

Cooperation between the government and the communities:

New models for service delivery





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FOREWORD



Canada is not immune to major international currents. As in many other countries, public and private sector organizations in Canada have undergone major transformations. These transformations, as it can be expected, have modified the relationship between the private citizen and the government.

The measures adopted by the Canadian government, in the last few years, to modernize and rationalize service delivery to the public also have repercussions on the services offered to Canadians living in a minority situation.

Certain recent models for service delivery to the public have given birth to new means of cooperation between the government and the official language minority community group. In order to ensure that these new ways of serving the Canadian public are in accordance with the *Official Languages Act*, and at the same time have positive effects on the vitality and development of these communities, certain principles must be respected.

Our study of these new models of cooperation between the government and the communities, conducted with the assistance of Ronald Bisson and Associates Inc, was meant to determine if these principles were respected. Many other persons have also given their valuable time during the initial interviews and follow-ups. Without their contribution, primary research of this type could not have been conducted. It is impossible to name all of them, but we wish to thank in particular the National Coordinators for Implementation of Part VII of the *Official Languages Act*, the representatives of community organizations at the national, provincial and local levels, service providers and others.

We particularly wish to thank the groups that did not hesitate to send us the contribution agreements and contracts governing their projects that enabled us to do an in-depth analysis of them.

Dr. Dyane Adam

June 2000

SUMMARY



The successive budget cuts at the start of the 1990s, the reorganizations of federal departments and programs, and the new opportunities offered by information and communications technologies have prompted governments to broaden their approach and diversify their methods of delivery of public services.

In August 1994, the federal government adopted a departmental accountability framework for the implementation of Part VII of the 1988 *Official Languages Act*. In section 41 of Part VII, the federal government makes a commitment to enhance the vitality of the minority official language communities and promote the full recognition of English and French in Canadian society. The gradual implementation of Part VII of the Act has also helped to diversify methods of federal program delivery.

In January 1999, the Fontaine Task Force on the impact of government transformations on the official languages tabled its report, entitled *No Turning Back: Official Languages in the Face of Government Transformations*. It recommended: “that the government implement pilot projects to explore the possibility of establishing partnerships with minority official language communities with a view to the delivery of certain services by the latter.”

With a view to preventing potential problems in the creation of new procedures, and in anticipation of possible impacts and consequences on the application of the *Official Languages Act* and the achievement of the objectives of the language provisions of the *Canadian Charter of Rights and Freedoms*, the Office of the Commissioner of Official Languages undertook this study, which has two objectives:

- to inventory examples of new procedures for cooperation between the government and the official language communities for the delivery of services by community groups;
- to determine the conditions that must be fulfilled to ensure respect for the spirit and intent of the *Official Languages Act*.

From a great many telephone interviews with representatives of federal institutions and the communities, a list was developed of some 100 examples of new models of cooperation whereby a minority community group ensures the delivery of a government service.

Some procedures for cooperation resulted from the desire of certain federal institutions to bring service closer to the target clientele and eliminate duplication. Other procedures for cooperation are the result of a desire to support the vitality of the communities in accordance with section 41 of the Act. The new models of cooperation are more common in western Canada and are beginning to take root in southern Ontario. They are rare in the Atlantic region and in Quebec. These services relate mainly to the area of economic development and employability.

Three typical examples were analyzed in detail: the London-Sarnia regional ACFO (Association canadienne-française de l’Ontario) model, a community agency that offers employability and training services at the local level; the Éducacentre model in British Columbia, an agency that offers similar services on a provincial basis; and the National



Committee for Canadian Francophonie Human Resource Development model, which offers services at the national level. The latter organization works closely with the Regroupements de développement économique et d'employabilité (RDÉE) in the provinces.

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The models of cooperation identified raise two basic questions in legal terms:

1. Do the minority official language community agencies that provide government programs constitute “offices” within the meaning of section 20 of the *Canadian Charter of Rights and Freedoms* and of section 22 of the *Official Languages Act*?
2. Do the minority official language community agencies that provide government programs constitute third parties acting on behalf of the Government of Canada within the meaning of section 25 of the *Official Languages Act*?

In the Beaulac decision, the Supreme Court of Canada states, in paragraph 22: “With regard to existing rights, equality must be given true meaning. The Court has recognized that substantive equality is the correct norm to apply in Canadian law.” And in paragraph 25 it added: “Language rights must in all cases be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada.”

This concept of the true meaning of equality leads to two other basic questions:

1. What are the reasons for organizing the provision of services as they have been organized in the models of cooperation inventoried?
2. Do the models of cooperation examined respect the principle of real equality of the linguistic communities?

As an example, considering only the local service points of Éducacentre, regional ACFO or an RDÉE, it is difficult to conclude that, in themselves, they are “offices” within the meaning of Part IV of the *Official Languages Act*, whether by reason of their nature or the nature of their activities.

This study reveals one of the important impacts of government transformation; in defining the words “office” or “third party,” we cannot restrict ourselves to considering, in isolation, the ultimate point of service that provides the contact with the public. To fully understand the possible legal implications, it is necessary to consider the overall context in which the service is provided; we must therefore see the ultimate point of service as part of a whole established to better deliver a service to a given population.

The starting point is the federal department or agency; the end point is the public served. Between the two are a series of legal provisions, administrative arrangements and operational processes established to deliver the government service. The office, it seems to us, refers much less to the final contact than to this series of interdependent provisions, arrangements and processes.

A service of the federal government, whether it be delivered by a province, a municipality, a community agency or other “persons or institutions,” remains a government action and is therefore subject to the *Official Languages Act*. We therefore believe that it is reasonable to consider all the service delivery arrangements or provisions adopted by a federal institution in order to answer the questions raised.



It seems to us that the models of cooperation inventoried in this study ensure real equality in the provision of service; they are arrangements and provisions that permit the delivery to a linguistic minority of a service substantially equal to that provided to the majority. That is to say that the equality of English and French is ensured, access to the service is equal, and the quality of service is equivalent in either language.

The study also dealt with the following question: under what circumstances is it desirable to establish models of cooperation that enable an official language minority community group to provide a government service?

The preference is for procedures for cooperation governed by bipartite or multipartite partnership agreements. It is also preferable that the primary, if not only, mandate of the community agency be to deliver the service in question. This is true of the National Committee for Canadian Francophonie Human Resource Development at the national level and of Éducacentre at the provincial level. In some cases, the agency is created expressly to deliver the service.

In the absence of a partnership agreement and appropriate terms and conditions, including the creation of a community group established for this purpose, the provision of a government service by a community group that takes on this task as one of its other functions must be seen as only a temporary alternative solution, when the department has exhausted all other alternatives for providing the service directly while fully respecting its linguistic commitments. This is the case with the London Sarnia regional ACFO.

The recommendations are designed to support the efforts of community groups and federal institutions which are developing models for cooperation in the delivery of a service or program.

RECOMMENDATION TO COMMUNITY GROUPS

Any community group that wishes to establish a model of cooperation with a federal institution to provide a government service must:

- ensure community support and coordinate its efforts with those of other community groups;
- conduct a needs study and do implementation planning;
- preferably, establish an independent agency that will provide the service; and
- ensure that this new model of cooperation contributes, by the quality of the service provided, to the advancement toward equality of the minority and majority communities.

RECOMMENDATIONS TO FEDERAL INSTITUTIONS

Recommendation 1: Monitoring of New Models of Cooperation

That the Committee of Deputy Ministers Responsible for Official Languages assign the Treasury Board Secretariat and the Department of Canadian Heritage the responsibility of establishing, within the next six months, a central data collection system to monitor the



development of models of cooperation between federal institutions and community groups that lead to the delivery of government services or programs to the minority official language communities.

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That the Committee of Deputy Ministers Responsible for Official Languages assign the Treasury Board Secretariat and the Department of Canadian Heritage the responsibility for developing a management framework for models of cooperation between the government and community groups for the delivery of services in order to ensure respect for the spirit and intent of the *Official Languages Act*. This framework should be operational by March 31, 2001.

Recommendation 2: Overall Evaluation of Models of Cooperation

That the Treasury Board, in 2002-2003, provide for an overall evaluation of the results achieved following the implementation of new models of cooperation between federal institutions and community groups that lead to the delivery of government services or programs to the minority official language communities.

Recommendation 3: Needs Analysis and Implementation Planning

That each federal institution concerned provide adequate financial resources for the conduct of a needs study and for planning of the implementation of a new model of cooperation with a community agency for the delivery of a government service to an official language minority community.

Recommendation 4: Control and Accountability Mechanisms

That each federal institution concerned ensure in all cases that appropriate control and accountability mechanisms are put in place during the planning and implementation of a new model of cooperation with an official language minority community or one of its agencies for the delivery of a service. These mechanisms must, among other things, guarantee respect for the *Charter of Rights and Freedoms*, the *Official Languages Act* and the *Official Languages Regulations*.

Recommendation 5: Respect for the Principle of Equality

That each federal institution concerned ensure full respect for the principle of equality which is at the heart of the language rights of Canadians and for the quality standards applicable to the delivery of a government service by a community group.

That the federal institution concerned ensure that the employees of the community groups that deliver the service acquire and integrate the required professional and linguistic skills.

That the federal institution concerned periodically conduct a formal evaluation to measure the quality of the services provided by the community group and to ensure their equality.

Recommendation 6: Long-term Stability of the Provision of Service

When any model of cooperation by which a community group, directly or by subcontracting, ensures the delivery of a government service, each federal institution concerned must ensure that the delivery is planned on a multi-year basis. Such a model of cooperation must be part of a coherent framework and well-considered departmental strategy to promote the vitality of the communities. The federal institution must provide for a reasonable transition period in the event of the non-renewal of a model of cooperation. In this case, the federal institution must also establish appropriate mechanisms for reabsorbing the service in a way which promotes the advancement toward equality of English and French.

At the conclusion of this study, we set out certain principles which must guide the establishment of these models of cooperation in view of the responsibility of the Government of Canada to ensure the advancement toward equality of English and French pursuant to the *Constitution Act, 1982*:

- any model of cooperation must, as a minimum, preserve acquired rights, including access to and the exercise of remedies, while clearly guaranteeing to the public concerned the right to services pursuant to the provisions of the *Charter of Rights and Freedoms*, the *Official Languages Act* and the *Regulations*;
- any model of cooperation must define and establish mechanisms that will give the minority community services truly equal to those provided to the official language majority;
- any model of cooperation must provide for appropriate control and evaluation mechanisms;
- any model of cooperation must be established on a multi-year basis and ensure the stability of the service provided to the community;
- any model of cooperation must provide for concrete transition measures that fully respect the principle of equality, should the service be reabsorbed into the federal institution in question.



I. INTRODUCTION



The Task Force on the impact of government transformations on the official languages, established by the President of the Treasury Board, tabled its report in January 1999. It studied the major transformations throughout the federal government designed to modernize and rationalize the delivery of services to Canadians.

Recommendation 7 of the Task Force dealt with partnerships with the communities: “That the government implement pilot projects to explore the possibility of establishing partnerships with minority official language communities with a view to the delivery of certain services by the latter.”

The Task Force emphasized that it was important, however, to be cautious in adopting this type of approach, which entails the creation of a new, parallel program delivery mechanism that has not necessarily proven itself.

With a view to preventing potential problems in the creation of new procedures, and in anticipation of possible impacts and consequences on the *Charter of Rights and Freedoms* (the Charter) and the application of the *Official Languages Act*, the Office of the Commissioner of Official Languages conducted this study, which has two objectives:

- to inventory examples of new procedures for cooperation between the government and the official language communities for the delivery of services by community groups;
- to determine the conditions that must be fulfilled to ensure respect for the spirit and intent of the *Official Languages Act*.

This report presents, first, the results of data collection by analyzing three typical examples, namely, the London-Sarnia regional ACFO model, the Éducacentre model in British Columbia, and the National Committee for Canadian Francophonie Human Resource Development model. A legal analysis presents certain legislative perspectives on these models of cooperation. A description of all the examples inventoried is found in the Appendix 1. This analysis is followed by a clarification of the terms used to describe these new practices.

The results of the study lead to recommendations addressed to community groups and federal institutions. The conclusion includes a series of principles that should guide the implementation of models of cooperation for the delivery of a government service by a community group.

II. METHODOLOGY

To gather the data, we contacted the departmental manager responsible for Part VII of the *Official Languages Act* in each of the federal institutions concerned in order to become familiar with the extent of the new models of cooperation. We also conducted interviews with various people in government, including representatives of the Treasury Board and the regional offices of the Office of the Commissioner of Official Languages, in order to inventory the maximum number of new models of cooperation and future directions in this area.

We also contacted community agencies in various sectors in each province to complete the inventory of examples and understand their points of view about this new trend in providing government services.

The analysis of the entire situation and the conclusions drawn were enriched by two legal opinions from recognized experts in the field.



III. RESULTS OF DATA COLLECTION



In his report *A Blueprint for Action: Implementing Part VII of the Official Languages Act, 1988*, published in February 1996, the Commissioner of Official Languages concluded one section by making the following recommendation:

The Department of Human Resources Development and the Department of Canadian Heritage, in consultation with the Council of Ministers of Education Canada and with minority official language communities, should undertake a consultative study to define on a national basis the needs of minority communities in post-secondary education, vocational training and human resources development. The study should have as its objective the development of a Canadian strategy for cooperation between the federal government and the provincial and territorial government to remedy the historical disadvantages suffered by minority communities in the areas of vocational training, human resources development and post secondary education. The strategy should include oblique delegation. (p.56)

The approach advocated by the Commissioner in the areas of vocational training, human resources development and post-secondary education is based on the concept that the institutions of a given community are sometimes better placed than the institutions of society in general or the government itself to ensure the delivery to that community of certain government services. In the case of a Canadian official language minority community, this method of delivery may also help to strengthen its institutional fabric and, thereby, its vitality and visibility, a statutory objective of the Government of Canada set out in Part VII of the Act.

In the *Framework for Alternative Program Delivery*, the Treasury Board Secretariat states, “Where the federal government delivers services that duplicate or overlap those provided by provincial governments, or where a private, voluntary or community sector can deliver services better, the federal government may not be the right supplier.”¹

The same document proposes the strategy of concluding partnership agreements that build on the strengths and capacities of other sectors. “The government will cooperate and develop partnering arrangements among departments and with other levels of government and other sectors of the economy. These arrangements will help it build on the strength and capacity of other sectors to provide programs and services that are responsive to the client, innovative and affordable.”²

In this context, this study seeks to inventory examples of new models of cooperation developed since 1995 among federal institutions, agencies or departments and community agencies for the delivery of a government service to an official language community.

Some 100 examples were identified in all. These are associated mainly with a small number of federal institutions and, apart from the cultural area, relate almost exclusively to economic development or labour market development.

¹Treasury Board Secretariat, *Framework for Alternative Program Delivery*, 1995, p.7.

²*Ibid.*, p. 14.



We selected three typical examples for closer analysis. These examples represent three new models of cooperation that have emerged in the past five years and they raise two basic legal issues.

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Does section 25 of the *Official Languages Act* apply to them?

Section 25: Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.

Do they respect the obligations of section 20 of the *Charter* and of the *Official Languages Act*?

Section 20: (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or Government of Canada in English or French, and has the same right with respect to any other office of any such institution where:

- a) there is a significant demand for communications with and services from that office in such language; or
- b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

1. The London-Sarnia Regional ACFO Model

A large number of Francophones in this region were complaining about the lack of service in French provided by the office of Human Resources Development Canada (HRDC). In 1995, following a socio-economic study, the regional ACFO developed a profile of the community. It revealed two needs with respect to HRDC. The first concerned the translation of documents offering jobs, and the second concerned the French-language aspect of the tele-message service provided by the department.

Due to this situation, regional ACFO developed a proposal to the department to provide these services in French. The department responded by choosing to fund the initiative as a job creation project and not out of its operational funds as regional ACFO had requested. Two projects have therefore been funded, which must be negotiated and renewed each year.

The first offers information in French concerning the availability of jobs in the region. In this project, the hiring of two translators and four other persons makes it possible to provide tele-message services in both official languages and to translate brochures and other material.

The second project made it possible to establish a job counselling service in French and a bilingual resource centre located in the London French-language school and community centre. This second project was originally offered in partnership with the Collège des Grands Lacs. Regional ACFO now provides this service, which includes training workshops developed by the department (rights and obligations, HRDC programs, career explorations, etc.) and ongoing

support to clients in their job search. The Collège des Grands Lacs shares premises in the London school and community centre and delivers a program entitled Job Connect, a provincial program that also provides employability counselling, but to a different clientele.

The London-Sarnia regional ACFO is a first example of a type of cooperation between a department and a minority official language community. In this example, the appendixes to the contract state that the project's objective is to provide bilingual service as required by the *Official Languages Act* and to improve the delivery of employability services to the French-speaking community in the London region. Requirements and the qualifications of the staff to be hired are clearly stipulated, and the bilingual centre must provide services comparable to those provided to the English-speaking community.

When a Francophone comes to the offices of HRDC and wants service in French, he or she is referred to regional ACFO. Since its inception, this centre has received only French-speaking clients. This example illustrates a number of the issues that a department faces in making its decision whether to award a grant in the form of a project or a service contract or to establish a partnership or some other method of cooperation with a community agency to provide its services to the minority official language community. Other examples of this type were observed in Kingston, Hamilton, Labrador City and other centres.

2. The Éducacentre Model (British Columbia)

The mission of Éducacentre (www.educacentre.com) is to provide adult education and training services in French in British Columbia and, through its activities, to enable individuals to develop and thereby promote their participation in the betterment of the community. To fulfill its mission, Éducacentre offers a range of programs in the areas of employment training, literacy and reclaiming Francophone identity, English as a second language, informatics, and credit courses offered via educational television.

Éducacentre therefore seeks sponsors and signs contribution or grant agreements (40 in 1999) with provincial and federal departments to offer its programming. With a campus in Vancouver, a campus in Victoria and various units in the region, the agency served 916 clients in 1998-1999 and expects to serve 1,500 clients between September 1, 1999, and August 31, 2000.

We visited Éducacentre in the course of this study because it has become a kind of community model for the delivery of employability services which we have inventoried elsewhere. According to the director general, this model will probably become more common in the years to come as other federal institutions adopt new methods of cooperation with community groups.

Éducacentre is impressive for the quality of the services provided, as confirmed by client evaluations, the professionalism of the information and training material produced, and the availability of on-site tools, particularly in the area of informatics.

The director general states unequivocally that Éducacentre was able to develop to this extent thanks to section 41 of the *Official Languages Act*. She has developed excellent working relations with the regional officers of Human Resources Development Canada, and all the projects show evidence of the desired administrative rigour.



These contribution agreements enable the department to achieve its objectives on two levels: employability, which is its primary vocation, and support for the vitality of the official language minority community.

The agreements specify additional conditions that indicate the close link that must exist between the department and Éducacentre to ensure the quality of service. The following are some pertinent examples :

- The project officer (HRDC) agrees to liaise between Éducacentre and the office of HRDC. Éducacentre and HRDC will continue, as usual, to provide the best possible service to the Francophones in the region.
- The project officer will have access to all documentation concerning bookkeeping for the project.
- The coordinator will inform the project officer upon the hiring of a new employee and when a problem directly related to this project arises.
- An evaluation of the Case Management pilot project will be conducted by an outside agency during the project's seventh month.

This final item is very important in making it possible to evaluate the quantitative and qualitative results of the service. This evaluation will determine whether the services provided by Éducacentre are equivalent to those provided by HRDC and whether the principle of equality of treatment of English and French is preserved.

The only irritant to be mentioned is found in the contract with the provincial Department of Education, which requires that any report from Éducacentre be submitted to it in English. This fact may be surprising, especially since Appendix A of the contract clearly states that the province administers these funds on behalf of HRDC.

The Éducacentre model is a new method of cooperation between the community and a department for delivering a service to the linguistic minority community. Certain services are provided under a direct agreement between HRDC and Éducacentre; others are the subject of an agreement between the provincial Department of Education and Éducacentre.

3. The National Committee for Canadian Francophonie Human Resource Development Model

The National Committee for Canadian Francophonie Human Resource Development (www.francophonie.gc.ca) consists of an equal number of representatives of the French-language minority communities and of federal agencies.

The government organizations involved include: Human Resources Development Canada, the Atlantic Canada Opportunities Agency, Agriculture and Agri-Food Canada, the Canada Business Development Bank, Western Economic Diversification, Industry Canada, Canadian Heritage, Treasury Board, and Public Works and Government Services.

The community party includes three minority Francophone representatives from each region of the country (East, Centre [Ontario] and West) for a total of nine persons.



The principal mandate of the National Committee, created in March 1998, is to provide advice to orient the policies, programs and services of federal agencies party to the agreement to ensure that the latter enhance the development and vitality of the French-language minority communities in Canada.

An equivalent committee exists to serve the English-speaking population of Quebec, namely, the Human Resources Development Committee for the English Linguistic Minority Community.

A support fund of \$21,000,000 was established in June 1999 for the two national committees. On the Francophone side, this fund will, over the next three years, support initiatives in four sectors: tourism, rural development, the knowledge economy, and integration of young people into the economic sector.

The strategic priorities of the National Francophone Committee, adopted in November 1999, arise from the mandate, supplementary missions and vision of the community and federal parties.

In addition to administering the national agreement, the Committee has four priorities:

- to develop a national economic development and employability framework;
- to promote the ratification of memorandums of understanding between government agencies involved in economic and human resources development and the Regroupements de développement économique et d'employabilité (RDÉE) in the provinces;
- to participate in developing strategies that engage the Francophone and Acadian communities in the major national and international economic and employability trends;
- to promote the strategic orientations of the National Committee for Canadian Francophonie Human Resource Development.

The members of the community component of the National Francophone Committee are persons proposed by, among others, the Regroupements de développement économique et d'employabilité (RDÉE) of the provinces. These RDÉEs exist in all the provinces; one of their roles is to support the National Committee in implementing its strategic planning.

A RDÉE, established by the community, may include representatives of the business community, of cooperative, of the community sector, of the municipalities. The RDÉE evaluates human resources and economic development requirements; coordinates federal, provincial and local initiatives; promotes entrepreneurship and the development of the labour market; and ensures ongoing communications between the National Committee and the community.

In some cases, the RDÉEs are similar to the CFDCs (Community Futures Development Corporations). The CFDCs are local economic development agencies that receive funding from the Community Development Program of Industry Canada to ensure the provision of strategic planning services, advice to small businesses, and loans to the rural and isolated communities that they serve.



For example, the Conseil de développement économique des municipalités du Manitoba (CDEM) describes itself as a CFDC+, in the sense that it covers the entire province geographically but serves mainly Francophones.

In western Canada, the four RDÉEs administer a loan fund for Francophone business people in their respective provinces. These funds, created by Western Economic Diversification Canada, do not exceed \$500,000 per province and mainly provide small loans to eligible entrepreneurs.

However, the Chambre économique de l'Ontario and the Conseil économique du Nouveau-Brunswick are not equivalent to a CFDC.

Ontario has created a consortium of 15 economic and employability agencies. This consortium is the RDÉE for the entire French-speaking community of Ontario, but unlike the RDÉEs in the West, it is not equivalent to a CFDC, because it does not have access to base funding or to the small-loan fund. Francophone officials in Ontario have requested the creation of a Francophone CFDC whose terms and conditions would have to be determined for the various regions of the province. Before responding to this request, Industry Canada ordered a study on the French-language services provided by the CFDCs in Ontario; the results have not yet been published as this report is written (February 2000).

The Conseil économique du Nouveau-Brunswick has recently created an RDÉE for the entire province; this RDÉE will not seek to become the equivalent of a provincial CFDC because there are already a number of regional CFDCs which provide a range of services to Acadian businesses.

IV. LEGAL ANALYSIS



The examples identified clearly indicate that the federal government's methods of service delivery to Canadians are changing both quantitatively and qualitatively. Some methods of cooperation have been developed because of the desire of certain departments to bring service closer to their clients and to eliminate duplication by means of local delegation. Other methods of cooperation result from a desire to support the vitality of the communities pursuant to section 41 of the *Official Languages Act*.

Delegation alone, or the implementation of section 41 of the *Official Languages Act* alone, would probably have produced very different results with regard to the delivery of government services by community groups.

Our research shows that, in the case of the minority official language communities, the new models of cooperation are most strongly established in western Canada and are beginning to take root in southern Ontario. There are few of these new types of cooperation in the Atlantic region or in Quebec.

There is a reason for this situation. Federal institutions can more easily serve the minority communities directly where their numbers are heavily concentrated. In the other regions, it is easier for federal institutions to establish models of cooperation with the community groups which can, in their turn, ensure the provision of the services directly to the target population.

In Atlantic Canada, federal institutions seem instead to rely on a strategy of direct provision of services.

In Quebec, some federal institutions rely on a strategy of increased consultation with the minority communities concerned and on more community participation in established structures such as the CFDCs.

The example of Economic Development Canada in the regions of Quebec is particularly enlightening in this regard. This institution is outstanding for its efforts with the official language community partners and it recently adopted a statement of principle about the full implications of section 41 of the *Official Languages Act*.

As mentioned above, the models of cooperation identified raise two basic questions in legal terms:

1. Do the minority official language community agencies that provide government programs constitute "offices" within the meaning of section 20 of the *Canadian Charter of Rights and Freedoms* and section 22 of the *Official Languages Act*?
2. Do the minority official language community agencies that provide government programs constitute third parties acting on behalf of the Government of Canada within the meaning of section 25 of the *Official Languages Act*?

Jurisprudence is not particularly enlightening with regard to the criteria for determining whether an agency constitutes an office of the government. However, previous court decisions can serve as guidelines with respect to the interpretation to be given to language rights.



In the Beaulac decision, the Supreme Court of Canada said, in paragraph 22: “With regard to existing rights, equality must be given true meaning. The Court has recognized that substantive equality is the correct norm to apply in Canadian law.”

22 This concept of the true meaning of equality leads to two other basic questions:

1. What are the reasons for organizing the provision of services as they have been organized in the models of cooperation inventoried?
2. Do the models of cooperation examined respect the principle of real equality of the linguistic communities?

As an example, considering only the local service points of Éducacentre, the regional ACFO or the CDEM in Manitoba, it is difficult to conclude that, in themselves, they are “offices” within the meaning of Part IV of the *Official Languages Act*, whether by reason of their nature or the nature of their activities. It would be a mistake, legally, to conceive of the office as being restricted only to the final contact between the public and the federal institution.

However, this study reveals one of the important impacts of government transformation; in defining the words “office” or “third party,” we cannot restrict ourselves to considering, in isolation, the ultimate point of service that provides the contact with the public. To fully understand the possible legal implications, it is necessary to consider the overall context in which the service is provided. We must therefore see the ultimate point of service as part of a whole established to better deliver a service to a given population.

The starting point is the federal department or agency; the end point is the public served. Between the two is a series of legal provisions, administrative arrangements and operational processes established to deliver the government service. The “office”, it seems to us, refers much less to the final contact than to this series of interdependent provisions, arrangements and processes.

A service of the federal government, whether it be delivered by a province, a municipality, a community agency or other “persons or institutions,” remains a government action and is therefore subject to the *Official Languages Act*. We believe it is reasonable to consider all of the service delivery arrangements or provisions adopted by a federal institution to answer the questions raised.

On the basis of these guidelines, we can analyze the examples inventoried as follows.

There are 88 CFDCs in the four western provinces, each covering a specific geographic territory.

To ensure respect for the *Official Languages Act*, a federal institution may ask itself the following question: is it preferable to attempt to provide bilingual services in a certain number of these CFDCs in areas where pockets of the minority population live, or is it preferable to create a French-language equivalent throughout a province to serve all of that province’s minority population?



If the CFDCs offered service exclusively in English in western Canada, for example, it would be possible to challenge this arrangement under section 20 by showing that such an approach denies “true equality” to the French speaking minority, since the CFDCs are the last links in a chain designed to deliver a government program to a given population, even if they are constituted as a non-profit agency. In this context, a CFDC, in itself, could technically be considered an “office” of the federal government.

We believe that the specific arrangements introduced by Western Economic Diversification Canada in the delegation of certain responsibilities to RDÉEs in the four provinces respect true equality between the majority and minority communities in economic development. The model adopted has the additional advantage of developing sound community links and expanding community institutional capacities.

Éducacentre presents a specific model because the federal service passes through two filters before being delivered to the target community; there is first a federal-provincial agreement and then a contract between the province and Éducacentre. This type of arrangement permits the effective delivery of services to the minority and respects the principle of “true equality” since Éducacentre is the last link in the chain of service delivery which begins with the federal government.

The only irritant in this model is the obligation imposed on Éducacentre by the province to submit reports in English only.

The London-Sarnia ACFO model is slightly different because this agency contracts directly with HRDC and provides services in French exclusively to a French-speaking clientele. HRDC contracts with another agency to provide the same services exclusively in English elsewhere. We believe that such an arrangement also respects the requirements of the *Official Languages Act*. To retain the services of a minority group in order to actively offer government services to the community is a way of promoting true equality. It might even be concluded that the model of cooperation established by HRDC in this case makes it possible to offer services to a community that might not otherwise request these services.

In the three preceding cases, is there a contravention of the Act because one office does not provide service in French and the other does not provide service in English, contrary to a literal reading of the Act or Regulations?

To answer this question, we must refer again to paragraph 25 of the Beulac decision: “language rights must in all cases be interpreted purposively, in a manner consistent with the preservation and development of the official language communities in Canada.”

Based on this, it seems clear to us that the equality of English and French is assured, access to service is equal, and the quality of service is equivalent in both languages.

Suppose a different situation: a federal institution assigns the delivery of a service to a majority group which provides the service only in the language of the majority of a province, without having put in place an appropriate counterpart for the minority community. In this case, there would obviously be a contravention of the *Official Languages Act*.



It therefore seems to us that the models of cooperation inventoried in this study ensure true equality in the provision of service. The arrangements and provisions allow the delivery to a linguistic minority of service substantially equal to that provided to the majority.

The task remains to determine the conditions that must be fulfilled to ensure compliance with the letter and the spirit of the *Official Languages Act*.

V. RECOMMENDATION TO COMMUNITY GROUPS



To date, practically all the examples of new models of cooperation have arisen from efforts by community groups that have approached a federal institution because they wanted to ensure better government service to their community.

Direct provision of a government service by a community group has several advantages, both for the community and for the group in question. The community, for its part, has easier access to government services in its language and in places that are familiar to it. For example, the synergy created in the area of employability and human resources development substantially strengthens the community's social fabric and increases its capacity for self-reliance. In addition to creating a number of new jobs, the group providing the service enjoys considerable financial advantages which enables it to better support the vitality of the community.

Despite these obvious advantages, the provision of a government service by a community group, regardless of the form or model of cooperation chosen, is not a simple matter and cannot be improvised.

Certain government services, moreover, can be difficult for a community group to offer; these include the collection of confidential data, the maintenance of order, and certain social services.

The leaders of the community groups consulted have differing opinions about these methods of cooperation to deliver services. A number of community stakeholders have pointed out a major concern, namely that the provision of government services through a community group relieves a department of the obligation to provide the service in both official languages in its offices. Others fear a decline in the quality of service.

Some say that we might see competition develop between community groups that want to provide government services as a result of the financial benefits that might accrue. Some people do not see why certain community groups provide a government service when there is no evident link between the services provided and the group's mission, particularly if the principal mission of a group is to lobby the government. For example, these people see a danger in an association that plays a role as the spokesperson for a community at the political level becoming the provider of a government service and thereby compromising its freedom of action.

Finally, others question the fact that, in some cases, a minority community group delivers a government service in both official languages to the entire population and see in this a practice that could exacerbate the cultural and linguistic problems experienced by the minority communities.

This shows that the development of models of cooperation between a department and a community group for the delivery of a government service is not to be recommended for all possible services or for all groups.

Any community group interested in initiating negotiations with a department to provide government services must therefore proceed with caution. A group that represents the



community must ask itself a number of basic questions before embarking on such a path, the most important of which is the following: does it retain its full freedom to lobby and make requests of government institutions if it becomes a service provider on their behalf?

In such a case, it would be to the group's advantage to create a new independent entity that would become the government service provider so as always to retain its full capacity to act.

It seems to us that the Fédération des communautés francophones et acadienne du Canada (FCFA) offers a particularly interesting model in this regard. For some years it has directed the analyses of the Comité d'adaptation des ressources humaines de la francophonie canadienne. The structure established as a result, the National Committee for Canadian Francophonie Human Resource Development, is completely independent, and the FCFA retains its full freedom of action as a political representative at all levels.

A sectoral group must also ask itself questions before undertaking the delivery of a government service. For example, if it undertakes the delivery of too many government services, can it still maintain its ability to deliver the community services for which it was created?

A fundamental question therefore is: in what circumstances is it desirable to establish models of cooperation that enable an official language minority community group to ensure the delivery of a government service?

The preference goes to models of cooperation governed by bipartite or multipartite partnership agreements. Such agreements are the result of serious negotiations and have passed through many levels of approval before being signed; the services to be provided, the responsibilities of each party, and the procedures for their delivery are clearly defined.

It is also preferable that these services be delivered by community agencies whose primary, if not only, mandate is the provision of the service in question. This is the case with the National Committee for Canadian Francophonie Human Resource Development at the national level and of Éducacentre at the provincial level. Each organization has been created expressly to deliver a particular service.

In the absence of a partnership agreement or a community group with such a primary mandate, it seems to us that the direct provision of a government service by a community group must be seen as a last resort when a department has exhausted all other alternatives for providing the service directly in full compliance with its linguistic commitments. This situation is encountered in the provision of service at the local level in the smallest communities where there is little possibility of establishing an independent agency. This is the case of the London-Sarnia regional ACFO.

Community groups that embark on such a path must also show diligence.

In all the examples listed in this study, the sponsoring groups carried out major preparatory work before submitting a project to a department. They consulted extensively with the target population and other community groups to ensure that the service was necessary and desired. They carried out a major needs study before proposing well-considered action plans to the federal institutions.



The community project managers whom we consulted fully understand the responsibilities incumbent on a government service provider. We noted administrative rigour and a concern to provide the best possible service to the target clientele.

Finally, the community group that provides a government service is subject to the law and must, in particular, ensure compliance with the *Official Languages Act* within the established models of cooperation. All the evidence suggests that a community group that did not fully provide service in the minority language would contravene the *Official Languages Act*. It must therefore ensure in its negotiations that it obtains the resources required to provide service equivalent to that offered to the majority community.

Recommendation

Any community group that wishes to establish a model of cooperation with a federal institution to provide a government service must:

- ensure community support and coordinate its efforts with those of other community groups;
- conduct a needs study and do implementation planning;
- preferably, establish an independent agency that will provide the service; and
- ensure that this new model of cooperation contributes, by the quality of the service provided, to the advancement toward equality of the minority and majority communities.

VI. RECOMMENDATIONS TO FEDERAL INSTITUTIONS



The obligations imposed on a federal institution for the provision of a government service are not diluted when it develops a model of cooperation with a community group to facilitate the delivery of the service, regardless of the form taken by this model of cooperation.

The following recommendations are designed to support the efforts of federal institutions that are developing models of cooperation with community groups for the delivery of a service or program.

1. Monitoring of New Models of Cooperation

Projects and procedures for providing services to the official language communities through new models of cooperation often arise at the grass roots, at the local level, and this makes them more relevant to the communities. However, such an approach makes the monitoring of these models of cooperation and the analysis of possible impacts in terms of the *Official Languages Act* at the national level more difficult.

Since there is no central registry that documents the new models of providing service to the official language communities, the gathering of information for this study was difficult and required a large number of telephone interviews with government and community employees at the national, provincial and local levels.

It should be clearly understood that the new models of cooperation inventoried are not aimed solely at the minority official language communities. In all the cases identified, the federal institutions have developed new models of service delivery for the entire population and then adapted these models to the minority official language communities. We did not find a single new program created and introduced solely to serve a minority community.

After five years during which some 100 initiatives, pilot projects and other projects have been developed, we believe that a central agency of the federal government must establish a monitoring system for new models of cooperation that ensure the delivery of government services through community groups.

The report of the Task Force on government transformations and the official languages said, in reference to partnership with the communities: “It is important...to be cautious in adopting this type of approach, which entails the creation of a new, parallel program delivery mechanism that has not necessarily proven itself.”

The Task Force’s concerns remain well founded. In the course of this study we identified one model that we were unable to analyze. A department offered a contract to a small local community group for the delivery of a service in a locality. The community group in question informed us that it was not in possession of the contract, and the local office of the department failed to send it to us, even after it was requested.

To date, the models established are mainly in the areas of employability, economic development, and the Francophone cultural sector at the national level. Other forms of cooperation are developing gradually.



For example, the Assemblée communautaire francosaskoise, inspired by the approach recommended by Mr. Justice Chartier³ in the neighbouring province of Manitoba, has just established a “single window” in 12 communities in Saskatchewan. In each office, a bilingual employee provides services, ranging from training to job search, to the entire community in both languages; other services will be added in the years to come. The office’s language of work will be French. The offices are linked virtually. According to the director general of the Assemblée communautaire francosaskoise, this initiative is to some extent the result of federal devolution and the implementation of section 41 of the *Official Languages Act*.

A number of community groups have informed us of projects in preparation. The various models of cooperation will multiply in the years to come.

An ounce of prevention is worth a pound of cure. The federal institutions responsible must develop now the procedures required to inventory the developing new models of cooperation, on the one hand, and, on the other, ensure that these models respect the spirit and intent of the *Official Languages Act*.

Recommendation

That the Committee of Deputy Ministers Responsible for Official Languages assign the Treasury Board Secretariat and the Department of Canadian Heritage the responsibility for establishing, within the next six months, a central data collection system to monitor the development of models of cooperation between federal institutions and community groups that lead to the delivery of government services or programs to the minority official language communities.

That the Committee of Deputy Ministers Responsible for Official Languages assign the Treasury Board Secretariat and the Department of Canadian Heritage the responsibility for developing a management framework for models of cooperation between the government and community groups for the delivery of services in order to ensure respect for the spirit and intent of the *Official Languages Act*. This framework should be operational by March 31, 2001.

2. Overall Evaluation of Models of Cooperation

A number of the cases noted in this study are interesting and promising. Most of these models are recent, having been introduced in the past few years and, in some cases, only in the past few months. It is therefore still too early to fully evaluate the overall impact of these models on the communities and on the quality of service provided. It seems to us that such an in-depth evaluation could take place in two or three years, when the communities have had more experience with a variety of approaches.

Such an evaluation would make it possible to confirm the best practices, recommend the necessary adjustments, and eliminate the irritants that may have arisen.

³ *The Honourable Justice Richard Chartier: Above All, Common Sense*, report and recommendations on French-language services in the government of Manitoba, May 1998. This report sets out the concept of community service centres to house the employees of certain departments whose services have been deemed essential by the French-speaking community. The internal language of communication will be French. Mr. Justice Chartier’s approach is based on territorial or community bilingualism and on the principle of improving client service.



Recommendation

That the Treasury Board, in 2002-2003, provide for an overall evaluation of the results achieved following the implementation of new models of cooperation between federal institutions and community groups that lead to the delivery of government services or programs to the minority official language communities.

3. Analysis of Community Needs and Planning of Implementation

As noted above, a community group that wishes to provide a government service must take measures for adequate preparation in the community. This requires financial resources whose size will vary with the clientele and the scope of the service.

Before introducing a new model of cooperation, a federal institution must conduct preliminary talks with the group to discuss the possible models of cooperation, conduct a needs study, and develop an implementation plan that includes, among other things, the following elements:

- an analysis of the needs of the official language minority community for the services to be provided (demographics, level of service provided, level of service to be provided etc.);
- support for consultation among the minority groups likely to deliver the service;
- service delivery mechanisms (skills and training of personnel, site, periodic evaluation, etc.)
- integration of this model of service delivery into the departmental action plan as a whole;
- integration of this model of service delivery into the overall government strategy for the region in question;
- transitional provisions for the resumption of delivery of the service by the government institution in anticipation of the end of the cooperation agreement.

Recommendation

That each federal institution concerned provide adequate financial resources for the conduct of a needs study and for planning the implementation of a new model of cooperation with a community agency for the delivery of a government service to an official language minority community.

4. Control and Accountability Mechanisms

The federal institution must ensure that any model of cooperation serves the public interest and achieves its strategic and operational objectives. During the preparatory phase, it must therefore ensure that the model of cooperation to be introduced respects the *Charter of Rights and Freedoms*, the *Official Languages Act* and the *Regulations*.

**Recommendation**

That each federal institution concerned ensure in all cases that appropriate control and accountability mechanisms are put in place during the planning and implementation of a new model of cooperation with an official language minority community or one of its agencies for the delivery of a service. These mechanisms must, among other things, guarantee respect for the *Charter of Rights and Freedoms*, the *Official Languages Act* and the *Official Languages Regulations*.

5. Respect for the Principle of Equality

There has as yet been no evaluation of all of the models of cooperation inventoried to determine whether the services provided to the minority are equivalent to the services provided to the majority. As we have seen, a few years must still pass before such an evaluation.

In some cases, we observed that federal institutions make provision for and support the training of the employees of the community group that delivers the services. The contractual terms provide for evaluations of the quality of services provided; these terms are explicit in specifying that the services provided to the minority must be of a quality equivalent to the services provided to the majority.

Any model of cooperation between a department and a community group for the delivery of a government service must not call in question the provisions regarding the principles of equality and standards of quality. It is the responsibility of federal institutions to ensure that the service provider meets the requirements of the Act.

Consequently, whatever the model chosen, it must ensure the real equality of English and French, equality of access to service for each of the linguistic groups, and service of equal quality in each official language.

Recommendation

That each federal institution concerned ensure full respect for the principle of equality which is at the heart of the language rights of Canadians and for the quality standards applicable to the delivery of a government service by a community group.

That the federal institution concerned ensure that the employees of the community groups that deliver the service acquire and integrate the required professional and linguistic skills.

That the federal institution concerned periodically conduct a formal evaluation to measure the quality of the services provided by the community group and to ensure their equality.

6. Long-term Stability of the Provision of Service

The most important concern in all the models examined is the perpetuity of the service. Aside from the framework agreements, which are multi year, the models of cooperation identified in this study take the form of annual grant agreements. This is the case with the London-Sarnia regional ACFO and all the examples of this type.



Such arrangements present serious risks. Should the grant to the community group not be renewed, clients will again have to go to the offices of the federal institution in question. In many cases, the local office does not have the linguistic capacity on site. This is what motivated it to develop a model of cooperation with the community group in the first place. At another level, the community groups that provide the service develop a corporate memory that is important for ensuring the quality of service provided. They know the clients and their needs and establish contacts with the institutions of the community. The offices are well broken in, and the rough patches have gradually been smoothed out. The rapid closing of such an office after the non-renewal of a grant would mean the loss of this corporate memory and oblige a department to develop a knowledge of the community once again. In such a situation, the risk is great that clients will experience an erosion of their minority language rights.

The end of a cooperation agreement between a community group and a department for the delivery of a government service to an official language minority community must not, at any time, compromise the principles of equality and quality of the service provided. These agreements must therefore form part of a coherent departmental framework that contributes to the advancement toward equality of the official language communities.

It is ill-advised to proceed by means of an annual grant agreement for these models of cooperation, unless these grants are firmly established in a coherent framework and in a well-considered department strategy for the development of the linguistic minorities.

When a new model of cooperation is established it is therefore necessary to foresee how the government service will be reabsorbed into a department if this model of cooperation should come to an end.

We have not seen such transitional provisions in the models of cooperation established on an annual grant basis.

In its strategy, a department will have to provide for a transition period in the event of the non-renewal of the grant that enables a community group to deliver one of its services. One year of transition seems to us to be a reasonable and equitable period both for the group in question and for the department. During this period, the department might repatriate the files and prepare to offer the service directly or by means of another model of cooperation, and the group might reorganize its operations. For the citizens receiving the service, the transition should take place without a loss of the quality of service provided.

An interdepartmental and intergovernmental approach might lead to multi-year agreements of three or five years and thereby ensure greater stability. Canadian Heritage might have an important role to play in this area pursuant to section 43 of the *Official Languages Act*.

In all cases, the agreements must provide that all the established terms and conditions apply up to the final point of service delivery and that the community group will provide the service directly or by subdelegation or subcontracting.

***Recommendation***

When any model of cooperation by which a community group, directly or by subcontracting, ensures the delivery of a government service, each federal institution concerned must ensure that the delivery is planned on a multi-year basis. Such a model of cooperation must be part of a coherent framework and well-considered departmental strategy to promote the vitality of the communities. The federal institution must provide for a reasonable transition period in the event of the non-renewal of a model of cooperation. In this case, the federal institution must also establish appropriate mechanisms for reabsorbing the service in a way which promotes the advancement toward equality of English and French.

CONCLUSION



The purpose of this report is to assist federal institutions and the communities to better understand the impact of the new models of cooperation being developed whereby community groups ensure the delivery of a government service.

Such an approach has important benefits for the federal institutions in terms of efficiency and effectiveness, for citizens in terms of access to services, and for community groups in terms of growth and institutional capacity.

The some 100 examples inventoried to date offer various interesting and functional models that seems to respect the *Official Languages Act*.

The Government of Canada has the obligation to ensure the advancement toward equality of English and French, pursuant to the *Constitution Act, 1982*.

A model of cooperation whereby a group provides a government service to an official language minority community may contribute in a significant way to the vitality of a community. It also presents risks that could further contribute to the erosion of language rights.

Experience to date makes it possible to set out certain principles that should guide the implementation of cooperation agreements to ensure that they fully contribute to the vitality of the Anglophone and Francophone minority communities:

- any model of cooperation must, as a minimum, preserve acquired rights, including access to and the exercise of remedies, while clearly guaranteeing to the public concerned the right to services pursuant to the provisions of the *Charter of Rights and Freedoms*, the *Official Languages Act* and the *Regulations*;
- any model of cooperation must define and establish mechanisms that will give the minority community services truly equal to those provided to the official language majority;
- any model of cooperation must provide for appropriate control and evaluation mechanisms;
- any model of cooperation must be established on a multi-year basis and ensure the stability of the service provided to the community;
- any model of cooperation must provide for concrete transition measures that fully respect the principle of equality, should the service be reabsorbed into the federal institution in question.



Many of the models we have examined make it possible to respond better to the needs of citizens in the official language communities we strongly urge federal institutions and concerned community groups to show creativity in establishing models of cooperation that will shape the future direction of the delivery of government services to the communities.

Our exchanges and discussions with community members and federal government representatives show a good level of satisfaction on both sides with the initiatives and cooperative arrangements developed in recent years. To be sure, adjustments must be made by both parties, but there is ample reason for hope.

APPENDIX 1: MODELS OF COOPERATION INVENTORIED



1. Clarification of Terms

On September 16, 1999, we contacted the coordinators of Part VII of the *Official Languages Act* and asked them to make an inventory, within their department, agency or Crown corporation, of examples of at least partial delegation of the delivery of a program or service to a minority group or agency and to forward for analysis the pertinent information (description of the nature and terms of each delegation, copy of the agreement/contract, etc.).

The great majority of the coordinators responded that their department did not engage in this type of “delegation of service delivery” to community groups. However, the community groups frequently use the term “delegation” to describe the new models of cooperation inventoried.

It can be seen that communications between public servants and the public are tainted by a terminology that covers a different meaning for each. Thus, whereas the word “**delegation**” is taken in its usual sense by the communities, that is to say, all actions carried out on behalf of the federal government, it means something quite different for the federal institutions. For them, the term means a transfer of powers to a body other than the federal government, such as the “delegation” illustrated by the labour market development agreements between the federal government and the provinces.

A Treasury Board publication on alternative service delivery may help to clarify the definition of terms used. (Treasury Board, *Alternative Service Delivery, Citizen-Centred Service and the Partnership Option, Working Draft*, April 1998).

This document quotes from and is largely inspired by an article by Alti Rodal and Nick Mulder of Consulting and Audit Canada which appeared in *Optimum* in 1993 and provides a framework for reflection ranging from consultation, through partnerships, to the delegation of powers.

Here are brief explanations of a few of the terms used.

First, three concepts for the management of public affairs:

Consultation means an “interactive and iterative” process that elicits and takes into consideration the ideas of clients.

Partnership means an agreement between two or more parties who have agreed to work in cooperation in pursuit of shared and compatible objectives. Such an agreement includes:

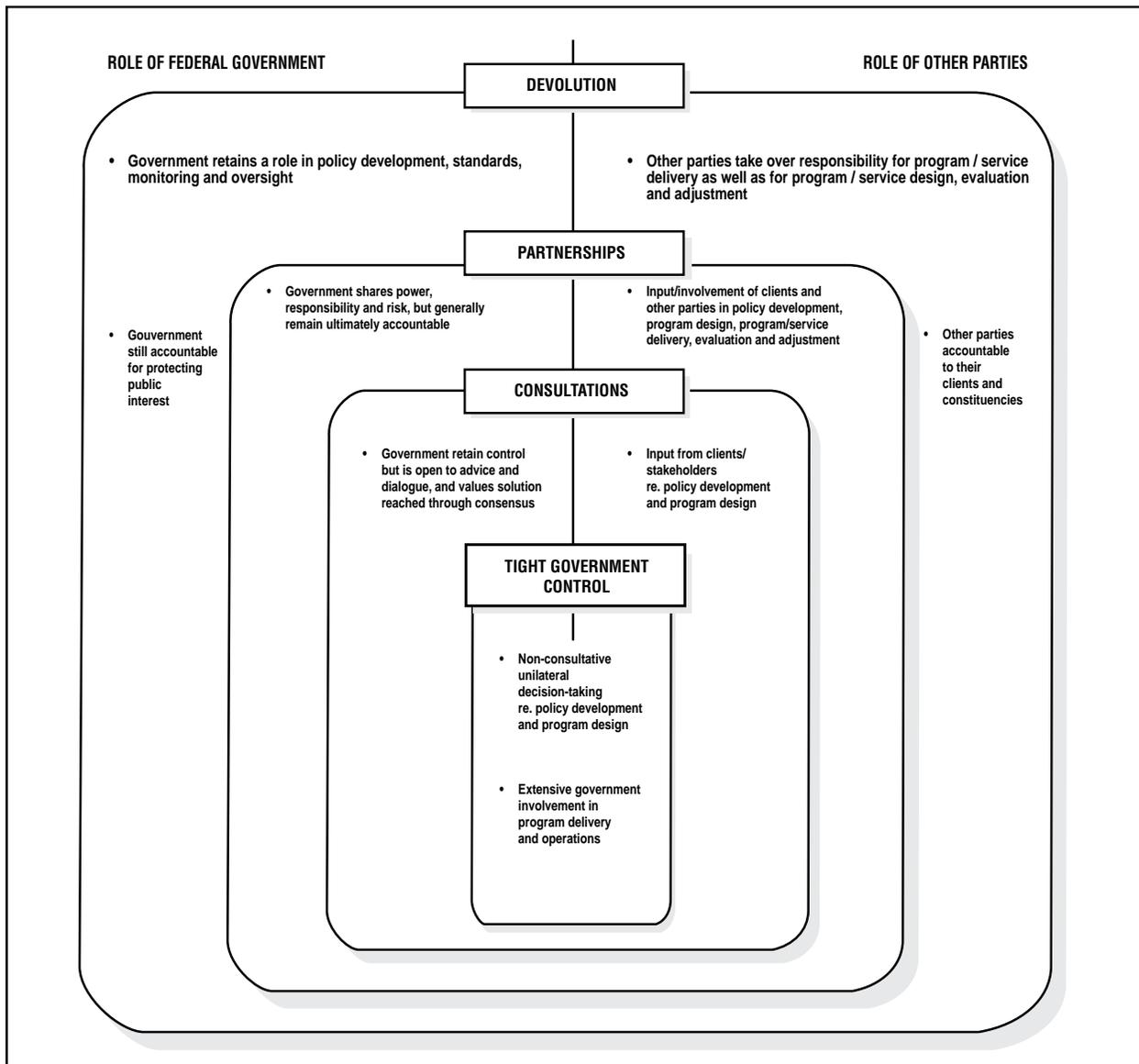
- shared authority and responsibility (e.g.; for the delivery of programs and services, in carrying out a given action or policy development);
- joint investment of resources (time, work, funding, material, expertise, information);
- shared liability and risk-taking;
- ideally, mutual benefits.

Delegation of powers implies the transfer of functions or responsibilities for program and service delivery from the federal government to another body.

These may be considered as degrees in a continuum; at one extreme, government organizations are influenced by outside input, retain control, and are fully involved in implementation; at the other extreme, federal institutions completely transfer authority and responsibility for implementation to other entities (see figure 1).

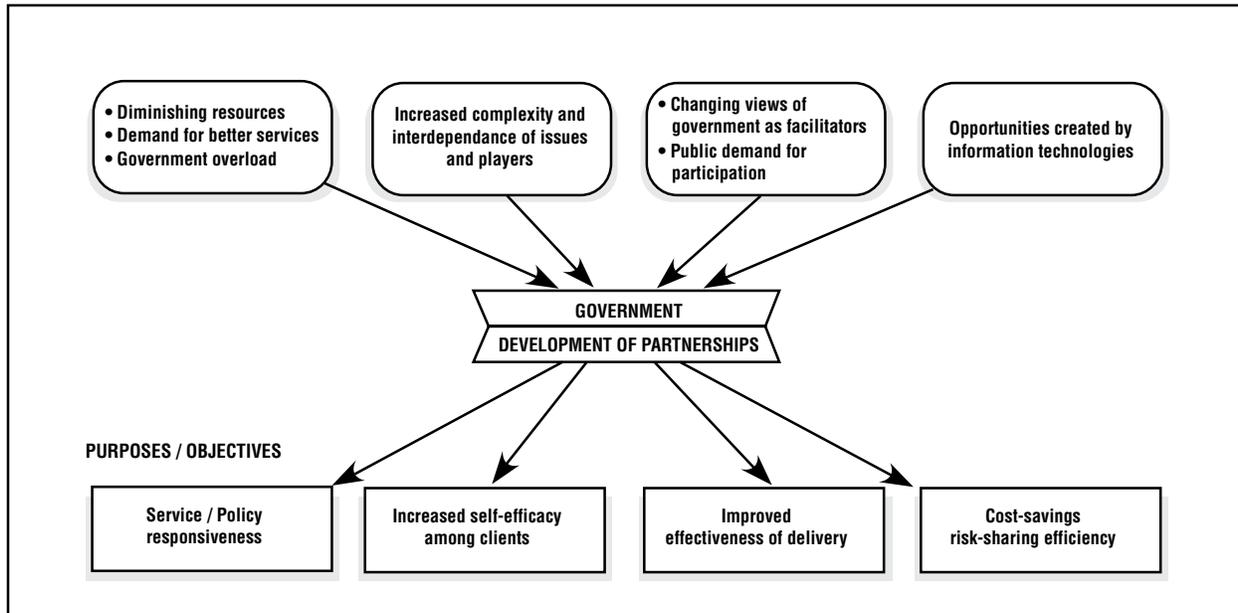
Figure 1

Roles and accountabilities of parties in consultations, partnerships and devolution arrangements



Source: *Optimum, The Journal of Public Sector Management*, Winter 1993, pp. 27-29.

Figure 2
Pressures and objectives of partnerships



This model shown in figure 2 is useful for describing certain government relationships, but it is poorly adapted for defining the models developed between federal institutions and community groups for the delivery of certain government services that we have inventoried in this study.

For example, the term “partnership” may lead to confusion. Of all the examples inventoried, only the National Committee for Canadian Francophonie Human Resource Development model constitutes a true “cooperative partnership” as defined in this continuum. The other agreements examined frequently go beyond simple consultation but do not constitute partnerships as defined in this model, because there is no sharing of powers or responsibilities.

We conclude that the term “delegation of service delivery” leads to confusion and poorly illustrates the new realities that are taking shape in relationships between certain federal institutions and community groups.

It is therefore necessary to develop new concepts to characterize the types of agreement that have been developed in recent years between various federal institutions and community groups. With regard the application of the *Official Languages Act*, the form taken by the provision of service is of little importance; what is important is the nature of the service provided. Is it or is it not a government service?

We propose that the term “models of cooperation” be used to designate parallel and innovative arrangements or provisions for implementing programs by which certain community organizations deliver government services to the minority official language communities.

This term is general enough to cover all the examples inventoried in this study and is precise enough to define the real relationship being developed between certain federal institutions and



community groups. It also conforms to the spirit of section 41 of the *Official Languages Act*, which intends increased cooperation between the federal government and the minority official language communities.

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Because of the multiplicity of models, it is difficult to give a clear portrait of the nature of the arrangements or provisions that frame the relationship between the federal government and the community for the delivery of government services by a community group. The links that frame these models of cooperation are sometimes direct between a department and a community group and sometimes indirect, through a provincial department or other agencies.

DEFINITIONS*

Consultations

Control mode: exclusive government decision-making; little or no consultation with clients/stakeholders.

Briefing mode: listening, dialogue, limited consultation, no necessary impact on decisions.

Debate mode: more open debate, shared analysis of problems, scope to influence decision-making.

Consensus mode: joint agreement on solutions, strong potential to influence decision-making.

Coordination mode: joint decision-making with regard to implementation as well as policy.

Partnerships

Operational partnership: participation in design and delivery of programs/services.

Collaborative partnership: shared decision making with regard to policy development, in addition to program/service design and delivery.

Devolution

Transfer of responsibility for program/service design and delivery.

2. Examples Inventoried in the Course of this Study

In terms of their form, we find models of cooperation governed by various arrangements or provisions. Three principal tools serve to govern most of the models identified.

A simple *contractual agreement* sometimes governs the delivery of a single departmental service. This contract between a department and a community agency specifies the service to be provided and the costs associated with it.

A *contribution or grant agreement* may govern the delivery of a program in whole or in part. This contribution or grant agreement defines the government service to be provided and the costs associated with it. It is not a principal-agent contract as is found in the contractual agreements. The standard contribution or grant form of the departments is used, as for all other

*Source: *Optimum, The Journal of Public Sector Management*, Winter 1993, p. 29.



grants. The only difference in the examples inventoried is the fact that the community organization delivers, to the local or regional official language community, some of the services that would normally be delivered directly by the department. A number of these grant agreements specify that this model of cooperation enables the department to meet its obligations under section 41 of the Act.

Cooperation agreements are concluded between one or more federal institutions and one or more community groups and specify the principles that govern the agreement, the objectives, and the implementation mechanisms. These agreements are multi-year, and their primary purpose is to increase cooperation between federal institutions and community groups to enhance the vitality of the communities. In some cases, the community groups directly distribute government funds under the terms and conditions of departmental programs. Provincial departments are sometimes found as signatories.

The following are some examples of models of cooperation existing between community groups and federal institutions.

1. National Film Board

Twenty-eight agreements have been signed between the National Film Board of Canada and various libraries, universities, colleges and community agencies to distribute the Board's 16mm films and videocassettes.

The NFB has developed various types of service contract with these "distribution partners," who have consolidated the Board's collection and manage its routine distribution. These contracts have fixed durations and expiry or renewal dates. In some cases, the partner may purchase the Board's collection upon the expiry of the contract.

2. Industry Canada's Volnet Program

Volnet is a program designed to improve the capabilities of voluntary agencies by giving them access to informatics material, the Internet, new information technologies, and support and advice on networking.

Industry Canada has signed a contribution agreement with 30 implementation agencies, including four French-language ones (Fédération de la jeunesse canadienne-française, Fédération des francophones de la Colombie-Britannique, Assemblée communautaire fransaskoise, Société de développement de la Baie acadienne), to identify eligible voluntary agencies that wish to benefit from the services of the Volnet program and to determine their needs for Internet access.

The agencies must provide basic Volnet services and act as a central point where organizations can obtain support and improve their competence, find resources, and conclude cooperative agreements with other agencies that wish to make a contribution to Volnet.



The contract clauses clearly specify the department's expectations with respect to the services to be delivered and the conditions attached to them. The recipient must implement the project in a diligent and professional manner using qualified staff. Among other things, the contract includes the appropriate clauses concerning respect for the *Official Languages Act*.

3. Fédération culturelle canadienne-française (FCCF)

In June 1998 the FCCF signed a multipartite cooperation agreement (involving Canadian Heritage, National Arts Centre, Canada Council for the Arts and FCCF) intended to implement an action plan for the cultural and artistic development of the Francophone and Acadian communities of Canada.

Implementation of the action plan has given rise to the creation of various task forces on theatre, the visual arts, music and song and media arts, as well as another memorandum of agreement between the Canada Council for the Arts, Canadian Heritage and the Department of Foreign Affairs and International Trade concerning French Canadian publishers working in minority communities.

Clause 5.4 of the agreement states that project approval and the payment of funds to recipients shall take place in accordance with the support conditions of the programs in question.

This agreement was developed to enable the departments and agencies concerned to better meet their obligations under section 41 of the *Official Languages Act*; its main purpose is to overcome the systemic obstacles that limit access by minority French-speaking communities to the programs of the departments and agencies involved.

4. Assemblée communautaire fransaskoise (ACF)

The Assemblée communautaire fransaskoise and Saskatchewan Post Secondary Education and Skills Training signed an agreement effective from July 1, 1999, to March 31, 2001. The purpose of this agreement is the reintegration into the labour market of Saskatchewan Francophones who:

- have been without work for three years;
- have been on welfare;
- are experiencing problems in entering the labour market.



The ACF was inspired by the approach recommended by Mr. Justice Chartier in Manitoba. It has established a “single window” in 12 communities in Saskatchewan. In each office, a bilingual employee provides services to the entire community in both languages, ranging from training to job search; other services will be added in the years to come. The language of work of the office will be French. The offices are linked virtually. According to the director general of the Assemblée communautaire francosaskoïse, this initiative is to some extent the result of federal devolution and the implementation of section 41 of the *Official Languages Act*.

The memorandum of understanding is a standard agreement that the province uses in its contracts with implementation agencies. To clarify the status granted to the agency, article 10 of the agreement states that the delivery agency recognizes and affirms that it does not have the authority to act as an agent of the government of Saskatchewan and will not claim to do so.

5. Employment Services Centres (Alberta)

The Franco-Albertan community has established various employment services centres in recent years. As an example of this type of cooperation, the province of Alberta has concluded an agreement with the Fort McMurray regional chapter of the Association canadienne-française de l'Alberta (ACFA) allowing it to provide English second language evaluation and training services and consultation services to Francophones who are underemployed or unemployed.

In Edmonton, the French-speaking community has developed a very innovative and interesting model. The provincial department, Alberta Human Resources and Employment, has signed an agreement with a non profit firm, Excel Resources Society, which specializes in the development of employability services. To deliver the services to French speaking clients, Excel Resources Society has created Les Entreprises EFE Ltée (www.francalta.ab.ca/cse), a non-profit incorporated firm fully owned by it. Les Entreprises EFE Ltée (Enseignement, Formation, Emploi) is headed by a five-person board of directors from the French-speaking community. Excel Resources asked ACFA to appoint the first members of the board of directors who, in their turn, appoint their successors.

Housed at la Cité Francophone, Les Entreprises EFE Ltée employs five full time and contract employees to deliver the following services to the some 3,600 French-speaking clients who must be served during the duration of the agreement:

- job placement service;
- on-the-job training program;
- skills enhancement program;
- English as a second language course;
- new beginning.



It should be noted that the agreement signed between the department and Excel Resources is for three-and-a-half years; this ensures some permanence to Entreprises EFE Ltée. One irritant pointed out is the fact that Les Entreprises EFE Ltée must submit its activity reports in English.

6. Société franco-manitobaine (SFM)

The SFM signed a service contract with Canadian Heritage and the Pan American Games Society effective from May 15, 1997, to December 31, 1999, to ensure the quality of services pursuant to the provisions in the subsidiary agreement on official languages signed by the Pan American Games Society.

All indications are that, on the whole, this event gave an equitable and equal place to both official languages. The SFM conducted a number of checks on bilingual service and signage to ensure that they were adequate.

7. Joint Provincial or Territorial Committees

Three French-speaking communities, those of Prince Edward Island, Manitoba and Alberta, have succeeded in establishing a joint provincial committee. Each committee consists of representatives of departments or agencies of the federal government, the provincial government and the minority community that are involved in economic development.

Part of the National Committee for Canadian Francophonie Human Resource Development's strategic plan is the signing of such agreements in all the other provinces by March 2001. Negotiations are currently under way. In some cases, the province seems hesitant to sign such an agreement, but would agree to have certain provincial departments with an economic mandate participate as observers in meetings under a bipartite agreement that would be signed between various federal institutions and the minority community.

The following are two examples of such a framework agreement. The clauses of the agreement signed between the federal government, the provincial government and the Acadian community of Prince Edward Island in 1997 are substantially the same.

7.1 Association canadienne-française de l'Alberta (ACFA)

This five-year tripartite agreement involves, at the federal level, the Department of Human Resources Development, the Department of Western Economic Diversification, the Department of Canadian Heritage, the Department of Industry, the Department of Agriculture and Agri-Food, the Department of Public Works and Government Services; at the provincial level, the Department of International and Intergovernmental Relations, and the Department of Learning at the community level, the Association canadienne-française de l'Alberta.



The purpose of the agreement, which has been in effect since March 17, 1999, is to develop a framework for cooperation on economic development and the development of human resources through the creation of a tripartite committee whose role is to advise on the direction of policies, programs and services of federal and provincial agencies and promote economic growth and the development of the human resources of the French-speaking community. This committee engages in liaison, coordination, information, and research and development activities.

The provincial and federal agencies who are parties to the agreement agree to contribute to the economic expansion and human resources development of the French-speaking community and to its vitality by ensuring the equitable participation of Francophones in the programs and services provided under their respective mandates.

7.2 Manitoba Association of Bilingual Municipalities

The Manitoba Association of Bilingual Municipalities signed a tripartite agreement which includes the following partners: the Government of Canada (Human Resources Development, Industry, Agricultural and Agri-Food, Western Economic Diversification, Canadian Heritage); the province of Manitoba (Agriculture and Food; Culture, Heritage and Tourism; Industry, Trade and Mines; Intergovernmental Affairs; Education and Training); the Manitoba Association of Bilingual Municipalities, and the Economic Development Council for Manitoba Bilingual Municipalities (CDEM).

Just as in Alberta, this agreement establishes a framework for ongoing cooperation to facilitate the economic and human resources development of the province's French-speaking community.

8. LABOUR MARKET DEVELOPMENT AGREEMENT (LMDA)

It is not the purpose of this study to analyze once again the labour market development agreements which the former Commissioner has already taken up in his study on the impact of government transformations. We mention the LMDAs simply to clearly demonstrate the difference between the delegation of a responsibility from one government to another level of government and the procedures for cooperation established with the communities.

HRDC has signed delegation of powers agreements with the provincial governments (except Ontario) on labour market development. For example, the Canada-Manitoba agreement concerns labour market development and delegates to the province of Manitoba the implementation, under Part II of the *Employment Insurance Act*, of arrangements that allow Manitoba to play a larger role in the design and implementation of labour market development programs and services. This is a three-year agreement; i.e., from fiscal year 1997-1998 to 1999-2000.



In Manitoba, services must be available in both official languages where there is significant demand, pursuant to sections 5.2 and 5.3 of the agreement, whereas section 5.4 provides for consultation with representatives of the French-speaking community.

Article 5.2: Manitoba will ensure that availability of assistance - under its provincial benefits and provincial measures and with respect to the functions of the National Employment Service for which it is assuming responsibility - is in either official language where there is significant demand for assistance in that language. In delivering its provincial benefits and provincial measures, Manitoba will actively offer its services in either official language in accordance with its French Language Services Policy.

Article 5.3: In determining areas of Manitoba where, for the purpose of section 5.2, there would be considered to be a “significant demand,” Manitoba agrees to use, as a guideline, the criteria for determining what constitutes “significant demand” for communications with, and services from, an office of a federal institution as set out in the *Official Languages Regulations* made pursuant to Canada’s *Official Languages Act*.

Article 5.4: Manitoba will consult with representatives of the Francophone community in Manitoba on the provision of French-language labour market development programs and services under this Agreement.

APPENDIX 2 : BIBLIOGRAPHY

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