



Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

AUDIT

OF THE DELIVERY OF BILINGUAL SERVICES TO TRAVELLERS BY THE CANADA BORDER SERVICES AGENCY AT AIRPORT AND LAND-BORDER CROSSINGS

FINAL REPORT
May 2015



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HIGHLIGHTS

WHAT WE EXAMINED

The Office of the Commissioner of Official Languages conducted an audit of the Canada Border Services Agency (CBSA) from March to July 2014 to determine how well the CBSA is meeting its language obligations to the travelling public. The CBSA provides services at approximately 1,200 points of service across Canada and abroad. The audit focused specifically on land-border crossings and airport points of entry that have an obligation under the *Official Languages Act* (the Act) to offer services in both official languages.

Our audit had four objectives. First we examined whether the CBSA's senior management was committed to implementing Part IV of the Act. Second we verified whether designated bilingual CBSA points of entry across Canada actively offer service in both official languages and whether they provide services of equal quality in the official language of the traveller's choice. We also verified whether the CBSA understands the needs of official language minority communities and takes them into account when planning and providing bilingual services. Finally, we checked whether the CBSA monitors and manages the quality of the services it provides to the public in both official languages.

The audit methodology is in the "About the Audit" section at the end of this report.

WHY IT IS IMPORTANT

Border services officers (BSOs) are often the first point of contact that travellers to Canada have with Canadians. CBSA employees are the "face of Canada" to the over 100 million travellers they greet annually. These employees have a unique opportunity to exemplify Canada's linguistic duality on a daily basis for visitors and residents. At the same time, the CBSA has an enforcement mandate and is responsible for administering more than 90 acts, regulations and international agreements. Travellers are well aware of the CBSA's role and are therefore less likely to exercise their language rights for fear of potential negative impacts such as delays in or obstacles to travel plans. We are of the opinion that an active offer of service in both official languages is particularly crucial in situations where there is a relationship of power, because it lets travellers know that services are available in both official languages and that they are free to use English or French in their interactions with CBSA employees.

WHAT WE FOUND

- Senior management at the CBSA has shown leadership and a commitment to meeting official languages obligations. They have developed clear policies and directives to guide the CBSA's official languages program, and a framework is in place to manage the program.
- The CBSA has clearly communicated official languages obligations to all employees, and employees are well aware of their responsibilities. The audit revealed that, despite this knowledge and management's efforts, employees do not always greet the public in both official languages to let them know that services are available in both English and French.
- The CBSA has implemented training and recruitment strategies that will help increase the number of bilingual BSOs. It needs to do more to improve, or at minimum maintain, the skills of its current bilingual BSOs. The CBSA should also conduct targeted promotional activities for the recruitment of bilingual BSOs.
- The CBSA does not have sufficient bilingual employees to ensure delivery of services in both official languages at all times where it is required. However, senior management has a solid understanding of the need for bilingual BSOs and is taking steps to fill this gap. The CBSA should also take steps to determine the number of bilingual superintendents needed to provide bilingual services of equal quality.
- CBSA points of entry all have procedures in place to provide services in the official language of the traveller's choice. Employees are aware of these procedures and work to provide services as quickly as possible. Procedures at some points of entry, when followed to the letter, do not allow BSOs to provide services of equal quality in both official languages. For instance, some points of entry send travellers who request service in the minority official language to the secondary inspection area to receive services that should be provided at the primary inspection area. This practice does not ensure services of equal quality.
- There is some confusion surrounding the roles and responsibilities outlined in the *Official Languages (Communications with and Services to the Public) Regulations*. The CBSA must ensure that it complies with these regulations and with the Act by providing bilingual services at all locations where there is a significant demand.
- There is evidence of consultations and interactions between the CBSA and official language minority communities.

However, there is no formal consultation process in place to ensure that the CBSA fully understands the needs of these communities across Canada. The CBSA must also take the needs of these communities into account when planning and providing services.

- The CBSA has not conducted a review of its services to ensure that they satisfy the principle of substantive equality. Identical services are not necessarily equal services.
- The CBSA has no formal monitoring mechanism in place to verify whether the active offer of service is consistently provided and whether services in the official language of the traveller's choice are consistently delivered. In general, management relies on observations and feedback from supervisors to verify whether this is being done.

The Commissioner of Official Languages has made eight recommendations to the CBSA to help it improve its services to travellers who wish to be served in the official language of their choice.

We are satisfied with the measures and timeframes proposed in the CBSA action plan for implementing four of the eight recommendations. We are only partially satisfied with the measures proposed for recommendations 4, 5, 6 and 8. The list of recommendations by objective and the institution's comments and action plan are in Appendix B of this report. We believe that the CBSA must fully implement all of the recommendations to comply with its obligations under the *Official Languages Act* in terms of communications with the public and the delivery of bilingual services.

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INTRODUCTION

Since 2003, the Canada Border Services Agency (CBSA) has been an integral part of Public Safety Canada's portfolio, which was created to protect Canadians and maintain a safe and peaceful society. In support of these priorities, the CBSA has a mandate to provide border services that allow the free flow of persons and goods, while at the same time administering more than 90 acts, regulations and international agreements.

Under the *Customs Act* and the *Immigration and Refugee Protection Act*, anyone seeking to enter Canada must report to a CBSA officer at a designated point of entry. Border services officers (BSOs) are therefore one of the first points of contact when travellers and goods arrive in Canada. In 2012–2013, the CBSA processed over 100 million travellers at approximately 1,200 points of entry across Canada and abroad, including 117 land-border crossings and 13 international airports, over half of which are designated as bilingual. These land-border crossings and airports operate in a real-time environment, and most provide services to the public 24 hours a day, 7 days a week.

FOCUS OF THE AUDIT

The Office of the Commissioner of Official Languages conducted an audit of the CBSA from March to July 2014 to determine how well the Agency is meeting its language obligations to the travelling public. Although the CBSA has a number of obligations under the *Official Languages Act* (the Act), our audit focused mainly on Part IV of the Act, which concerns communications with and services to the public in both official languages. In terms of services to the public, the CBSA has language obligations when there is significant demand or where it is warranted by the nature of the office. The *Official Languages (Communications with and Services to the Public) Regulations* provide clarification on what is meant by "significant demand" and "nature of the office."

The CBSA's operational activities are organized into seven geographical regions: Atlantic, Quebec, Northern Ontario, Southern Ontario, Greater Toronto Area, Prairie and Pacific. This audit was national in scope, and therefore all regions were visited during the audit. However, the audit dealt exclusively with services to travellers at land-border crossings and airport points of entry across Canada. It did not include commercial services, international offices or marine, rail or other points of entry.

More details about the audit's methodology are in the "About the Audit" section at the end of this report and Appendix A provides information on the audit objectives and criteria.

ANALYSIS OF FINDINGS AND RECOMMENDATIONS

OBJECTIVE 1

ENSURE THAT CBSA SENIOR MANAGEMENT IS COMMITTED TO IMPLEMENTING PART IV OF THE OFFICIAL LANGUAGES ACT.

- a) Verify that the CBSA has created and implemented a corporate strategy to ensure services of equal quality in both official languages at designated bilingual service points. This strategy should include an official languages accountability framework and action plan, as well as policies and/or guidelines that have been approved by senior management.

COMMITMENT

The audit revealed that the institution's senior management takes official languages obligations seriously and places great importance on the CBSA's official languages program. Over the past four years, service excellence has been a priority for the CBSA, and official languages are included in its service commitment.

A review of documentation provided by the CBSA revealed that official languages had been discussed at Executive Committee meetings at least four times a year since 2011 and had also been a point of discussion on numerous occasions at other senior management committee meetings. Discussions were varied and included reviews and updates on the progress of the Official Languages Action Plan, the national official languages training strategy and the new official languages directive. The Executive Committee had also invited the Commissioner of Official Languages to discuss the CBSA's official languages program in both 2010 and 2011. These activities are evidence of the importance senior management places on the CBSA's official languages program.

OFFICIAL LANGUAGES ACCOUNTABILITY FRAMEWORK, POLICIES AND GUIDELINES

The CBSA *Policy on Communications with and Services to the Public* provides information on official languages program accountability. It defines the roles and responsibilities of the Official Languages Division, regional and branch official languages coordinators and designated bilingual offices that are required to provide services of equal quality in both official languages. The policy came into effect in 2007 and continues to be pertinent, with clear and succinct information. However, the policy does not include any reference

The CBSA's service commitment

Our commitment

We aim to provide a continuous high standard of service to you. Our service is based on:

Respect and courtesy

We will act with integrity and treat you in a respectful, professional and considerate manner and be sensitive and responsive to cultural differences.

Fair application of the law

We will administer applicable laws in an objective and non-discriminatory manner.

Privacy and confidentiality

We will be discreet and tactful in our interactions with you, and we will respect your right to privacy and confidentiality.

Bilingual service

We will respect your right to communicate and receive service from the CBSA in the official language of your choice.

Accurate information

We will respond to your request in an accurate, efficient and timely manner.

Review of our actions and decisions

If you believe that you have not received full entitlements under the law or that the law has not been applied fairly, we will review our actions and decisions with impartiality and ensure that corrective measures are put in place where appropriate.

Source: Service commitment provided by the CBSA

to the principles outlined in the Supreme Court of Canada's *DesRochers* decision, which established that services rendered to the minority should be substantively equal to those of the majority. The CBSA needs to review its policy to ensure that its service delivery reflects the principles articulated by the Supreme Court of Canada. These principles are discussed in greater detail under Objective 3 in this report.

In May 2007, the CBSA implemented the *Directive on the Resolution of Official Languages Complaints*. During site visits we found that employees were well aware of senior management's strong stance on official languages complaints and that they fully understood the steps that needed to be taken to implement this directive.

OFFICIAL LANGUAGES NETWORKS

The CBSA has a clear structure in place for supporting and implementing its official languages program. This includes the Official Languages Division, regional official languages coordinators, official languages ambassadors and champions, and ad hoc working groups and committees. The official languages coordinators have a solid understanding of their portfolio and initiate many of the creative and innovative official languages activities that take place at the CBSA in the various regions. Meetings are held throughout the year between all regional coordinators; however, these meetings appear to be sporadic at times. One of the performance indicators in the *2014–2017 Official Languages Action Plan* is a monthly meeting of the Official Languages Coordinators Network. We believe that regular, formal meetings will allow coordinators to benefit from the expertise and enthusiasm of their colleagues. The roles and responsibilities of the official languages coordinators and the Official Languages Division are detailed in the CBSA's *Policy on Communications with and Services to the Public*.

The coordinators noted that management was very open to suggestions and supportive of their role in the regions; however, the time dedicated to official languages tasks varied from region to region. Some coordinators dedicated as little as 10% of their time to official languages, because their position was often coupled with another position or duties, such as human resources staffing. Other official languages coordinators were able to dedicate 100% of their time to the official languages program. We noted that, in cases where coordinators either were in transition or could not dedicate their full effort to the task, employees were often unaware that there was a coordinator in the regions. We also found that coordinators whose sole responsibility was official languages were able to accomplish far more for this portfolio. For these reasons, we encourage the CBSA to create a fully dedicated Official Languages Coordinator position in each region.

As one of the initiatives in the national *2011–2014 Official Languages Action Plan*, the CBSA created a network of official languages ambassadors (referred to as "champions" in some regions) across all regions and branches that appeared to be quite active and beneficial. For instance, at the time of this audit, the Director at the point of entry in Emerson, Manitoba, was an official languages champion and we noted during our on-site visit that she was very involved in making official languages a priority in her district. Promoting the official languages program was not limited to official languages ambassadors, however, as many senior executives were actively working to promote official languages. Some regions, notably the Atlantic and Prairie regions, developed official languages networks, with representatives from various areas of the region. Another example of regional involvement in official languages involves the point of entry at the Peace Arch in Douglas, British Columbia, where an official languages network representative had taken the initiative to keep her point of entry informed about official languages obligations. These types of initiatives are particularly beneficial, because representation at a local level helps to speed communication between regional coordinators and individual points of entry.

ACTION PLAN

In July 2014, the CBSA provided us with a draft of its *2014–2017 Official Languages Action Plan*. The plan includes measures for improving the CBSA's performance with respect to Parts IV, V and VII of the Act. For Part IV of the Act, the plan highlights several priorities, including providing quality services to the public in both official languages and increasing bilingual capacity among BSOs and positions with supervisory duties. The plan also includes strategies to strengthen supervision and track official languages performance. We were also presented with CBSA's *2011–2014 Official Languages Action Plan*. Analysis of this plan revealed that many of the positive measures observed during the audit and outlined in this report can be linked back to initiatives implemented in the context of this action plan.

In addition to the national action plan, all regions had developed and implemented their regional 2011–2013 (or 2014, in some cases) official languages action plans and reported on progress. These action plans also contained targeted measures, appropriate timelines and responsible parties. Both the regional and the national action plans are updated annually, and regions report on progress to the Official Languages Division, which then submits an annual progress report to the Executive Committee.

Our analysis of the action plans proved to be very positive. The action plans include specific performance indicators that will help

the CBSA to measure the success of its activities. The action plans also include timelines and areas of responsibility, although for the national 2014–2017 action plan we suggest that the CBSA task specific individuals or units accountable for the performance measures rather than leaving this responsibility to an entire branch. At the time of this audit, the regional coordinators were in the process of developing their new regional action plans. We encourage the CBSA to update its national and regional official languages plans to include appropriate and concrete measures in response to the recommendations presented in this audit report.

b) Verify that the CBSA effectively trains, and keeps informed, front-line service employees on their requirements for services to the public in both official languages

COMMUNICATION OF OFFICIAL LANGUAGES OBLIGATIONS

There is frequent and ongoing communication between CBSA employees and their regional and national headquarters on official languages obligations. At the national level, the CBSA's intranet site, called *Atlas*, contains a wealth of information on official languages, including information on official languages policies, directives, training and tools, as well as items promoting bilingualism. As part of the initiatives stemming from the *2011–2014 Official Languages Action Plan*, the CBSA has implemented a number of creative official languages communication strategies. For example, in 2011 the CBSA issued an internal call for testimonials on official languages. From this information, it created a page of quotes from CBSA employees about learning and using their second language and posted a testimonial video on the importance of bilingualism at the CBSA.

Employees also hear about official languages through e-mails, internal memos, shift briefings or meetings, and feedback from their supervisors. BSOs reported receiving e-mail updates from headquarters on official languages at least once a year and from regional headquarters at least twice a year. Reminders were frequently given during shift briefings, roll calls or other staff meetings. The vast majority of front-line service employees said that they were well aware of their official languages obligations.

TOOLS AND TRAINING REGARDING OFFICIAL LANGUAGES OBLIGATIONS

In addition to communication, CBSA employees are provided with a number of tools and training activities to assist them in meeting their official languages obligations. All reference documents and materials necessary for carrying out their duties are available in both official languages, and some regions have begun to make use of an official languages wiki where additional tools, resources and reminders are easily accessed and shared.

The on-site training for all BSOs begins with an 18-week Officer Induction Training Program (OITP) at the CBSA's national learning centre in Rigaud, Quebec. Official languages obligations are included in the training, where BSOs are provided with a 45-minute on-line training module that covers all of the CBSA's Part IV obligations. Making an active offer of service and providing bilingual services to travellers are then reinforced during the scenario-based training, where BSOs are constantly reminded to initiate their interaction with travellers by greeting them in both official languages and then seeking assistance, if necessary, when services are requested in the BSO's second official language. The BSOs receive ongoing feedback on these aspects of their performance, during both the OITP and the subsequent 12-to-18-month probationary period. Most unilingual BSOs are also provided with tools, including a quick-reference card with phonetic translations of basic phrases. Many of them mentioned using this tool and finding it helpful.

As the following testimonial highlights, most BSOs who had been through the induction training program in the past five years emphasized during the interviews that making an active offer of bilingual service had been "engrained" in them during the training, where they received constant feedback on their active offer of service and where bilingualism permeated most aspects of everyday life at the CBSA College.

"Our obligations are pushed strongly in training at Rigaud and are reinforced during scenario-based training. It stands out, and we couldn't forget" – Border services officer

By establishing an intake training that instills in new recruits the importance of providing an active offer of bilingual service, the CBSA is a good example for other institutions to follow.

The CBSA has invested in ongoing training on official languages obligations. As a push to educate employees before the Vancouver 2010 Olympic Winter Games, the CBSA developed an on-line training program called The Active Offer of Service – A Quality Bilingual Greeting. This mandatory course provides information to all CBSA employees on their official languages obligations and on basic terminology in both official languages. The CBSA has also developed an Official Languages Action Learning session that highlights the importance of the Official Languages Policy in terms of service delivery. The session also offers an opportunity to remind participants, including unilingual employees, of the steps to take in making an active offer of service. In addition, several regions have developed their own initiatives to train and brief employees on the requirements for services in both official languages. We are of the opinion that the CBSA has taken effective measures to communicate official languages obligations to its employees.

c) Verify that the CBSA includes official languages issues in its performance appraisals of senior managers and managers, as well as border services officers and team leaders responsible for services to the public.

The audit found that official languages are consistently included in CBSA performance agreements. The 2013–2014 and 2014–2015 agreements were examined for vice presidents, regional director generals, director generals, directors, chiefs, superintendents and BSOs. All contained specific performance measures regarding official languages. This practice is further evidence of senior management's commitment to implementing Part IV of the Act.

OBJECTIVE 2

ENSURE THAT DESIGNATED BILINGUAL CBSA POINTS OF ENTRY ACROSS CANADA ACTIVELY OFFER SERVICE IN BOTH OFFICIAL LANGUAGES AND PROVIDE SERVICES OF EQUAL QUALITY IN THE OFFICIAL LANGUAGE OF THE TRAVELLER'S CHOICE.

a) Verify that an active offer is provided at bilingual CBSA points of entry. Verify that services at these points of entry are also provided to travellers in the official language of their choice and that these services are of equal quality in both official languages. Services include:

- visual active offer
- publications and documentation
- communication in person
- communication through automated self-service kiosks.

DESIGNATED BILINGUAL CBSA POINTS OF ENTRY

Any office that satisfies the criteria for significant demand—as detailed in the Regulations—has an obligation to provide services of equal quality in both official languages. The Treasury Board of Canada Secretariat provides a list of designated bilingual offices in Burolis; however, this list is not exhaustive, and offices not listed may also satisfy the criteria for significant demand in the Regulations. Each federal institution has the obligation to verify whether its offices satisfy the criteria for significant demand. Institutions are also responsible for informing the Treasury Board of Canada Secretariat of any changes that need to be made to Burolis.

According to the *Air Carrier Traffic at Canadian Airports*, published by Statistics Canada, airports in Kelowna, British Columbia, and Saskatoon and Regina, Saskatchewan, are listed as having over one million passengers starting in 2005, 2006 and 2009, respectively, satisfying the criteria for significant demand. As of the time of this audit, CBSA offices at these airports were all listed in Burolis as unilingual. We visited the Regina airport as part of this audit and confirmed that the CBSA office at the airport does not currently have the procedures or personnel in place to provide services of equal quality in both official languages; nor has senior management informed the Treasury Board of Canada Secretariat of the airport's passenger status for the purposes of updating Burolis.

Part IV of the *Official Language Act* sets out the duty of every federal institution to communicate with and provide services to the public in both official languages from offices where there is “significant demand.” The *Official Languages (Communications with and Services to the Public) Regulations* provide clarification on what constitutes significant demand. At airports and land borders, this means that the CBSA must provide services in both official languages:

- 1) at border crossings handling **at least 500,000 people per year** in a province where the linguistic minority is **at least 5% of the general population** (i.e., Ontario, Quebec and New Brunswick),
- 2) at border crossings where the linguistic minority is **at least 5% of the general population** and where the demand for services in the minority language over the course of a year amounts to **at least 5% of the overall demand**, and
- 3) at airports with a CBSA office where the number of emplaned and deplaned passengers over a year is **at least 1 million**.

In addition, services must be provided in both official languages in each province at the border crossing that serves the most travellers annually in that province.

RECOMMENDATION 1

The Commissioner of Official Languages recommends that the Canada Border Services Agency annually review official data on the number of passengers at airports where services are provided and take action to:

- 1) provide services of equal quality in both official languages at airports with over 1 million emplaned and deplaned passengers, and
- 2) inform the Treasury Board of Canada Secretariat of any changes to the bilingual designation of offices at airports subsequent to the review.

VISUAL ACTIVE OFFER

Visual active offer includes signage, displays, the *English/Français* pictogram and all other notices that indicate that services are available in either English or French. At all border and airport points of entry, bilingual signs were prominently displayed in all areas where service is provided and these signs were of equal quality in both official languages. The *English/Français* pictograms were found at most of the points of entry visited; however, unlike the bilingual signs, they were not always prominently displayed and, in many instances, were not consistently displayed at all CBSA service counters or booths. For example, in many airport secondary inspection lines and NEXUS offices, pictograms were not displayed consistently. At many land-border points of entry, the pictogram was not displayed at all the primary inspection booths and was not consistently displayed at inside counters, pedestrian walkway entrances, bus offloading areas and secondary inspection areas.

The most successful displays of visual active offer through pictograms were those that were permanently affixed to the wall or service counters. At the Niagara Falls Rainbow Bridge border crossing in Ontario, a large pictogram was affixed to the wall behind the service counter that was visible upon entering the CBSA building. At other locations, notably the Montréal Pierre Elliott Trudeau International Airport in Quebec, small pictogram stickers were attached to the outside of all immigration offices. These types of permanent displays of visual active offer advise travellers of the availability of services in both official languages and pose little risk of being inadvertently moved or lost and we suggest other points of entry follow these good practices and affix pictograms to every service counter or booth in designated bilingual points of entry.

COMMUNICATION THROUGH AUTOMATED SELF-SERVICE KIOSKS

The CBSA has announced that its priorities include a focus on modernization. Part of this modernization involves building on the two existing automated pre-approval programs that are designed to expedite border crossing: NEXUS and CANPASS. The CBSA is also building on its recently implemented Automated Border Clearance (ABC) Program, a real-time self-serve electronic kiosk system that is available at three international airports in Canada.

Our review of the automated kiosks at airports showed that high-quality communication is readily provided and easily accessible in both official languages. Although this new model of service delivery means limited personal interaction between BSOs and travellers, those who choose to use it receive services in the official (or other) language of their choice at a touch of a button. We congratulate the CBSA on this excellent initiative, which allows travellers to be served quickly and efficiently in the official language of their choice.

PUBLICATIONS AND DOCUMENTATION

A review of documents, publications and forms available to the public revealed that the CBSA has put a great amount of effort into ensuring quality translations of documents. Printed documents, publications and forms were readily available in both official languages at all of the land-border crossings and airport points of entry visited during the audit.

ACTIVE OFFER OF BILINGUAL SERVICE IN PERSON

Results from the Office of the Commissioner's 2005 audit of CBSA land-border crossings as well as its 2009–2010 report card on the CBSA revealed that the institution provided an active offer of service in less than 50% of the observed interactions. Since then, the CBSA has instituted a number of measures in order to emphasize the importance of active offer and ensure that front-line employees fully understand their obligation to provide an active offer of service. CBSA management has noted improvement, and it is important to mention that the CBSA was congratulated by the Fédération des francophones de Terre-Neuve et du Labrador, an official language minority community (OLMC) organization in the Atlantic region, for providing impeccable service in French in its area, following its observations of several federal institutions in the summer of 2013.

As noted earlier in this report, BSOs receive training and communication on their obligation to provide an active offer of service, and interviews revealed that they are aware of this obligation. Despite this awareness—and the improvements noted in the preceding paragraph—on-site visits and interviews with BSOs during the audit revealed that the active offer of service is not consistently provided across all points of entry and across all lines of inspection. The statements below highlight some of the reasons BSOs gave for not providing an active offer of service at all times. We believe these testimonials are important, as they highlight an issue with compliance to the Act that has been observed across all of the CBSA's regions. These examples may help the CBSA, or institutions with similar challenges, pinpoint the reason why an active offer of service may not be consistently provided.

"Personally, I don't feel the need to give an active offer since I am fine to speak in both languages if the client asks." – Border services officer

"I found that the 'bonjour' confused most American travellers, and I had to spend more time explaining that I was saying 'hello' in French. So sometimes for the sake of expediency, we don't say the 'bonjour.'" – Border services officer

"It's not about not wanting to [provide the active offer], it's about not feeling comfortable and not being able to continue in that language." – Border services officer

"It's really not a priority here. We are overworked and understaffed and really have other priorities . . . There are a lot of competing priorities." – Border services officer

"You notice [active offer] a lot with the new officers—they make [active offer] much more of a priority. Those here longer get complacent and a lot of people just think it sounds stupid." – Border services officer

The audit also revealed that the active offer was provided more often in some cases than others. For instance, the Pacific region conducts spot checks over the telephone, and the monitoring data from these checks, as well as the interviews conducted during the audit, indicated that the active offer was consistently provided over the telephone. However, it was noted that the same consistency does not exist for service in person. Across Canada, BSOs admitted in interviews that they were less likely to provide an active offer outside of the primary inspection area. Given the challenges surrounding the consistent provision of the active offer, the CBSA should continue with its positive reinforcement of the importance of the active offer at all levels of inspection and for all services provided. Formal monitoring would also help to highlight the importance of the active offer. This is discussed in greater detail under Objective 4 in this report.

What is active offer and why is it important?

According to section 28 of the *Official Languages Act*, offices or facilities that are designated as bilingual have an obligation to clearly indicate that services are available in both official languages. This is called “active offer” and includes a bilingual greeting, such as “Hello! Bonjour!” or “Welcome to Canada! Bienvenue au Canada!”, as well as visual cues, such as signs, that reinforce this offer. To many of their clients, government offices are the “face of Canada.” They are well placed to promote one of Canada’s fundamental values: linguistic duality. Active offer is a cornerstone in the architecture of service in both official languages. In fact, without active offer, clients might not know that services are available in their language or, even if they know they have the right to service in their language, they might not dare to ask for it. Without active offer, clients may feel that their preferred official language has been relegated to second-class status, because the other official language is the default language and therefore the only one that is really recognized. The absence of active offer at the point of first contact creates a situation of inequality and perpetuates the situation where official language minority groups do not ask for service in their first language.

This obligation is especially crucial at institutions—like the Canada Border Services Agency—that have enforcement mandates, because the relationship between the client and the institution’s employee is one of power. When service is not actively offered in the official language of their choice, most clients are hesitant to exercise their language rights, because they may not want to challenge authority.

- b) Verify that the CBSA ensures that designated bilingual points of entry have sufficient bilingual capacity and that it has effectively planned for the provision of bilingual services in order to provide services of equal quality in the official language of the traveller’s choice at all times.**

BILINGUAL CAPACITY

In general, the CBSA does not have enough bilingual BSOs and superintendents to provide bilingual services of equal quality to travellers across Canada. One notable exception is the CBSA’s Quebec region, which requires all BSOs and superintendents to be bilingual and is therefore always able to provide services of equal quality in both official languages. As part of the initiatives in the *2011–2014 Official Languages Action Plan*, the CBSA made a considerable effort to identify the number of bilingual BSOs currently working at points of entry, as well as the minimum number of bilingual BSOs required to fulfill its needs in terms of bilingual capacity. As of July 2014, the CBSA has a deficit of 341¹ bilingual BSOs. Senior management is aware of this deficit, and the CBSA has been tracking periods where bilingual services are unavailable. This information has been used to help headquarters pinpoint areas that might have the greatest needs in terms of bilingual capacity.

We commend the work the CBSA has done to determine its need for bilingual BSOs; however, superintendents are also frequently required to interact with travellers, as indicated by this excerpt from the superintendent job description:

“Communication skills are used when there has been a complaint, and there must be mediation between the client and subordinates. These skills are used to resolve differences of opinion or misunderstandings and to clarify courses of action.” –

Excerpt from the job description for superintendents

We also learned during interviews that, in the advent of a strip search, travellers have the right to speak to a superintendent to hear the reasons why they are being searched. We noted during our site visits that at some designated bilingual points of entry there were no bilingual superintendents. There is little consistency across regions in the number of bilingual superintendent positions and no national strategy to ensure a sufficient number of bilingual supervisors at bilingual points of entry. With insufficient bilingual capacity among superintendents, travellers will not receive services in the official language of their choice, as evidenced by information gathered through interviews and document analysis during the audit.

PROVISION OF BILINGUAL SERVICES IN PERSON

Even though the active offer of service is not consistently provided, there is a strong commitment across the CBSA to provide services in the language of the traveller’s choice. At the direction of headquarters, all the points of entry visited during the audit developed individual point-of-entry procedures to ensure that services are provided in a timely fashion in the official language of the traveller’s choice. All BSOs were well aware of the procedures at their particular point of entry. Whether these procedures also ensure services of equal quality is discussed in the following section.

¹ This number is taken from the CBSA’s *Results of Regional Official Language Bilingual Determination of Bilingual Capacities* and is based on its assumption that BSOs from points of entry with excess capacity can be reallocated to locations where a need has been identified for bilingual BSOs.

RECOMMENDATION 2

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) determine and monitor the number of bilingual superintendents needed to ensure service of equal quality in both official languages at designated bilingual points of entry, and
- 2) use this information to ensure the sufficient capacity of bilingual superintendents at designated bilingual points of entry.

RECRUITMENT

Considering the efforts it has taken to identify the need for bilingual BSOs, the CBSA is very aware that it lacks bilingual capacity at designated bilingual points of entry. The CBSA has developed a two-fold strategy to bridge the current gap: recruit bilingual BSOs and train existing BSOs.

In 2012, the CBSA implemented its National Recruitment Strategy. Prior to this strategy, recruitment was done by individual regions. Centralizing recruitment has enabled the CBSA to increase the number of bilingual BSOs admitted to its OITP and to place bilingual BSOs at points of entry with the greatest need. Our audit revealed that, despite these changes, the CBSA continues to find it difficult to hire a sufficient number of bilingual employees due to a shortage in recent years of qualified bilingual applicants for BSO positions.

Despite the evident need for bilingual BSOs, promotional activities for the specific recruitment of bilingual BSOs are virtually non-existent. The audit revealed that, as a result of the Deficit Reduction Action Plan, the CBSA imposed a moratorium on all outreach activities. Regions have therefore not been permitted to organize targeted recruitment activities with OLMCs in the past few years. However, the CBSA said that it is currently developing communication strategies to target bilingual candidates and has included performance indicators to this end in the *2014–2017 Official Languages Action Plan*. To increase its bilingual capacity, the CBSA needs a recruitment plan that targets OLMCs.

RECOMMENDATION 3

The Commissioner of Official Languages recommends that the Canada Border Services Agency develop and conduct targeted recruitment activities to promote bilingual front-line service positions. These recruitment activities should be directed toward bilingual audiences across Canada, including official language minority communities.

LINGUISTIC PROFILES

Although there is a great diversity of tasks associated with BSO positions, including agriculture, customs and immigration, bilingual BSOs are required to have a minimum BBB linguistic profile. In the Office of the Commissioner's 2005 audit of the CBSA, the institution was encouraged to take advantage of its reclassification review to reassess level B for oral proficiency. We again encourage the CBSA to review the linguistic profiles and language skills required to perform the duties of a BSO. The on-site visits conducted during the audit revealed that a level B in oral proficiency is not always sufficient for dealing with complex enforcement and immigration cases.

The CBSA does not request or impose language testing for bilingual employees with expired second-language evaluation results who have not changed position. Some bilingual BSOs working in primarily unilingual regions, where opportunities to use their second official language are often limited, had not been tested for more than a decade. Deteriorating second-language skills may result in a lower quality of service. The CBSA therefore needs to assess and monitor the language skills of bilingual BSOs with expired profiles.

LANGUAGE TRAINING

The CBSA recognizes that it can increase bilingual capacity among BSOs more effectively if it also works to improve the language skills of current employees. In June 2013, the CBSA made the final adjustments to the *National Language Training Strategy in support of CBSA's Official Languages Policy*, and created a centralized budget for language training. The training strategy outlines the CBSA's priorities for second-language training, as well as employee learning options, access to these options and the approval process.

A review of this strategy yielded positive results. There are many challenges associated with providing language training to employees who work on shifts covering 24 hours a day, 7 days a week, and

who may be located in very remote areas. The training strategy seeks to offer a variety of courses to meet these challenges, including on-line learning, telephone tutoring and a course that includes an annual three-week intensive immersion session that is offered at three different times during the year. The CBSA has also made an effort to hire and train in-house language teachers who have a good understanding of employee realities to facilitate these courses. On-site visits revealed that there had been some challenges and confusion during the initial roll out of the training strategy, but once it was underway, comments about the course offerings were generally positive. The main complaint we received was that second-language training opportunities are not equally accessible to all employees across all regions.

There is little mention of official languages maintenance in the strategy. Our review of the plan and interviews conducted with bilingual BSOs concluded that there is a great need for official languages maintenance training. Many bilingual BSOs were located in largely unilingual regions where there were few opportunities to use their language skills outside of work. As with any skill, language proficiency will deteriorate over time if it is not maintained.

We learned during interviews that a number of bilingual BSOs felt uncomfortable communicating in their second official language when performing complex tasks such as conducting an in-depth secondary inspection or explaining the reason why a client might need a lawyer or why the BSO must conduct a strip search. Many bilingual BSOs also stated that the specific enforcement and immigration terminology required for their work is not something easily acquired outside of the work environment. Interviews further revealed that bilingual BSOs felt there was limited support offered by the institution to help them maintain their second official language or acquire the specific job-related terminology required for their work. Many stated language training opportunities were only made available to employees who were not yet designated bilingual. The CBSA needs to place a greater emphasis on second-language maintenance and offer learning opportunities to all BSOs, including those in designated bilingual positions, across the country.

As part of the initiatives stemming from regional 2011–2013 or 2014 official languages action plans, several regions have developed and implemented their own training and learning initiatives in order to tailor learning to their particular region. In the summer of 2013, the Toronto Pearson International Airport (Pearson Airport) and the Montréal Pierre Elliott Trudeau International Airport organized an exchange with several employees. Not only did this enable employees from both offices to practise and improve their second official language, it also increased the number of bilingual BSOs at Pearson Airport during one of its busiest travel seasons. The Atlantic region is a strong promoter of lunch-and-learn sessions,

such as Taboo Tuesdays and Lingo Wednesday, to provide informal opportunities for employees to practise their French. Pearson Airport's Official Languages Committee and the Northern Ontario region's headquarters have both created learning modules to help BSOs learn the French terminology required for their position. One initiative—among several in the Southern Ontario region—includes bilingual lunches with the Regional Director General (RDG) and a selection of bilingual employees. This provides an opportunity for employees to meet with the RDG and discuss issues while practising their French. In interviews conducted during the audit, we received positive comments from employees who participated in these activities. Investing in these types of activities shows employees how important official languages are to the organization. What is particularly impressive about most of these initiatives is that they are often very cost effective, as most CBSA organizers have discovered. The CBSA as a whole is encouraged to draw inspiration from the positive second-language maintenance initiatives being implemented in several regions as it develops a national second-language maintenance strategy.

RECOMMENDATION 4

The Commissioner of Official Languages recommends that the Canada Border Services Agency provide ongoing second-language learning opportunities to bilingual border services officers in all regions in order to help bilingual officers learn the technical job-related terminology required for their work and to maintain their second-official-language skills.

PLANNING FOR THE PROVISION OF BILINGUAL SERVICES

The audit examined the way in which the CBSA plans for the provision of bilingual services by looking at how the CBSA organizes its service delivery, such as ensuring that there are enough bilingual employees on site at all times when assigning bilingual personnel and when establishing work schedules. A review was also conducted to determine whether there are procedures in place that ensure services of equal quality in English and French, where required.

SERVICES OF EQUAL QUALITY IN PERSON IN ENGLISH AND FRENCH

As noted earlier in this report, following instruction from headquarters, points of entry developed their own procedures to ensure that services are provided in a timely fashion in the official language of the traveller's choice. The procedures implemented generally ensure that travellers receive services in the official language of their choice when a bilingual agent is available; however, they do not always guarantee that services in the minority official language will be of equal quality to the services received by the majority. In some instances, travellers in the primary inspection line at land-border crossings will be asked to present themselves at the secondary inspection area in order to receive services in the minority official language. We learned through interviews that this practice leads some travellers to feel scared or hesitant, and at times travellers prefer to speak in the majority language rather than be sent to a secondary inspection area to receive their services.

In other instances, the procedures implemented at some points of entry for scheduling shifts might not guarantee an even distribution of bilingual BSOs across all shifts. Some shifts might therefore have a disproportionately low number of bilingual BSOs, and services of equal quality might not be available during those periods. We noted at some points of entry visited that all possible steps are taken to staff a bilingual BSO 24 hours a day, including requesting overtime from bilingual officers first when there are an insufficient number of bilingual officers on shift. While direction with regard to including bilingualism as a factor in shift planning was provided in January 2011 at an Operations Branch Executive Committee meeting, our on-site visits revealed that the need for bilingual BSOs does not factor into the overtime callouts at all points of entry. We noted at several points of entry that the procedures were such that if no bilingual BSO was on shift, services were provided over the telephone by a BSO at another point of entry. In these instances, the next available BSO was called in for overtime and the procedures at these particular points of entry did not require prioritizing requesting overtime for a bilingual BSO when necessary.

Being sent to secondary inspection areas for services that would otherwise be given at the primary inspection area and being served over the telephone rather than in person because the particular point of entry scheduling procedures do not factor bilingualism into overtime callouts are examples of services that are not of equal quality, which can be immediately remedied. The Commissioner of Official Languages' 2010–2011 annual report comments on the inequality of the CBSA's practice of sending travellers to secondary

inspection areas; however, at the time of this audit the procedure at certain points of entry had yet to be changed. Regardless of intention, this practice may leave travellers feeling as though their first official language has been relegated to second-class status, because the other official language is the default language and therefore the only one that is really recognized.

We additionally learned in interviews and during on-site visits that services in both official languages are not consistently provided during the entire inspection or at all levels of inspection. Some BSOs do not consistently provide services in the official language of the traveller's choice once a preference has been expressed. Some BSOs will say, "I don't speak French," or ask in English, "Would you like service in French?" instead of continuing the conversation in the language used by the traveller. There may also be too few bilingual BSOs to provide services at all levels of inspection when needed, resulting in travellers' experiencing long delays when sent to secondary inspection areas, receiving services over the telephone or not being able to receive services in the official language of their choice.

We recognize that the deficit in bilingual BSOs is the primary reason that services of equal quality are not always provided at designated bilingual points of entry. However, during interviews, senior management at the CBSA stated that, realistically, they are likely a number of years away from reaching optimal bilingual BSO capacity. Therefore, to ensure the services that are offered are of equal quality whenever possible, we believe it is necessary for all CBSA designated bilingual points of entry to have a clear understanding of what does and does not constitute service of equal quality. It is equally necessary that headquarters follow up with designated bilingual points of entry to ensure that the procedures implemented follow the directives issued and ensure a service of equal quality in both official languages.

RECOMMENDATION 5

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) at headquarters, define and communicate to all service employees what is required to provide service of equal quality in both official languages;
- 2) at all designated bilingual points of entry, adapt and implement shift planning and port procedures as needed so as to ensure that service of equal quality in both official languages is actively offered and provided for all of its service activities at all levels of inspection during all hours of operation; and
- 3) at headquarters, verify that the above-mentioned procedures have been implemented at all designated bilingual points of entry.

In points of entry where the CBSA factors in bilingualism when planning shift assignments, the lack of bilingual capacity may have a negative impact on some bilingual BSOs. These bilingual BSOs may be overworked or have few opportunities for varied tasks or assignments because they are needed to greet travellers. The CBSA is encouraged to continue to promote the benefits of bilingualism and maintain an open dialogue with bilingual BSOs to understand their concerns and to let them know about the progress that is being made toward increasing bilingual capacity.

The CBSA is aware of these challenges and is working to raise the bilingual capacity in order to alleviate the pressure felt by many bilingual BSOs. Some regions have implemented positive practices to make changes within the context of their bilingual capacity deficit and to give bilingual BSOs forums to voice concerns.

Following a request that came out of a forum for bilingual BSOs, Pearson Airport created a Bilingual Officer Committee to address concerns raised by bilingual BSOs. Recommendations from this committee led to many positive changes for bilingual BSOs at Pearson Airport. Although there is still a lack of bilingual capacity at the airport and although shift assignments are still not ideal, positive comments were received during the audit from BSOs about the committee's efforts and about senior management's commitment to improving the work environment for these BSOs. Other points of entry are encouraged to draw inspiration from the positive work being done by this committee.

OBJECTIVE 3

ENSURE THAT THE CBSA UNDERSTANDS AND TAKES INTO ACCOUNT THE NEEDS OF OFFICIAL LANGUAGE MINORITY COMMUNITIES WHEN PLANNING AND PROVIDING BILINGUAL SERVICES.

- a) Verify that the CBSA has a process in place to ensure that it understands the service needs of official language minority communities and that it takes these needs into account when planning and modifying its services.

The CBSA has taken a number of positive measures to comply with its language obligations relating to Part VII of the Act. These have ranged from planning, promoting and participating in OLMC events, like Les Rendez-vous de la Francophonie and linguistic duality days, to establishing partnerships with OLMC colleges (e.g., Collège Boréal in northern Ontario, and Université Sainte-Anne in western Nova Scotia) and associations (e.g., Association canadienne-française de l'Alberta) for the purposes of language training or promotion of activities and events.

With regard to OLMCs, the audit sought to verify that the CBSA had applied the principle of substantive equality as recognized by the Supreme Court of Canada in its *DesRochers* decision (the CALDECH case). The CBSA has made some progress toward understanding the needs of OLMCs. For example, in 2012, as part of the initiatives in the *2011–2014 Official Languages Action Plan*, and in order to gain a better understanding of OLMC needs, the Vice-President of Operations sent a letter to many OLMCs across Canada, inviting them to contact CBSA regional directors. Interviews conducted during the audit revealed that several consultations and exchanges were held as a result of this initiative. These consultations are not systematic across all regions, however, and should not be confused with a formal cyclical process. They are typically one-way communications that do not ensure an ongoing understanding of OLMC needs.

DesRochers decision (CALDECH case)

What emerged from the Supreme Court's ruling in *DesRochers v Canada (Industry)* was that, in order to be able to satisfy the principle of substantive equality, it is essential for federal institutions to be well informed about the specific needs and realities of the official language minority being served. Substantive equality is achieved when institutions take into account the differences in characteristics and circumstances of minority communities and then provide, when necessary, a distinct or different method of service delivery to ensure that the minority receives services of the same quality as the majority. Identical services are not necessarily equal services.

In order to implement the decision, the Treasury Board of Canada Secretariat provided guidance to institutions in 2011 and made it known that federal institutions subject to Part IV of the *Official Languages Act* must:

- take the needs of the linguistic minority into account when creating or modifying services or programs;
- take the principle of substantive equality into account in strategic planning, in the development and assessment of policies and programs, and in program expenditure reviews;
- immediately start to review existing services and programs to determine whether they satisfy the principle of substantive equality, and adapt these as necessary.

Source: Paraphrased from *The Supreme Court of Canada Decision in the CALDECH (Desrochers) case and Analytical Grid*, by the Office of the Chief Human Resources Officer.

- b) Verify that the CBSA has effected a review of its services to determine whether the services satisfy the principle of substantive equality and, when necessary, has subsequently adapted its services to meet the needs of official language minority communities (re: *DesRochers decision, CALDECH case*).

Following the Supreme Court of Canada's *DesRochers* decision in 2009, the Treasury Board of Canada Secretariat provided guidance to institutions to help them determine whether their services satisfy the principle of substantive equality. One of the tools provided was the *Analytical Grid for Analysing Federal Services and Programs in Light of the Principle of Substantive Equality*, the purpose of which is to assist institutions in the immediate review of their programs and services to determine whether these need to be adjusted in order to provide services of equal quality to OLMCs. In the five years following this decision, the only action the CBSA has taken is to modify the grid to suit its own organizational reality. There is no further evidence that the CBSA has used this modified tool to effect a full review of services or that it has adapted its services, as necessary, in order to satisfy the principle of substantive equality. The CBSA's *2014–2015 Official Languages Action Plan* includes a review of services, and the institution is encouraged to conduct this review without delay.

RECOMMENDATION 7

The Commissioner of Official Languages recommends that the Canada Border Services Agency conduct an immediate review of its services in order to determine whether they satisfy the principle of substantive equality and, following the review, adapt its services, as necessary, to meet the needs of official language minority communities.

RECOMMENDATION 6

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) ensure that it fully understands the needs of official language minority communities by developing a formal national process to communicate with these communities across Canada, and
- 2) develop and adopt a formal mechanism that takes the needs of official language minority communities into account during service planning and modification.

OBJECTIVE 4

ENSURE THAT THE CBSA MONITORS AND MANAGES THE QUALITY OF SERVICES PROVIDED IN BOTH OFFICIAL LANGUAGES TO THE PUBLIC.

- a) **Verify that the CBSA has formal monitoring mechanisms in place to determine whether services of equal quality are being actively offered in both official languages and delivered in the language of the traveller's choice at designated bilingual points of entry.**

The CBSA has several mechanisms in place that help to provide information on its service delivery in both official languages. The institution actively monitors incidents where bilingual front-line services are not available at designated bilingual points of entry. The information is then reported to management, shared and used as one indicator in staffing decisions. The monitoring results reveal that the CBSA has improved its hours of bilingual service delivery. The first quarter of the 2014–2015 fiscal year shows an overall 28% decrease in the number of hours during which bilingual services were not available at reported sites. The CBSA also closely monitors service delivery by new recruits. In the first 12 to 18 months of their employment, new recruits are frequently monitored and every quarter they are given feedback.

The CBSA has not conducted an internal audit on official languages in the past seven years. This is one type of internal monitoring mechanism that would give the institution an overall picture of the health of its official languages program. We are pleased, however, to see that one of the measures proposed in the *2014–2017 Official Languages Action Plan* is to integrate official languages considerations into CBSA internal audits and evaluation.

In 2012, the CBSA introduced Management Practices Assessments (formerly Port of Entry Capacity Checks) that evaluate 14 management capacities within three pillars: People Management, Operational Management and Client Service Excellence. Language of Choice is evaluated within the latter pillar, and the active offer of service and working toward meeting official languages obligations are included in this. In 2013–2014, 10 sites were visited and assessed, and 9 sites were scheduled to be visited and assessed in 2014–2015, most of which are designated bilingual points of entry. Points of entry are required to implement and report on action plans developed as a result of these assessments.

The Pacific region conducted monthly monitoring of active offer and subsequent services in French by telephone at its bilingual points of entry between 2010 and 2013. It also monitored the same services periodically as early as 2007. The results from the first three

quarters of the 2013–2014 fiscal year indicate a 97% success rate of providing the active offer and services in French.

While these are all positive practices, the CBSA does not have national formal monitoring mechanisms to evaluate the real-time delivery of the active offer and subsequent provision of services at all designated bilingual points of entry. Superintendents and managers appear to be the only control mechanism in place to monitor whether an active offer and bilingual services are provided to travellers, and this monitoring is not conducted systematically or consistently across the CBSA. We learned through interviews that, in general, BSOs are aware that they are being monitored by the fact of their superintendent's or manager's physical presence. We believe this type of monitoring results in a less reliable sample of typical performance, because BSOs may perform their duties perfectly when they know they are being observed and evaluated, but may be less consistent in their performance when they know they are not being observed. Given that interviews and on-site visits conducted during the audit revealed that the active offer of service in both official languages continues to be inconsistent, the CBSA is encouraged to implement, for the benefit of travellers, an ongoing monitoring process across all of its regions.

- b) **Verify whether the results of the monitoring are used to promote continuous improvement of services.**

In terms of using the results of monitoring the active offer and delivery of bilingual services, the CBSA still has some work to do, as it has not implemented a formal monitoring mechanism across all of its regions to track these aspects of Part IV of the Act. A mechanism must first be put in place before it can be verified whether the results of monitoring have been used to promote continuous improvement.

RECOMMENDATION 8

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) implement, across its entire organization, reliable and anonymous monitoring of the active offer of service and the delivery of services of equal quality in the official language of the traveller's choice, and
- 2) use the results of that monitoring to improve services in both official languages.

CONCLUSION

This audit sought to determine whether travellers receive services of equal quality in English and French at airport and land-border points of entry across Canada. We also sought to verify whether the measures the CBSA has put in place enable it to meet its obligations under Part IV of the *Official Languages Act*.

We concluded that the CBSA has made considerable effort to meet its Part IV obligations. The audit found that senior management has shown leadership and commitment, and that the CBSA has a structure in place to administer and support its official languages program. We also found that the CBSA expends significant effort to communicate official languages obligations to employees. Despite this, delivery of the active offer of service and services of equal quality in both official languages continues to be inconsistent. We concluded that the CBSA needs to address some weaknesses in the oversight and implementation of its official languages program, particularly with respect to the following:

- The CBSA does not know how many bilingual superintendents are needed to ensure services of equal quality in both official languages.
- The CBSA has procedures in place to provide bilingual services at points of entry that are designated bilingual in Burolis. However, there are other CBSA points of entry not listed in Burolis that have obligations under the Act due to significant demand, yet services in both official languages are not provided.
- The CBSA does not provide sufficient opportunities to help bilingual BSOs maintain or improve their second-language skills.

- Procedures at some points of entry do not always ensure that the services provided in both official languages are of equal quality.
- There are not enough bilingual BSOs to provide services of equal quality in both official languages, and yet the CBSA is not currently conducting targeted recruitment of bilingual BSOs.
- There are no systematic or formal consultations between OLMCs and the CBSA, and there is little evidence that the CBSA fully understands the ongoing needs of these communities.
- The CBSA has not conducted a full review of its services to ensure that they satisfy the principle of substantive equality.
- The CBSA does not have a formal monitoring mechanism in place to ensure that the active offer of service is consistently made and that services in the official language of the traveller's choice are consistently provided.

The Commissioner of Official Languages has made eight recommendations to the CBSA to help the institution improve its delivery of bilingual services. These recommendations, along with the CBSA's comments and action plan for implementing the recommendations, are listed in Appendix B. We believe that the CBSA should implement all of the recommendations to fulfill its obligations under the Act in terms of the delivery of bilingual services to travellers. We also believe that the CBSA has made great progress in terms of official languages since our previous audit in 2005. We are confident that the CBSA is on the right track.

ABOUT THE AUDIT

Our audit was carried out in compliance with the standards set forth in the Office of the Commissioner of Official Languages' external audit policy. The results are specific to official languages and to this audit and do not preclude the possibility that other problems could exist within the institution.

OBJECTIVE

The overall objective of the audit was to determine whether the Canada Border Services Agency is meeting its obligations under Part IV of the *Official Languages Act*. More specifically, we sought to determine whether the CBSA actively offers service in both official languages and provides services in the language of the traveller's choice at its bilingual airport and land-border points of entry. The complete audit objectives and criteria are listed in Appendix A.

SCOPE AND APPROACH

Our audit centred on bilingual services offered at CBSA headquarters and in its seven regions. The focus was primarily on services to travellers at airport and land-border points of entry and did not include commercial services, international offices or marine, rail or other points of entry.

The audit covered the period between March 25 and July 11, 2014. It also reached back over longer periods, as required, to gather evidence in order to make conclusions with regard to specific criteria. The audit included an analysis of all CBSA activities related to bilingual service delivery. We conducted on-site visits from April 15 to May 23, 2014, at seven international airports and ten land-border points of entry across seven Canadian provinces. The CBSA points of entry visited during the audit are listed in Appendix C.

During the visits, signage, the active offer of service and services provided in person were examined. This review was limited, however, by challenges associated with repeatedly crossing the border. The visits needed to be scheduled, and the auditor(s) from the Office of the Commissioner were escorted on the premises. The results of these spot checks are therefore less reliable than those that would have been obtained through an anonymous sampling. Despite this limitation, the results of the on-site visits, when coupled with the interviews and documentary analysis, present an overall picture of bilingual service delivery to CBSA clients.

Over the course of the audit over 130 interviews were conducted with CBSA employees, including BSOs, superintendents, chiefs, senior executives and departmental officials involved in the management of border operations or official languages oversight. We appreciate the cooperation received from everyone who took part in this audit and the professional and courteous welcome received at every point of entry visited.

During the audit, documents were examined that included, but were not limited to, action plans, policies, job descriptions, meeting agendas and minutes of meetings, as well as communication and training strategies. Documents collected during site visits and interviews were also examined that included, but were not limited to, publications intended for the travelling public, official languages work tools, performance evaluations, training material, work schedules and reports on bilingual capacity gaps.

AUDIT TEAM

Pierre Coulombe, Director, Performance Measurement

David Boudreau and Johanne Morin, Assistant Directors, Measurement and Evaluation

Tracy Ferne, Auditor

APPENDIX A: AUDIT OBJECTIVES AND CRITERIA

OBJECTIVES	CRITERIA
<i>1. ENSURE THAT CBSA SENIOR MANAGEMENT IS COMMITTED TO IMPLEMENTING PART IV OF THE OFFICIAL LANGUAGES ACT.</i>	<p>a) Verify that the CBSA has created and implemented a corporate strategy to ensure services of equal quality in both official languages at designated bilingual service points. This strategy should include an official languages accountability framework and action plan, as well as policies and/or guidelines that have been approved by senior management.</p> <p>b) Verify that the CBSA effectively trains, and keeps informed, front-line service employees on their requirements for services to the public in both official languages.</p> <p>c) Verify that the CBSA includes official languages issues in its performance appraisals of senior managers and managers, as well as border services officers and team leaders responsible for services to the public.</p>
<i>2. ENSURE THAT DESIGNATED BILINGUAL CBSA POINTS OF ENTRY ACROSS CANADA ACTIVELY OFFER SERVICE IN BOTH OFFICIAL LANGUAGES AND PROVIDE SERVICES OF EQUAL QUALITY IN THE OFFICIAL LANGUAGE OF THE TRAVELLER'S CHOICE.</i>	<p>a) Verify that an active offer is provided at bilingual CBSA points of entry. Verify that services at these points of entry are also provided to travellers in the official language of their choice and that these services are of equal quality in both official languages. Services include:</p> <ul style="list-style-type: none"> • visual active offer • publications and documentation • communication in person • communication through automated self-service kiosks. <p>b) Verify that the CBSA ensures that designated bilingual points of entry have sufficient bilingual capacity and that it has effectively planned for the provision of bilingual services in order to provide services of equal quality in the official language of the traveller's choice at all times.</p>
<i>3. ENSURE THAT THE CBSA UNDERSTANDS AND TAKES INTO ACCOUNT THE NEEDS OF OFFICIAL LANGUAGE MINORITY COMMUNITIES WHEN PLANNING AND PROVIDING BILINGUAL SERVICES.</i>	<p>a) Verify that the CBSA has a process in place to ensure that it understands the service needs of official language minority communities and that it takes these needs into account when planning and modifying its services.</p> <p>b) Verify that the CBSA has effected a review of its services to determine whether the services satisfy the principle of substantive equality and, when necessary, has subsequently adapted its services to meet the needs of official language minority communities (re: <i>DesRochers</i> decision, CALDECH case).</p>
<i>4. ENSURE THAT THE CBSA MONitors AND MANAGES THE QUALITY OF SERVICES PROVIDED IN BOTH OFFICIAL LANGUAGES TO THE PUBLIC.</i>	<p>a) Verify that the CBSA has formal monitoring mechanisms in place to determine whether services of equal quality are being actively offered in both official languages and delivered in the language of the traveller's choice at designated bilingual points of entry.</p> <p>b) Verify whether the results of the monitoring are used to promote continuous improvement of services.</p>

APPENDIX B: LIST OF RECOMMENDATIONS FOR EACH OBJECTIVE, THE CANADA BORDER SERVICES AGENCY'S COMMENTS AND ACTION PLAN, AND THE COMMISSIONER'S COMMENTS

OBJECTIVE 1 – NO RECOMMENDATIONS

OBJECTIVE 2

RECOMMENDATION 1

The Commissioner of Official Languages recommends that the Canada Border Services Agency annually review official data on the number of passengers at airports where services are provided and take action to:

- 1) provide services of equal quality in both official languages at airports with over 1 million emplaned and deplaned passengers, and
- 2) inform the Treasury Board of Canada Secretariat of any changes to the bilingual designation of offices at airports subsequent to the review.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

The Canada Border Services Agency's (CBSA) three-year official languages action plan 2014–2017 provides for the annual review of official data published by Statistics Canada on the number of passengers at airports where services are offered. In accordance with section 7(3) of the *Official Languages (Communications with and Services to the Public) Regulations*, based on the number of passengers, the CBSA will take the necessary measures to fulfill its language obligations and inform the Treasury Board Secretariat as needed.

Since the audit, the airports in Kelowna, British Columbia, Saskatoon, Saskatchewan, and Regina, Saskatchewan, have been designated bilingual. The Treasury Board Secretariat has been informed and the changes have been made in Burolis. Steps are being taken to increase bilingual capacity and fulfill our language obligations in these locations.

Completion date: June 2015

ACTION PLAN	OPI	COMPLETION DATE
1.1 The CBSA will establish a process to review the official data on the number of passengers at airports, annually. The Agency will inform the Treasury Board Secretariat of any changes, as necessary, and take the actions required to fulfill its language obligations.	Operations Branch	June 2015

COMMISSIONER'S COMMENTS

We are satisfied with the CBSA's proposed measures to implement this recommendation. We commend the CBSA for the measures already taken to ensure the CBSA points of entry located in the airports of Kelowna, British Columbia, Saskatoon, Saskatchewan, and Regina, Saskatchewan, have been designated bilingual.

RECOMMENDATION 2

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) determine and monitor the number of bilingual superintendents needed to ensure service of equal quality in both official languages at designated bilingual points of entry, and
- 2) use this information to ensure the sufficient capacity of bilingual superintendents at designated bilingual points of entry.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

The CBSA's three-year official languages action plan 2014–2017 provides for the implementation of new official languages directives to determine the need and increase the bilingual capacity of positions with supervision duties. These directives will be implemented nationally. The Official Languages Action Plan also provides for human resources planning procedures that take official languages needs into consideration.

ACTION PLAN	OPI	COMPLETION DATE
2.1 Establish a process to identify the number of bilingual superintendent positions required at designated ports of entry, annually.	Operations Branch	June 2015
2.2 Update the <i>Guide for Managers: Establishing Language Training Priorities</i> to establish language training needs based on established priorities.	Human Resources Branch	July 2015

COMMISSIONER'S COMMENTS

We are satisfied with the measures proposed in the action plan in response to this recommendation as well as those currently listed in support of increasing bilingual capacity among supervisors in the *2014–2017 Official Languages Action Plan*. For instance, as the *2014–2017 Official Languages Action Plan* indicates, the implementation of the new CBSA official languages directives will help the Agency to increase the bilingual capacity in supervisory positions by raising the linguistic profiles of vacant positions and positions with incumbents who meet the new language requirements.

RECOMMENDATION 3

The Commissioner of Official Languages recommends that the Canada Border Services Agency develop and conduct targeted recruitment activities to promote bilingual front-line service positions. These recruitment activities should be directed toward bilingual audiences across Canada, including official language minority communities.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

As part of the CBSA recruitment strategy for front-line officers, the Agency is developing a three-year national marketing plan to attract individuals who seek a career as a law enforcement officer in a federal border security organization. This national strategy will inform the types of outreach activities to be undertaken to recruit bilingual applicants, including among official language minority communities (OLMCs). This strategy has been highlighted as an Agency commitment in the *2014–2017 official languages action plan*.

In support of this initiative, the CBSA established its bilingual capacity requirements in 2014, which will enable the Agency to conduct both targeted recruitment and placement strategies where capacity gaps exist.

Completion date: June 2015

ACTION PLAN	OPI	COMPLETION DATE
3.1 Development of an external recruitment campaign, including targeted activities with OLMCs, to increase front-line bilingual capacity.	Human Resources Branch	June 2015

COMMISSIONER'S COMMENTS

We are satisfied with the CBSA's proposed measures to implement this recommendation.

RECOMMENDATION 4

The Commissioner of Official Languages recommends that the Canada Border Services Agency provide ongoing second-language learning opportunities to bilingual border services officers in all regions in order to help bilingual officers learn the technical job-related terminology required for their work and to maintain their second-official-language skills.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

The CBSA publishes on *Atlas* all of its policies and internal procedural manuals in both official languages, each of which include glossaries and terminology definitions of technical terms. For example, a *CBSA Enforcement Glossary* is currently available on *Atlas*. As part of the Agency's three-year official languages action plan, the CBSA will remind employees of their obligation to stay current with technical job-related terminology required for their work.

The CBSA also supports employee efforts for language development through a comprehensive offering of accessible and effective training programs and services designed to support the Border Services Officers (BSOs) in maintaining and enhancing their bilingual skills.

Since 2013, through its formal internal linguistic school, the CBSA offers to approximately 1,000 employees per year ongoing official languages training to help them maintain and further develop their second-language proficiency skills.

Completion date: April 2015

ACTION PLAN	OPI	COMPLETION DATE
4.1 Communicate on an annual basis the availability of resources to help bilingual front-line officers remain current with technical job-related terminology in both official languages.	Operations Branch	April 2015

COMMISSIONER'S COMMENTS

We are partially satisfied with the measures proposed in response to this recommendation. We recognize the tools the CBSA has created and placed on *Atlas* to provide BSOs with technical job-related terminology. We agree that continual communication on the availability of these tools is a key step in assisting bilingual BSOs to learn the technical job-related terminology required for their work.

We additionally commend the CBSA for the work they have done to offer a broad range of language training programs to BSOs in order to improve linguistic competencies and increase bilingual capacity. The audit revealed that many bilingual BSOs felt they had limited or no access to these learning opportunities. We believe that the Agency must go beyond communication of currently available resources and work to increase the availability and accessibility of learning opportunities for BSOs who are already bilingual, for the purposes of language maintenance.

RECOMMENDATION 5

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) at headquarters, define and communicate to all service employees what is required to provide service of equal quality in both official languages;
- 2) at all designated bilingual points of entry, adapt and implement shift planning and port procedures as needed so as to ensure that service of equal quality in both official languages is actively offered and provided for all of its service activities at all levels of inspection during all hours of operation; and
- 3) at headquarters, verify that the above-mentioned procedures have been implemented at all designated bilingual points of entry.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

The CBSA publishes its commitments regarding service excellence in both official languages in the charter posted on its Web site (<http://cbsa-asfc.gc.ca/agency-agence/charter-charte-eng.html>).

To support its commitments, the Agency issues regular reminders to its officers regarding their obligations in relation to active offers of service and the rights of members of the public to obtain services in the official language of their choice.

The CBSA recognizes that the most important element in our operating environment to ensure that services provided are of equal quality in both official languages is to have sufficient bilingual capacity. As outlined in the action plan addressing recommendation 3, the Agency will continue its recruitment initiatives to increase bilingual capacity.

The CBSA also implemented procedures to ensure that bilingual capacity needs are factored into planning and scheduling and that quality services are delivered in both official languages.

Monthly reports are sent to headquarters to ensure that shift planning procedures are followed, to identify gaps in bilingual capacity, to guide decisions about the placement of officers in locations where there are vulnerabilities and to determine priorities in language training.

Completion date: April 2015

ACTION PLAN	OPI	COMPLETION DATE
5.1 Send annual reminders concerning official languages rights and obligations to ensure the delivery of quality services in both official languages.	Operations Branch	April 2015

COMMISSIONER'S COMMENTS

We are partially satisfied with the measures proposed in response to this recommendation. We recognize that the CBSA's greatest challenge to providing service of equal quality is its current deficit of bilingual capacity; however, our audit revealed that the procedures being implemented at some points of entry did not always ensure a service of equal quality.

We additionally recognize that the CBSA's Operations Branch Executive Committee agreed on measures in 2011 to staff all unanticipated bilingual vacancies on the roster with the next available bilingual officer from the overtime list. Despite this agreement, we found that not all points of entry visited followed these measures and we would like to commend the CBSA for the reminder on this subject that was sent out shortly after the completion of our audit examination phase on August 27, 2014.

Finally, we agree that the monthly reports that are sent to headquarters might identify some gaps related to implementation of the shift planning procedure measures as directed by headquarters. However, the reports we have received in the context of this audit do not fully verify the implementation of procedures that ensure a service of equal quality.

This recommendation seeks to ensure that "equal quality" is clearly defined and implemented at all bilingual points of entry and then that headquarters verifies appropriate procedures ensuring services of equal quality have been fully implemented. The CBSA proposes in their management action plan to send annual reminders on official languages rights and obligations; however, it is our opinion that this commitment is not specific enough to address the recommendation. We would like the CBSA to keep in mind that previous communications on official languages rights and obligations have not equated with procedures at all points of entry ensuring services of equal quality. We believe that a more specific definition of what does and does not constitute service of equal quality as well as verification of the implementation of procedures that meet the definition is required.

OBJECTIVE 3

RECOMMENDATION 6

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) ensure that it fully understands the needs of official language minority communities by developing a formal national process to communicate with these communities across Canada, and
- 2) develop and adopt a formal mechanism that takes the needs of official language minority communities into account during service planning and modification.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

As initiated in 2012, the CBSA's three-year official languages action plan 2014–2017 provides for a continuation of discussions with OLMCs to incorporate their needs when planning and modifying services.

Completion date: September 2015

ACTION PLAN	OPI	COMPLETION DATE
6.1 Engage with OLMCs in a nation-wide discussion to incorporate their needs when planning and modifying services to strengthen ties with them.	Operations Branch	September 2015

COMMISSIONER'S COMMENTS

We are partially satisfied with the measures proposed in response to this recommendation. We commend the consultations the CBSA initiated in 2012 and the steps they are now taking to continue the discussions with OLMCs. However, the recommendation also includes a component regarding developing a formal process for communication with OLMCs and adopting a formal mechanism to take into account the needs of the OLMCs. There do not appear to be any commitments to this effect in the CBSA's action plan. The CBSA must not merely rely on discussions that may occur once every 3–5 years. We would like the Agency to keep this in mind and ensure the establishment of formal processes and mechanisms so that communication with OLMCs is on-going and their needs are taken into account when planning and modifying services on an on-going basis.

RECOMMENDATION 7

The Commissioner of Official Languages recommends that the Canada Border Services Agency conduct an immediate review of its services in order to determine whether they satisfy the principle of substantive equality and, following the review, adapt its services, as necessary, to meet the needs of official language minority communities.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

The CBSA's three-year official languages action plan 2014–2017 provides a process for assessing its services and programs to determine if they comply with the principle of substantive equality.

The CBSA is committed to ensuring that all its programs and services are adapted, as required, to meet the needs of the OLMCs.

Completion date: December 2015

ACTION PLAN	OPI	COMPLETION DATE
7.1 Develop a strategy to conduct a review of the CBSA's services and programs to ensure that they meet the needs of OLMCs.	Human Resources Branch	April 2015
7.2 Complete the analysis and issue a report on the review's findings.	Human Resources Branch	December 2015

COMMISSIONER'S COMMENTS

We are satisfied with the CBSA's proposed measures to implement this recommendation.

OBJECTIVE 4

RECOMMENDATION 8

The Commissioner of Official Languages recommends that the Canada Border Services Agency:

- 1) implement, across its entire organization, reliable and anonymous monitoring of the active offer of service and the delivery of services of equal quality in the official language of the traveller's choice, and
- 2) use the results of that monitoring to improve services in both official languages.

CBSA'S MANAGEMENT RESPONSE AND ACTION PLAN

As stated in the audit report, the ability to monitor active offers of service is limited because of the difficulties associated with crossing the border several times. The CBSA will continue to raise awareness and train officers on the obligations related to active offers of service and delivering services in the traveller's official language of choice.

Moreover, as noted in the three-year official languages action plan 2014–2017, the CBSA will establish monitoring mechanisms to ensure the availability of services to the public in both official languages and the quality of these services, and the presence of a sufficient number of bilingual employees at all times.

Completion date: September 2015

ACTION PLAN	OPI	COMPLETION DATE
8.1 Establish a national monitoring mechanism to ensure the availability of services to the public in both official languages and the quality of these services by reviewing the following criteria: <ul style="list-style-type: none"> • bilingual capacity and gaps; • visual active offer; • active offer by telephone; and • analysis of complaints and risks. 	Operations Branch	September 2015

ACTION PLAN	OPI	COMPLETION DATE
8.2 Issue annual reports on monitoring results and ensure the implementation of corrective actions, if required.	Operations Branch	September 2015

COMMISSIONER'S COMMENTS

We are partially satisfied with the CBSA's proposed measures to implement this recommendation. Regarding the proposed monitoring mechanisms for the active offer of services, the CBSA must not merely monitor visual active offer and active offer by telephone. While on-going, anonymous monitoring of active offer of service in person at points of entry may be challenging, we believe there are several options that the CBSA can explore that would allow the effective monitoring of active offer in person. The CBSA should seek opportunities to collaborate with other institutions that have similar mandates and with OLMCs as they develop a complete monitoring mechanism that includes active offer of service in person. This audit, as well as our previous audit, revealed that active offer in person is inconsistent despite the fact that BSOs are very knowledgeable about their obligation to provide an active offer. The CBSA must establish a formal, reliable and anonymous monitoring mechanism that includes monitoring of active offer of service in person.

APPENDIX C: LIST OF CANADA BORDER SERVICES AGENCY AIRPORT AND LAND-BORDER POINTS OF ENTRY VISITED

CBSA REGION	POINT OF ENTRY
ATLANTIC	NB, St. Stephen – 3rd Bridge
	NB, St. Stephen – Milltown
	NS, Halifax – Halifax Stanfield International Airport
QUEBEC	QC, Montréal – Montréal Pierre Elliott Trudeau International Airport
	QC, Saint-Bernard-de-Lacolle – Highway 15
	QC, Lacolle – Route 221
NORTHERN ONTARIO	ON, Prescott
	ON, Ottawa – Ottawa Macdonald-Cartier International Airport
	ON, Lansdowne – Thousand Islands Bridge
SOUTHERN ONTARIO	ON, Fort Erie – Peace Bridge
	ON, Niagara Falls – Rainbow Bridge
GREATER TORONTO AREA	ON, Toronto – Toronto Pearson International Airport, Terminal 1
PRAIRIE	MB, Emerson
	MB, Winnipeg – Winnipeg James Armstrong Richardson International Airport
	SK, Regina – Regina International Airport
PACIFIC	BC, Vancouver – Vancouver International Airport
	BC, Douglas – Peace Arch