can also be consulted by inmates in all CSC institutions.

We therefore find that CSC satisfies this audit criterion.

3. Active offer to health care clientele

We conducted approximately 20 telephone audits in the health care sectors of designated bilingual institutions in Quebec and New Brunswick. In all cases, the verbal greetings and recorded voice mail messages were in one language only, with the exception of the Joliette and Donnacona institutions in Quebec.

With respect to verbal communications in person, our interviews revealed a lack of active offer of service in both official languages. The choice of language is often determined only when offenders use their language of choice or when they request it.

Moreover, in a number of institutions, the offenders' preferred language is not indicated in their medical records. This practice could ensure better health care services in the patient's language of choice.

In view of the preceding, we find that the Department does not satisfy this audit criterion.

Recommendation 21

The Commissioner recommends that Correctional Service Canada ensure its bilingual institutions fully comply with the requirements of section 28 of the *Official Languages Act* concerning active offer in person, on the telephone and on voice mail.

Recommendation 22

The Commissioner recommends that Correctional Service Canada indicate offenders' preferred official language in their medical records in order to ensure better health care services in their language of choice.

4. Language skills requirements for health care services

In Quebec, there are 247 health care services positions, 56% of which are designated bilingual. There are 139 positions in New Brunswick, 63% of which are designated bilingual. A number of bilingual positions are vacant, mainly in New Brunswick.

The following table shows the distribution of bilingual and unilingual positions in the health sector in Quebec and New Brunswick. It was prepared using a list provided by CSC during data collection.

Province	Number of positions	Positions filled	Incumbents who do not meet requirements	Vacant positions
Quebec	Bilingual: 139 Unilingual: 108 Total : 247	133 108	7 N/A	6 0
New Brunswick	Bilingual: 87 Unilingual: 52 Total 139	52 36	3 N/A	35 16

In Quebec, the linguistic profile of all health professional positions is BBB, with the exception of one psychologist position at Sainte-Anne-des-Plaines, which is CCC. In New Brunswick, we note that, in some cases (director, health care officer, etc.), the linguistic profile differs (BBB, CCC or CBC) from one position to another, even though the positions have similar duties. It is obvious, from reading the work descriptions of nurses and psychologists, that level B for oral interaction is not sufficient, given the complexity of the issues that are handled:

Nursing care: According to the work description, the principal activities of nurses are as follows: screening; emergency services for offenders; therapeutic procedures; prevention; diagnosis and identification; and the assessment and recording of the socio-cultural, psychological, physiological, emotional, evaluative and spiritual needs of offenders.

Psychologists: According to the work description for psychologists, their responsibilities include providing psychological services; assessing offenders' risk of recidivism; providing psychological interventions and assessing the criminogenic and psychological needs of offenders; conducting psychological interventions with offenders in crisis; and assessing the risk of self-injury and suicidal behaviour in offenders.

According to the Public Service Commission guide *Determining the Linguistic Profile for Bilingual Positions*, the nature of these duties requires level C for oral interaction because the nurses and psychologists must deal with sensitive issues, provide and understand complex explanations and descriptions, participate in discussions that involve the rapid exchange of ideas and give medical advice to patients.

In addition, it seems obvious to us that there are not enough designated bilingual positions to meet the requirements of the *Official Languages Act* in Quebec and New Brunswick. Very few nursing positions are bilingual (e.g., one bilingual position out of nine) to serve the clientele in a number of the institutions.

In view of the preceding, we find that CSC does not satisfy the audit criterion in relation to language skills required to provide health care services.

Recommendation 23

The Commissioner recommends that Correctional Service Canada develop and implement a strategy for recruiting more bilingual health care professionals for institutions in Quebec and New Brunswick.

Recommendation 24

The Commissioner recommends that Correctional Service Canada raise the language designation of bilingual health professional positions, especially for oral interaction, for institutions in Quebec and New Brunswick.

Recommendation 25

The Commissioner recommends that Correctional Service Canada verify whether the incumbents of bilingual health professional positions in institutions in Quebec and New Brunswick, whose language requirements have been raised, meet these new requirements. In cases where the incumbents do not meet these new requirements, the Department must take measures to ensure equal health care in both official languages at all times.

Recommendation 26

The Commissioner recommends that Correctional Service Canada include a reference to complaints concerning official languages in its directive on offender complaints and grievances.

Recommendation 27

The Commissioner recommends that Correctional Service Canada implement a monitoring mechanism to ensure compliance with its linguistic obligations in relation to health care services.

5. *Monitoring the application of the Official Languages Act in relation to health care*

The only mechanism that could be used, to some extent, to monitor compliance with CSC's linguistic obligations is a directive that allows offenders to submit a complaint or grievance concerning issues that are under the authority of the CSC Commissioner. However, this directive does not mention any complaints concerning official languages, which considerably diminishes the usefulness of this mechanism with regard to language issues.

Therefore, we find that CSC does not satisfy this audit criterion.

6. *Third party transfer agreements in accordance with section 25 of the Official Languages Act, monitoring mechanisms and institutional transfers*

Compliance with section 25 of the Official Languages Act: CSC health sectors sign contracts to obtain services from such professionals as physicians, nurses, psychologists, dentists, optometrists, dieticians, X-ray technicians and pharmacists.

The special conditions in the contracts used in all institutions in New Brunswick and Quebec vary considerably.

In New Brunswick, some agreements require health care professionals to respect the laws, regulations and applicable rules in the exercise of their duties. The laws, policies and directives, including the Standard Operating Practices (087) on Official Languages, are posted on the Department's Web site. The information gathered shows that, when the health care professional is unable to provide bilingual services, the contract specifies that services must be provided in both official languages either by the contractor or his or her assistant. We do not consider the actual wording of these clauses sufficient.

In cases where there are no language requirements in the contract and the health care professional is unilingual, service in the patient's official language of choice can still be provided by a bilingual CSC staff member (nurse) "if a client requests French services." Yet, in accordance with section 28 of the *Official Languages Act*, bilingual institutions must actively offer their services in both official languages and not wait for offenders to ask to be served in the language of their choice.

In Quebec, some agreements set out a requirement for service in both official languages, but it does not clearly state the linguistic obligations of the health care professional. In other cases, the contracts contain a language clause that implies that services must be provided in the language of the patient only when it is "requested by the client." Again, we remind the Department that in accordance with section 28 of the *Official Languages Act*, bilingual institutions must actively offer their services in both official languages.

CSC must insert an appropriate language clause in its agreements with health care professionals in Quebec and New Brunswick that clearly states the requirement of service in both official languages.

Moreover, there are no mechanisms in place in the institutions to ensure that people hired on contract have the required language skills, with the exception of the Drummond and Montée Saint-François institutions in Quebec. At both institutions, health professionals must pass the Public Service Commission language test in order to be hired. We also noted that there are no monitoring mechanisms to assess the quality of services provided in both official languages by contract employees.

Operating agreements: CSC has signed an agreement with the Institut Philippe-Pinel in Montréal, Quebec, to provide acute care to inmates suffering from mental illness and personality disorders. The agreement includes an appropriate language clause.

In view of the preceding, we find that the Department does not satisfy the audit criterion concerning language clauses in agreements and associated monitoring mechanisms.

Recommendation 28

The Commissioner recommends that Correctional Service Canada review its contractual agreements with health professionals to include an appropriate language clause in order to ensure health services in both official languages to the offenders in bilingual institutions.

Recommendation 29

The Commissioner recommends that Correctional Service Canada ensure health professionals hired on contract at its bilingual institutions have the required language skills.

Recommendation 30

The Commissioner recommends that Correctional Service Canada implement a monitoring mechanism to ensure the quality of services delivered in both official languages by contract health professionals at its bilingual institutions.

D. CONCLUSION

CSC managers who have a duty to provide bilingual health care are well aware of their linguistic obligations. The CSC has policies and an administrative directive concerning official languages. It is possible to identify offenders' preferred language using the Offender Management System database, which receives its information from the admissions departments.

However, we identified some shortcomings in the process of identifying the clientele's preferred language. In addition, there are no effective monitoring mechanisms for ensuring compliance with the *Official Languages Act* in relation to health care, and there is no active offer of service in both official languages at a number of institutions.

Our review of tasks associated with health care provided by nurses and psychologists to offenders revealed that the level B language requirement for oral interaction is too low. We also noted that there were not enough positions designated bilingual to provide services in both official languages at all times in the institutions' health sector.

Many contractual agreements signed with health professionals do not contain a language clause, and most of the institutions do not have mechanisms to assess the language skills of contract health professionals and the quality of services provided by them in both official languages.

In order to ensure that health care is provided to its official language minority clientele, CSC will have to address these shortcomings by implementing the Commissioner's 11 recommendations.

Overall Conclusion

In the context of this audit, we investigated whether Health Canada, Veterans Affairs Canada, the Royal Canadian Mounted Police and Correctional Service Canada comply with the *Official Languages Act* when they provide direct health care to official language minority clientele or when they call upon third parties to do so on their behalf.

The clients of these four institutions (members of the First Nations and Inuit communities, veterans, RCMP cadets and inmates) are a restricted and identifiable clientele as defined in paragraph 6(1)(a) of the Regulations, and these institutions comply with Treasury Board Directive C on the operational definition of this regulatory concept. However, we noted some shortcomings in the process of identifying offenders' preferred language at some CSC institutions.

A large majority of the managers whom we interviewed are familiar with their responsibilities in relation to bilingual health care services. However, the RCMP does not sufficiently inform the Regina Medical Treatment Centre's manager and employees of their linguistic obligations.

We noted problems with the active offer of services in the four institutions. These pertained to greetings in person and on the telephone and the absence of signage encouraging patients to use either official language. We also noticed that the RCMP and some CSC institutions do not indicate patients' preferred language in their medical records.

The language requirements for oral interaction for health professional positions are generally insufficient for the complexity of the tasks involved in three of the institutions audited, namely HC, VAC and CSC.

In three institutions (VAC, RCMP and CSC), language clauses are not systematically included in contractual agreements with health professionals or in some funding agreements with the provinces and health centres where there is an obligation to provide bilingual services.

Finally, we noted a general lack of monitoring mechanisms that would allow the four institutions to ensure compliance with their linguistic obligations regarding direct health care services.

The Commissioner is conscious of the nation-wide shortage of health care professionals and of the added complexity and challenges this brings to the recruitment of qualified bilingual resources. These challenges will require greater creativity and initiative on the part of the institutions in order to meet their linguistic obligations in this regard.

The Commissioner issued 30 recommendations to the four institutions selected in order to help them improve direct bilingual health care services to their respective restricted and identifiable clientele. Health Canada and the Royal Canadian Mounted Police were the subject of six recommendations each, while seven recommendations were addressed to Veterans Affairs Canada and 11 to Correctional Service Canada.

Appendix A

RECOMMENDATIONS TO HEALTH CANADA (HC), HC'S ACTION PLAN AND OUR COMMENTS

Generally speaking, we are satisfied with Health Canada's action plan for implementing certain recommendations. In cases where the measures proposed by the institution do not seem entirely satisfactory, we have added comments to that effect. We will look at the implementation of the recommendations at the time of our audit follow-up. We would like to thank the HC representatives for the constructive dialogue we had with them throughout this audit.

We maintain that full implementation of our recommendations should allow HC to effectively meet its linguistic obligations when providing direct health care.

Recommendation 1

The Commissioner recommends that Health Canada ensure its designated bilingual offices fully comply with the requirements of section 28 of the *Official Languages Act* concerning active offer in person, on the telephone and on voice mail.

Action plan and timeframes

We no longer have a reception service (in person) at the Health Canada office in Montréal.

We will ensure that employees have bilingual voice mail messages and that they answer clients in both official languages. We will provide employees with tools to help them (bilingual greetings, bilingual messages on voice mail). (Deadline: April 2007)

We will undertake internal audits to ensure that the messages are bilingual and that people answer the telephone in both official languages. (Deadline: April 2007)

We will provide the Regional Director with an audit report and do follow-up every six months. (Deadline: June 2007)

Recommendation 2

The Commissioner recommends that Health Canada raise the linguistic profile of nursing positions for oral interaction and of non-insured health benefits eligibility officers who have an asymmetrical profile, and review the number of bilingual positions required in these two job categories in the Quebec region.

Action plan and timeframes

Making level C imperative for oral interaction for all our nurses now in the nursing positions identified in the report would, without a doubt, compromise our ability to deliver health care in the communities and force us to close those nursing stations. That is why we are making this a target for 2010.

Since the audit, the community of Timiskaming has been transferred to the Aboriginal community. Only five nursing positions remain at the nursing stations covered by this report (three in the Lac Rapide community and two in Winneway). The level of bilingualism of these positions is BBB. (Deadline: completed)

We propose that one nurse in each community (nursing station) have level C for oral interaction. (Deadline: May 2007)

Given the recruiting challenges, staff shortages, isolation of the communities and staff turnover, we are aiming at level C bilingualism with respect to oral interaction for three out of five nurses. (Deadline: April 2010)

The other two positions are still vacant; however, we are aiming at level C for them as well.

Beginning in September 2007, current staff who are not at level C will be given a diagnostic test and we will then provide staff who are not at level C with language training. (Deadline: September 2007)

There are now 10 eligibility officer positions. We propose that the two asymmetrical profiles be changed to BBB. In the meantime, we will provide training to employees who do not meet this profile. (Deadline: April 2008)

Our comments

We note that as of May 2007, the linguistic profiles for two out of five nursing positions will be raised to level C for oral interaction. However, considering the difficulty of hiring health professionals, HC is planning to staff another position at level C (for oral interaction) by April 2010. We note that the recommendation will not be fully implemented by the time we follow up on the audit, in 18 to 24 months. We are therefore not in agreement with HC's proposed deadline for increasing the linguistic profile for nursing positions. In our view, the Department could raise the linguistic profile of the vacant nursing positions to level C immediately and look at the possibility of using non-imperative staffing. Still, we are generally satisfied with the approach being proposed by HC with respect to the other suggested measures for implementing this recommendation. We will assess its implementation at the time of our audit follow-up.

Recommendation 3

The Commissioner recommends that Health Canada verify whether the incumbents of nursing positions and non-insured health benefits eligibility officer positions, whose linguistic profiles have been raised, meet these new requirements. In cases where the incumbents do not meet these new requirements, the Department must take measures to ensure equal health care in both official languages at all times.

Action plan and timeframes

We will have the incumbents of eligibility officer positions who have received training evaluated to determine their level of bilingualism. (Deadline: April 2008)

We will have the incumbents of nursing positions who have received training evaluated to determine their level of bilingualism. (Deadline: April 2010)

In cases where the incumbents do not meet these new requirements, the Department will ensure the presence at all times of other incumbents able to respond appropriately in both official languages. (Deadline: April 2007)

Our comments

We have reviewed the measures proposed by HC regarding recommendations 2 and 3. We note that, as of September 2007, personnel that do not have a level C will take a diagnostic test and HC will provide language training. While we are generally satisfied with this approach, the Department will have to take the necessary measures to increase the linguistic profile of vacant nursing positions to level C for oral interaction and, if necessary, put temporary administrative measures in place to ensure that health care is being delivered effectively in both official languages at all times. We will assess the implementation of this recommendation at the time of our audit follow-up.

Recommendation 4

The Commissioner recommends that Health Canada implement a monitoring mechanism to ensure compliance with its linguistic obligations in relation to the provision of health care services in Quebec.

Action plan and timeframes

We will ensure that the managers and employees know their linguistic obligations in relation to health care services and that they comply with them. (Deadline: April 2007)

We will institute and implement an internal monitoring mechanism in the First Nations and Inuit Health Directorate (FNIHD) at Health Canada. (Deadline: April 2008)

Recommendation 5

The Commissioner recommends that Health Canada ensure health professionals hired on contract in Quebec have the required language skills.

Action plan and timeframes

An agreement will be reached with one or more language schools for testing the linguistic proficiency of health personnel hired on contract through personnel agencies to ensure that they have the required competencies.

(Deadline: April 2008)

Recommendation 6

The Commissioner recommends that Health Canada implement a monitoring mechanism to ensure the quality of services provided in both official languages by health professionals hired on contract in Quebec.

Action plan and timeframes

We will develop a questionnaire and distribute it to clients to ascertain their satisfaction with the quality of the services provided in both official languages. This questionnaire will be developed for September 2007.

(Deadline: September 2007)

We will provide the Regional Director with two reports a year. (Deadline: April 2008)

Appendix B

RECOMMENDATIONS TO VETERANS AFFAIRS CANADA (VAC), VAC'S ACTION PLAN AND OUR COMMENTS

We are generally satisfied with the approach VAC has taken or plans to take to implement some of the recommendations. In cases where the measures proposed by the institution do not seem entirely satisfactory, we have added comments to this effect. At the time of our audit follow-up, we will assess the implementation of the recommendations. We would like to thank the VAC representatives for the constructive dialogue we had with them throughout this audit.

We maintain that full implementation of our recommendations should allow VAC to effectively meet its obligations when providing direct health care services in both official languages.

Recommendation 7

The Commissioner recommends that Veterans Affairs Canada display signage for active offer in all reception areas of Sainte-Anne Hospital informing patients of the availability of services in both official languages.

Action plan and timeframes

Sainte-Anne Hospital is in agreement with this recommendation.

Pictograms will be displayed in all the reception areas at Sainte-Anne Hospital and at the entrance to each nursing unit. (Deadline: April 1, 2007)

Recommendation 8

The Commissioner recommends that Veterans Affairs Canada raise the linguistic profile for oral interaction for bilingual orderly positions and various bilingual nursing positions at Sainte-Anne Hospital.

Action plan and timeframes

a) Orderly positions (from A to B)

Currently, close to 50% of employees hired as orderlies would meet level B requirements for oral interaction (136/297, which represents a proportion of 46% who are at level B compared to 54% who are at level A).

We will review and raise the language requirements of positions to level B based on current qualifications of employees on staff. (Deadline: December 2007)

Since the majority of external recruiting is for on-call and term positions, it is not possible to offer statutory language training. However, the Hospital will take this factor into account in its annual training priorities. (Deadline: annually)

In future hiring processes, recruitment will be at level B. (Deadline: on-going)

Also, the Hospital takes alternative administrative measures to ensure that the language skills of health care teams are adequate to meet clients' needs. (Deadline: on-going)

It is anticipated that the replacement by attrition of level A employees with level B employees will lead to a better linguistic identification of the organization's orderly positions. (Deadline: March 2010)

Employees have access to second language co-development sessions and on-line learning tools, educational materials, books and cassettes, and can borrow them through the Resource Centre. (Deadline: on-going)

The Hospital will undertake an in-depth analysis of the current structure and identification of full-time and indeterminate positions to determine the impact and possibility of offering second-language learning opportunities to incumbents. (Deadline: December 2007)

b) Nursing positions (NU-02 to NU-06)

Currently, almost 50% of nursing staff would meet level C language requirements for oral interaction (144/269).

Given the challenges of recruiting nurses, it would not be viable for the Hospital to limit all new hirings to level C. As a general rule, all interested persons with professional certification are hired during annual recruitment campaigns.

By its very nature, the Hospital takes every possible means to ensure quality service delivery in both official languages to its clients/residents. As confirmed by the last client satisfaction survey, 97% of clients say they are satisfied with the services offered in the language of their choice.

We will review and raise the language requirements of positions to level C based on current qualifications of employees on staff. (Deadline: December 2007)

Since some external recruiting is for on-call and term positions, it is not possible to offer statutory language training. However, the Hospital will take this factor into account in its annual training priorities. (Deadline: annually)

Also, the Hospital takes alternative administrative measures to ensure that the language skills of its teams are adequate to meet clients' needs. (Deadline: on-going)

Sainte-Anne Hospital, like other health care institutions, faces shortages of qualified workers.

Employees have access to second language co-development sessions and on-line learning tools, educational materials, books and cassettes and can borrow them through the Resource Centre. (Deadline: on-going)

The Hospital will undertake an in-depth analysis of the current structure and identification of full-time and indeterminate positions to determine the impact and possibility of offering second-language learning opportunities to incumbents. (Deadline: December 2007)

The institution will assess the impact of recruitment with higher profiles in relation to availability of workers and professional requirements.

For the next recruitment campaign, the Hospital will use varying language levels (C and B) for nurses. (Deadline: next recruitment campaign)

The Hospital will give priority to the hiring of level C resources and fill out its staff with available resources possessing a level B. (Deadline: ongoing)

Our comments

We are not fully satisfied with the measures proposed by VAC to implement this recommendation. We are of the view that VAC should immediately begin taking appropriate measures to raise the linguistic profile of bilingual positions (orderly and nursing) to reflect the appropriate level of competency required of the incumbents of those positions. Moreover, once the Hospital has completed its in-depth analysis of the structure and identification of positions with regard to learning opportunities for incumbents, we strongly encourage VAC to inform the employees of the new language requirements of their positions and take the required measures to ensure that the incumbents of those positions attain the required level of competency and, where necessary, implement temporary administrative measures to ensure that effective health care services in both official languages are provided at all times.

While we are aware of the challenges involved in recruiting health care professionals in general, the existence of varying language levels (C and B) is contrary to section 91 of the *Official Languages Act*, which emphasizes the need for objectivity in setting the language requirements of positions designated bilingual. VAC could examine, for the next recruitment period, the possibility of staffing a number of bilingual positions at the C level for oral interaction on a non-imperative basis and offer language training accordingly.

In view of the above, we maintain our recommendation and will assess its implementation at the time of our audit follow-up.

Recommendation 9

The Commissioner recommends that Veterans Affairs Canada verify whether the incumbents of bilingual orderly positions and various bilingual nursing positions at Sainte-Anne Hospital, whose language requirements have been raised, meet these new requirements. In cases where the incumbents do not meet these new requirements, the Department must take measures to ensure equal health care in both official languages at all times.

Action plan and timeframes

The Hospital is responsible for the delivery of health care to its clientele.

Resource allocation is done on the basis of institutional bilingualism and, where necessary, other team members can contribute to communications with clients and their families.

Veterans Affairs Canada will develop an appropriate monitoring mechanism to ensure compliance. (April 1, 2008)

Our comments

As noted under Recommendation 8, VAC is silent with regard to raising the linguistic profile of existing bilingual positions. Section 91 of the *Official Languages Act* emphasizes the need for objectivity in setting the language requirements of designated bilingual positions. We must therefore consider the measures proposed by the institution to implement this recommendation insufficient.

Recommendation 10

The Commissioner recommends that Veterans Affairs Canada implement a monitoring mechanism to ensure compliance with its linguistic obligations in relation to the provision of health care services at Sainte-Anne Hospital.

Action plan and timeframes

The Hospital currently has two monitoring mechanisms, i.e., the client survey (every three years) and a complaints management mechanism via the Ombudsman.

Indicators will be developed and integrated into the Hospital performance indicators. (Deadline: September 2007. Semi-annual follow-up by the Management Committee as of March 2008.)

Human Resources at VAC headquarters will develop an appropriate monitoring mechanism to ensure compliance. Indicators will include the language identification of positions providing health care and levels of bilingualism in relation to client's linguistic requirements for each service sector. Another indicator will be the linguistic capacity of employees in bilingual positions. (Deadline: April 1, 2008)

Our comments

We are partially satisfied with the measures proposed by VAC to implement the recommendation. In addition to making sure that the staff who provide health care services have the appropriate language skills, the institution must also consider conducting on-site monitoring to determine whether services in person are being delivered effectively in both official languages and in the language of choice of the clients.

Recommendation 11

The Commissioner recommends that Veterans Affairs Canada ensure health professionals hired on contract by Sainte-Anne Hospital have the required language skills.

Action plan and timeframes

As for recommendations 11 and 12 (concerning the linguistic competencies of contract employees), it should be noted that the final responsibility with regard to health professional contracts rests with Public Works and Government Services Canada (PWGSC). The model contracts used by Sainte-Anne Hospital are standard and consistent with federal public service contract policies. The clauses relating to employment conditions are in compliance with Treasury Board directives and are the same ones applied throughout Veterans Affairs Canada.

Before awarding and signing contracts, PWGSC makes sure that the conditions are met.

The Department has initiated a follow-up with PWGSC to determine and implement the most effective methods for assessing the language capabilities of potential professional contractees to ensure they meet the required language proficiencies. (Deadline: April 1, 2008)

Our comments

We are only partially satisfied with the approach VAC is proposing to implement this recommendation. We are of the opinion that VAC can and must exercise greater vigilance with regard to the language skills of the health professionals they hire through contracting agreements administered by PWGSC. We will assess the implementation of this recommendation at the time of our audit follow-up.

Recommendation 12

The Commissioner recommends that Veterans Affairs Canada implement a monitoring mechanism to ensure the quality of services provided in both official languages by health professionals hired on contract at Sainte-Anne Hospital.

Action plan and timeframes

The Department accepts this recommendation.

Veterans Affairs Canada will develop an appropriate monitoring mechanism to ensure compliance. (Deadline: April 1, 2008)

Recommendation 13

The Commissioner recommends that Veterans Affairs Canada review its 12 operating agreements with provincial health services and health institutions signed prior to 1993 to determine whether, when they are renewed, they should include a language clause in accordance with its obligations set out in section 25 of the *Official Languages Act* and paragraph 6(1)(a) of the Regulations.

Action plan and timeframes

The Department supports this recommendation to comply with section 25 of the *Official Languages Act* regarding institutional transfers.

The Department has reviewed all agreements signed prior to 1993 to determine whether any pertain to services in significant demand areas as set out in paragraph 6(1)(a) of the *Official Languages Regulations*. Only one transfer agreement pertaining to a significant demand area was found. The current agreement with that facility ensures bilingual services are provided compliant with section 25 of the *Official Languages Act*. (Deadline: the Department has completed its review of agreements and can now confirm full compliance with the *Official Languages Act*.)

Appendix C

RECOMMENDATIONS TO THE ROYAL CANADIAN MOUNTED POLICE (RCMP), THE RCMP'S ACTION PLAN AND OUR COMMENTS

Overall, we are very satisfied with the approach the RCMP has taken or plans to take to implement some of the recommendations. In cases where the measures proposed by the institution do not seem entirely satisfactory, we have added comments to this effect. At the time of our audit follow-up, we will assess the implementation of the recommendations. We would like to thank the RCMP representatives for the constructive dialogue we had with them throughout this audit.

The full implementation of our recommendations should allow the RCMP to effectively meet its linguistic obligations when providing direct health care.

Recommendation 14

The Commissioner recommends that the Royal Canadian Mounted Police take measures to distribute its official language policies and directives with regard to service to the public in both official languages to the manager and staff members of the Medical Treatment Centre at the Depot Division in Regina.

Action plan and timeframes

The North West Region (NWR) Official Languages Coordinator provided the Medical Treatment Centre manager with an information package entitled "Official Languages - A Matter of Service" to be distributed to Treatment Centre staff highlighting their responsibilities. This information package emphasizes the elements that make up an active offer of service in the language of choice for telephone and personal greetings. All Medical Treatment Centre employees must acknowledge and sign a form entitled "Offer," especially with respect to telephone and in-person greetings. In addition, all Medical Treatment Centre employees must have signed a form entitled "Medical Treatment Centre @ Depot" acknowledging that they have read the material regarding service to the public, and returned it to the Official Languages Coordinator by

February 1, 2007. Medical Treatment Centre staff will make all practical efforts to greet visitors in both official languages. If they are unable to respond to enquiries in the client's official language of choice, they will provide the services by linking up with a bilingual employee who is able to do so.

Recommendation 15

The Commissioner recommends that the Royal Canadian Mounted Police ensure staff members at its Medical Treatment Centre fully comply with the requirements of section 28 of the *Official Languages Act* concerning active offer in person, on the telephone and on voice mail.

Action plan and timeframes

An active offer to cadets receiving health care services, including information on the elements of active offer especially with respect to telephone and in-person greetings, is included in the information package that was provided to the manager and staff. The manager of the Medical Treatment Centre has taken the following steps to ensure that a true active offer is given:

- (1) During troop orientation sessions, cadets are advised that health services are provided in the language of their choice.
- (2) Active offer was the topic of discussion at the Medical Treatment Centre's staff meeting on January 17, 2007, and the importance of making an active offer of service was stressed. The staff was directed to ensure all greetings via the reception desk, telephone and voice mail are in both official languages. The Official Languages Coordinator and the Manager will ensure that the active offer is made properly in both languages.
- (3) Official Languages – Active offer will be a standing agenda item for all future staff meetings.

Recommendation 16

The Commissioner recommends that the Royal Canadian Mounted Police indicate the preferred official language of cadets in their medical records.

Action plan and timeframes

Following this recommendation, a procedure was developed and implemented immediately by the Manager of the Medical Treatment Centre. Within two days of arriving at Depot Division (for the initial vaccination), a cadet's official language of choice is identified and a sticker is affixed to the cover of the occupational health file of those who have requested French service which states: "Preferred Language / Préférence linguistique – French."

Our comments

We are generally satisfied with the overall approach proposed by the RCMP to implement the recommendation. However, in order to provide equal treatment, the RCMP must also note the language preference of majority-language cadets in their medical records.

Recommendation 17

The Commissioner recommends that the Royal Canadian Mounted Police take the necessary measures to ensure that the psychological tests administered to cadets by the Regina Medical Treatment Centre are in the cadets' official language of choice.

Action plan and timeframes

Psychological tests are not routinely administered to cadets at Depot Division but are normally administered to RCMP applicants prior to enrolment at Depot. Recruiting offices across the country are responsible for these tests, which are usually given to applicants before they are registered at Depot Division. On occasion, psychological testing of employees/cadets is required at the Medical Treatment Centre. Since the audit, a supply of English and French psychological tests is now available on site. Detailed instructions on replenishing supplies have been provided to the Medical Treatment Centre.

Recommendation 18

The Commissioner recommends that the Royal Canadian Mounted Police implement a monitoring mechanism to ensure that the Regina Medical Treatment Centre provides effective health care in both official languages.

Action plan and timeframes

The NWR Official Languages Unit will implement measures to periodically monitor and assess the level of compliance with the official languages policy within the Medical Treatment Centre at Depot Division. The *Unit Level Quality Assurance Guide for Official Languages* will be used for this purpose. In addition, the manager was to complete a checklist entitled "Elements of Services to the Public Examined" which requires a situation analysis of the different elements of service to the public, and send all observations to the NWR Official Languages Coordinator by February 8, 2007.

Recommendation 19

The Commissioner recommends that the Royal Canadian Mounted Police include a language clause in all of the Regina Medical Treatment Centre's service contracts with health professionals and create a bilingual human resources data bank for the health field in order to ensure that the language rights of the Centre's patients are respected at all times.

Action plan and timeframes

The attraction and retention of health care professionals within the RCMP is a major challenge given their general scarcity in Canada. Effective immediately, every effort will be made to ensure that a language clause is included in all future requests for proposals and service contracts for health care professionals required to work at Depot Division when bilingual health care employees are absent. Based on our past experience and given the linguistic milieu of the city of Regina and the province of Saskatchewan, it may prove difficult to develop a bank of bilingual replacement health care professionals. Translation services will be provided as necessary to address this concern.

During a debriefing, the official languages auditor commented that cadets had reported a high level of satisfaction regarding the level of French health care services available.

Our comments

Section 25 of the *Official Languages Act* states that federal institutions, such as the RCMP, that communicate with the public and provide services in both official languages must ensure that third parties provide services in both official languages. Translation services should therefore be regarded as a temporary administrative measure only. Consequently, the RCMP must take measures to recruit bilingual health care professionals to replace health care employees in their absence. Although we are aware of the difficulties in recruiting health care professionals in general, we encourage the RCMP to search for innovative ways to establish a bank of bilingual health care professionals. We are, however, generally satisfied with the approach the RCMP is taking, which includes a language clause in its requests for proposals and service contracts. We will assess its implementation at the time of our audit follow-up.

Appendix D

RECOMMENDATIONS TO CORRECTIONAL SERVICE CANADA (CSC), CSC'S ACTION PLAN AND OUR COMMENTS

We are generally satisfied with the measures CSC has taken or plans to take to implement some of the recommendations. In cases where the measures proposed by the institution do not seem entirely satisfactory, we have added comments to this effect. At the time of our audit follow-up, we will assess the implementation of the recommendations. We would like to thank the CSC representatives for the constructive dialogue we had with them throughout this audit.

We maintain that full implementation of our recommendations should allow CSC to effectively meet its linguistic obligations when providing direct health care services.

Recommendation 20

The Commissioner recommends that Correctional Service Canada review its procedures for admitting offenders in the Regional Reception Centres and other institutions performing this function, in order to provide this service in both official languages, in accordance with the *Official Languages Act* and the Regulations.

Action plan and timeframes

CSC recognizes its obligation regarding the provision of bilingual services. In order to address the issues raised by the audit, it will undertake the following actions:

- In all regional reception centres and other institutions performing this function, health care staff will ask all offenders their language preference during the first 48 hours and will record it on the admission assessment form (form 1244), which is part of the offender's medical record.¹⁰

Page 1 of the health status admission assessment (form 1244) will be amended to include a question on language preference. (Deadline: July 1, 2007)

- CSC's Health Information Management Module now includes a language preference field for inmates. Once the module is implemented (in 2010–2011), this information will be gathered automatically as part of the initial assessment.
- Staffing measures will be taken to ensure that the appropriate bilingual capacity exists in Quebec and New Brunswick.
- When there is no bilingual capacity among the health care staff in the reception centres, temporary measures will be put in place, such as interpretation services. Only staff members can serve as interpreters and they are subject to the same confidentiality requirements regarding the disclosure of personal information.

Recommendation 21

The Commissioner recommends that Correctional Service Canada ensure its bilingual institutions fully comply with the requirements of section 28 of the *Official Languages Act* concerning active offer in person, on the telephone and on voice mail.

Action plan and timeframes

CSC acknowledges that in-person services in both official languages are a statutory obligation at these points of service and will undertake staffing measures to address them. Also, the following actions will be taken to improve the availability of active offers of service in both official languages:

1. Regions will be asked to ensure that voice mail messages at bilingual institutions are recorded in both English and French. To ensure implementation, the Assistant Commissioner, Correctional Operations and Programs will issue a memo in this regard with a request to confirm in writing by the end of May 2007 that it has been implemented. (Deadline: May 2007)

¹⁰ Medical records follow offenders throughout their incarceration. The health care professionals responsible for their care use them to ensure continuity of services.

2. In-person offers will be made in both languages where staff have that capacity, and “statement cards” with standard expressions will be used where staff are unilingual. When the offenders or clients indicate they require service in the language not spoken by staff, interpretation services will be provided.

Recommendation 22

The Commissioner recommends that Correctional Service Canada indicate offenders’ preferred official language in their medical records in order to ensure better health care services in their language of choice.

Action plan and timeframes

Agreed.

1. Page 1 of the health status admission assessment (form 1244) will be amended to include a question on language preference. (Deadline: July 1, 2007)
2. The “medical file” field in CSC’s Health Information Management Module now includes the offender’s language preference. When the module is implemented (2010–2011), this information will be gathered automatically as part of the initial assessment. (Deadline: 2010–2011)

Our comments

We are partially satisfied with the measures proposed by CSC to implement the recommendation. Until the Health Information Management Module is fully implemented, CSC must take immediate measures to make sure that the preferred official language of those persons who are already incarcerated is identified in their medical records to ensure better health care services in their language of choice. We will assess the implementation of this recommendation at the time of our audit follow-up.

Recommendation 23

The Commissioner recommends that Correctional Service Canada develop and implement a strategy for recruiting more bilingual health care professionals for institutions in Quebec and New Brunswick.

Action plan and timeframes

CSC acknowledges the need to have more bilingual health professionals on staff. The language proficiency of health care staff in Quebec and New Brunswick will be reviewed to ensure there is an appropriate number of health care employees with level C in oral communication. (Deadline: April 2008)

1. CSC is in the process of developing an overall departmental HR strategy that will define its recruitment and retention needs in all areas, including health. As a short term strategy, CSC will undertake the following in Quebec and New Brunswick during the year: (Deadline: Fall 2008)
 - Conduct an intensive external recruitment strategy in the community to hire bilingual health care staff.
 - Identify positions as non-imperative bilingual and provide access to language training. The required budget will be made available for this current year and next fiscal year.
2. CSC is currently revising and updating generic work descriptions and statements of merit criteria based on the *Public Service Employment Act* (PSEA). As each one is completed, proficiency in both official languages will be included in the statement of merit criteria where the need is evident, including New Brunswick and Quebec.

CSC will not eliminate competency and skills requirements for health care professionals to work in institutions.

Recommendation 24

The Commissioner recommends that Correctional Service Canada raise the language designation of bilingual professional positions, especially for oral interaction, for institutions in Quebec and New Brunswick.

Action plan and timeframes

Given the national shortage of health professionals, and the dearth of those who are fluently bilingual, CSC will undertake the short-term strategy indicated previously. (Deadline: 2007–2008)

As a corrective strategy, CSC will identify as many bilingual non-imperative positions as it can and will support language training to meet the requirements of the health care staff.

Our comments

CSC is unfortunately silent about raising the linguistic profile of existing bilingual positions for health professionals in Quebec and New Brunswick institutions. Section 91 of the *Official Languages Act* emphasizes the need for objectivity in setting the language requirements of positions designated bilingual. We are therefore of the opinion that CSC should take immediate measures to raise the linguistic profile of these positions, inform the employees of the new language requirements of their positions and take the required measures to ensure that these incumbents attain the required level of competency. We must therefore consider the measures proposed by the Department as unsatisfactory in addressing this deficiency.

Recommendation 25

The Commissioner recommends that Correctional Service Canada verify whether the incumbents of bilingual health professional positions in institutions in Quebec and New Brunswick, whose language requirements have been raised, meet these new requirements. In cases where the incumbents do not meet these new requirements, the Department must take measures to ensure equal health care in both official languages at all times.

Action plan and timeframes

CSC will verify the language proficiency of incumbents in positions with new bilingual designations and provide training where necessary. (Deadline: 2007–2008)

Our comments

We are partially satisfied with the measures proposed by CSC to implement this recommendation. As noted under Recommendation 24, the institution is silent about raising the linguistic profile of existing bilingual positions for health professionals. We must therefore consider the proposed measures as insufficient in addressing this deficiency. We are, however, generally satisfied with the approach CSC is taking to verify the language skills of incumbents in positions recently designated bilingual and to provide the necessary language training. We also consider the measures announced under Recommendation 21 will be CSC's approach to ensuring equal health care services in both official languages at all times. We will assess the implementation of this recommendation at the time of our audit follow-up.

Recommendation 26

The Commissioner recommends that Correctional Service Canada include a reference to complaints concerning official languages in its directive on offender complaints and grievances.

Action plan and timeframes

This matter is addressed in the *Offender Complaints and Grievance Manual*:

12. Official language issues:

A breach of the *Official Languages Act*, particularly the right to be served and to express oneself in one of Canada's two official languages (French or English) with respect to matters such as disciplinary charges, transfers and parole decisions. This category also includes interpretation services provided to an offender who understands neither of the country's two official languages.

Our comments

We note that the *Offender Complaints and Grievance Manual* makes reference to official languages. However, as it is worded, it does not include a reference to CSC's basic official languages obligations towards inmates, such as those relating to health care services, as defined in the Department's Directive 087 of the Standard Operating Practices entitled "Official Languages." In our view, this would increase the effectiveness of monitoring the application of the *Official Languages Act* in relation to health care. Consequently, we maintain our recommendation and will assess its implementation at the time of our audit follow-up.

Recommendation 27

The Commissioner recommends that Correctional Service Canada implement a monitoring mechanism to ensure compliance with its linguistic obligations in relation to health care services.

Action plan and timeframes

CSC has recently developed an official languages management accountability framework. The first draft of this document is currently moving through the departmental approval process. This new framework addresses the requirement for CSC's functional authorities to comply with official languages policies. It illustrates the requirements for the functional authorities to develop appropriate action plans with progress reports to be submitted for the annual departmental *Official Languages Act* review.

CSC already incorporates the assessment of its official languages management practices in the management control framework. Likewise, CSC will include a review of the status of its linguistic obligations in relation to health care services in the annual review exercise commencing in 2007–2008. (Deadline: ongoing)

Our comments

We are partially satisfied with CSC's monitoring mechanism to ensure compliance with its linguistic obligations. The Department's assessment must also take into account all the recommendations directed to it in this report and provide for on-site monitoring to determine whether services in person are indeed being delivered in both official languages and in the language of choice of the clients. We will assess the implementation of this recommendation at the time of our audit follow-up.

Recommendation 28

The Commissioner recommends that Correctional Service Canada review its contractual agreements with health professionals to include an appropriate language clause in order to ensure health services in both official languages to the offenders in bilingual institutions.

Action plan and timeframes

CSC will include, in its call for proposals for medical services, knowledge of both official languages as an essential qualification for health professionals and, whenever possible, will contract with qualified professionals with advanced levels of fluency in both official languages. (Deadline: May 2007)

Our comments

We note the measures proposed by CSC to implement the recommendation. However, in addition to including knowledge of both official languages as an essential qualification, CSC must also insert, in its agreements with health care professionals, an appropriate language clause that clearly states the requirement to provide services in the client's preferred official language. Moreover, in its action plan, the institution does not specify what measures will be taken when health care professionals do not have the language skills required to provide service in both official languages.

In view of the above, we maintain our recommendation and will assess its implementation at the time of our audit follow-up.

Recommendation 29

The Commissioner recommends that Correctional Service Canada ensure health professionals hired on contract at its bilingual institutions have the required language skills.

Action plan and timeframes

CSC will include proficiency in both official languages as an essential qualification for health professionals and will contract with qualified health professionals with advanced levels of fluency in both official languages whenever possible. (Deadline: May 2007)

Our comments

CSC is unfortunately silent as to what mechanism will be put in place to evaluate the language skills of health care professionals hired on contract. We therefore maintain our recommendation and we will assess its implementation at the time of our audit follow-up.

Recommendation 30

The Commissioner recommends that Correctional Service Canada implement a monitoring mechanism to ensure the quality of services delivered in both official languages by contract health professionals at its bilingual institutions.

Action plan and timeframes

CSC has recently developed an official languages management accountability framework. The first draft of this document is currently moving through the departmental approval process. This new framework addresses the requirement for CSC's functional authorities to comply with official languages policies. It illustrates the requirements for the functional authorities to develop appropriate action plans with progress reports to be submitted for the annual departmental *Official Languages Act* review.

CSC already incorporates the assessment of its official languages management practices in the management control framework. Likewise, CSC will include a review of the status of its linguistic obligations related to health care services in the annual review exercise commencing in 2007-2008. (Deadline: ongoing)

Our comments

We are partially satisfied with CSC's monitoring mechanism to ensure compliance with its linguistic obligations. The Department's assessment must also take into account all the recommendations directed to it in this report and provide for on-site monitoring to determine whether services in person are indeed being delivered in both official languages and in the language of choice of the clients. We will assess the implementation of this recommendation at the time of our audit follow-up.

Appendix E

AUDIT CRITERIA

The audit criteria apply both to direct health care services by the audited institutions and to health services provided by third parties on their behalf.

Criteria

1. Ensure that the process used to identify the clientele wishing to receive health services in the minority official language and that the assessment of significant demand comply with the terms and conditions set out in the Treasury Board directive to help institutions determine which offices must provide bilingual services.
2. Ensure that the terms and conditions of the *Official Languages Act* and directives concerning its implementation are communicated to the responsible managers and that these managers are aware of their official language responsibilities.
3. Ensure that health care clients are adequately informed of their language rights with respect to offices that are designated bilingual in accordance with the concept of active offer set out in section 28 of Part IV of the *Official Languages Act*.
4. Ensure that the staff who provide health care have the necessary language skills to meet the needs of the minority language clientele.
5. Ensure that the federal institutions monitor compliance with the *Official Languages Act* in relation to health care.
6. Ensure that third party transfer agreements concerning direct health care contain language clauses in accordance with section 25 of the *Official Languages Act* and that appropriate monitoring mechanisms are in place. Also verify that institution transfer agreements contain a language clause to ensure provision of services in both official languages.

Appendix F

CHAPTER 5-2 – DIRECTIVES FOR IMPLEMENTING THE OFFICIAL LANGUAGES (COMMUNICATIONS WITH AND SERVICES TO THE PUBLIC) REGULATIONS, 1991

Directive C – Operational definition of the concept of restricted clientele with respect to the provisions set out under the specific circumstances for significant demand

REFERENCES

Paragraph 32(1)(a) of the *Official Languages Act* and paragraph 6(1)(a) of the *Official Languages (Communications with and Services to the Public) Regulations*.

APPLICATION

All institutions subject to the *Official Languages Act* (including departments, agencies, Crown corporations and Air Canada, pursuant to section 10 of the *Air Canada Public Participation Act*).

1. The purpose of this directive is to assist institutions in identifying which offices are subject to paragraph 6(1)(a) of the above-mentioned Regulations.
2. Under paragraph 6(1)(a), institutions must ensure that services that are intended specifically for a restricted and identifiable clientele are offered in English or French when, during a one-year period, demand by that clientele in that language is a least 5%.
3. Paragraph 6(1)(a) is part of the provisions set out under the specific circumstances for significant demand. These provisions take precedence over those that relate to general circumstances (section 5 of the Regulations).
4. The provisions of paragraph 6(1)(a) do not apply in the following cases:
 - a) services provided by a headquarters or central office of an institution and by its offices that are located in the National Capital Region (*Official Languages Act*, s. 22);
 - b) institutions reporting directly to Parliament (*Official Languages Act*, s. 24(2));
5. The provisions on restricted clientele apply only if the following conditions exist:
 - a) the services are intended specifically for a restricted clientele.

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

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

For the purposes of these provisions, the term “identifiable” means that it is possible to determine both the name of each client and the official language in which the client wishes to receive services. This information must be obtained using the method described in paragraph 7 below.
6. To apply the provisions on restricted clientele, institutions must establish a list of their clients and their language preferences.
- c) services and offices designated under the provisions pertaining to other specific circumstances for significant demand, nature of the office and services provided by contract to the travelling public (paragraphs 6(1)(b) to (e), 6(2)(a) to (d) and sections 7 to 12 of the Regulations).

7. Institutions will, therefore, have to take a census of the clientele of those offices that are subject to the provisions regarding a restricted clientele in order to determine the official language in which clients wish to receive their services. To this end, institutions must:

- a) obtain the required information from each client using appropriate data collection techniques. In addition, when choosing the mode of communication to be used for this purpose, consideration should be given to how the office normally contacts its clientele (e.g., by mail, by telephone or in person);
- b) ensure that the data collected from its clients is collected by someone other than the person who provides the service to these clients directly;
- c) clearly explain the purpose of the census to its clients. Respondents must be told that the purpose of the census is to determine whether, under the terms of the Act, the office in question must offer its services in both official languages;
- d) ensure that its clients may respond in the official language of their choice. To this end, questionnaires and interview guides must be in both official languages. All interviewers must be bilingual when the census is conducted by telephone or in person;
- e) make public, on request, the overall results in a manner that protects the anonymity of its clients.

8. If an institution considers it appropriate to alter the procedure set out in paragraph 7, it must first consult the Official Languages and Employment Equity Branch (OLEEB) of the Treasury Board Secretariat.

9. Institutions must keep on file the various documents that are relevant to the census of clients carried out by a given office (description of the methodology, raw data, analytical documents). The supporting documents should be maintained on file until such time as another review of language preferences of the clientele is carried out.

10. Before beginning the data collection process, institutions must transmit to the OLEEB a list of the offices that are subject to the restricted clientele provisions and their locations.

11. The provisions on the restricted clientele take effect on December 16, 1993. By that date, institutions must have provided the OLEEB with the overall results of the language preference census for each office subject to these provisions. They must also provide the location of those offices that are required to provide services in both official languages.

12. Every 10 years, institutions will need to ascertain anew whether the offices that were subject to the restricted clientele provisions in 1993 are still required to provide their services in both official languages.