

**Brochure on
Regulation 284/11**
and the provision
of services in French

Introduction

This document is intended for agencies and individuals – also referred to as **“third parties”** – to explain the provision of services in French to the citizens of Ontario on behalf of the provincial government or one of its agencies. It clearly explains who constitutes a “third party” and their **responsibilities under agreements signed with the government** for the delivery of services in French.

This new regulation, passed by the Government of Ontario, clarifies the existing obligations under the *French Language Services Act* (FLSA) with respect to **services offered by third parties on behalf of ministries and other government agencies**. The regulation, *Ontario Regulation 284/11, Provision of French Language Services on behalf of Government Agencies*, came into force on July 1, 2011 and can be consulted at the following Internet address:

http://www.e-laws.gov.on.ca/html/source/regs/english/2011/elaws_src_regs_r11284_e.htm.

In the regulation, “third party” means a person or entity that has agreed with a government agency to provide a service on behalf of the agency.



Ontario Regulation 284/11 does not create new obligations; it was enacted to improve the delivery of services in French in the public and broader public sectors by clarifying:

- **the government’s duty to ensure** that services offered on its behalf by third parties are also available in French;
- the concept of **“active offer”**, which means that services in French are obvious, easily available and accessible, and publicized so that Ontario’s French-speaking population is informed about the services available in French and can access those services;
- the **reporting requirements** by asking the government to ensure that its contracts with third parties clearly set out its expectations for services in French.

Questions and Answers

This section will answer your questions on the expectations of the Ontario government or one of its ministries or agencies with respect to French-language services offered to the public by third parties on behalf of government agencies.

✓ What is a “service”?

A service includes **any service or procedure provided to the public** by a government agency or institution of the legislature and includes the communications required to that effect. Employment services and driver examinations are two examples of services provided to the public on behalf of government agencies.

✓ What is “the public”?

In the context of the FLSA, the public includes **individuals, businesses, not-for-profit organizations, municipalities, community stakeholders, etc.**

✓ What is “a service on behalf of”?

Every situation must be looked at individually by **analysing the nature of the program or service, including any relevant legislation.** Sometimes the statute that regulates a program makes it clear who in law is responsible for the service.

In other cases, the outcome will depend on other factors. In the final analysis, the issue is whether the third party service is really a government agency service, or whether it is actually a service of the third party. The FLSA applies to the first type of service but not to the second.

For more information, contact the government representative with whom you usually deal with respect to the service in question.

✓ What is a “government agency”?

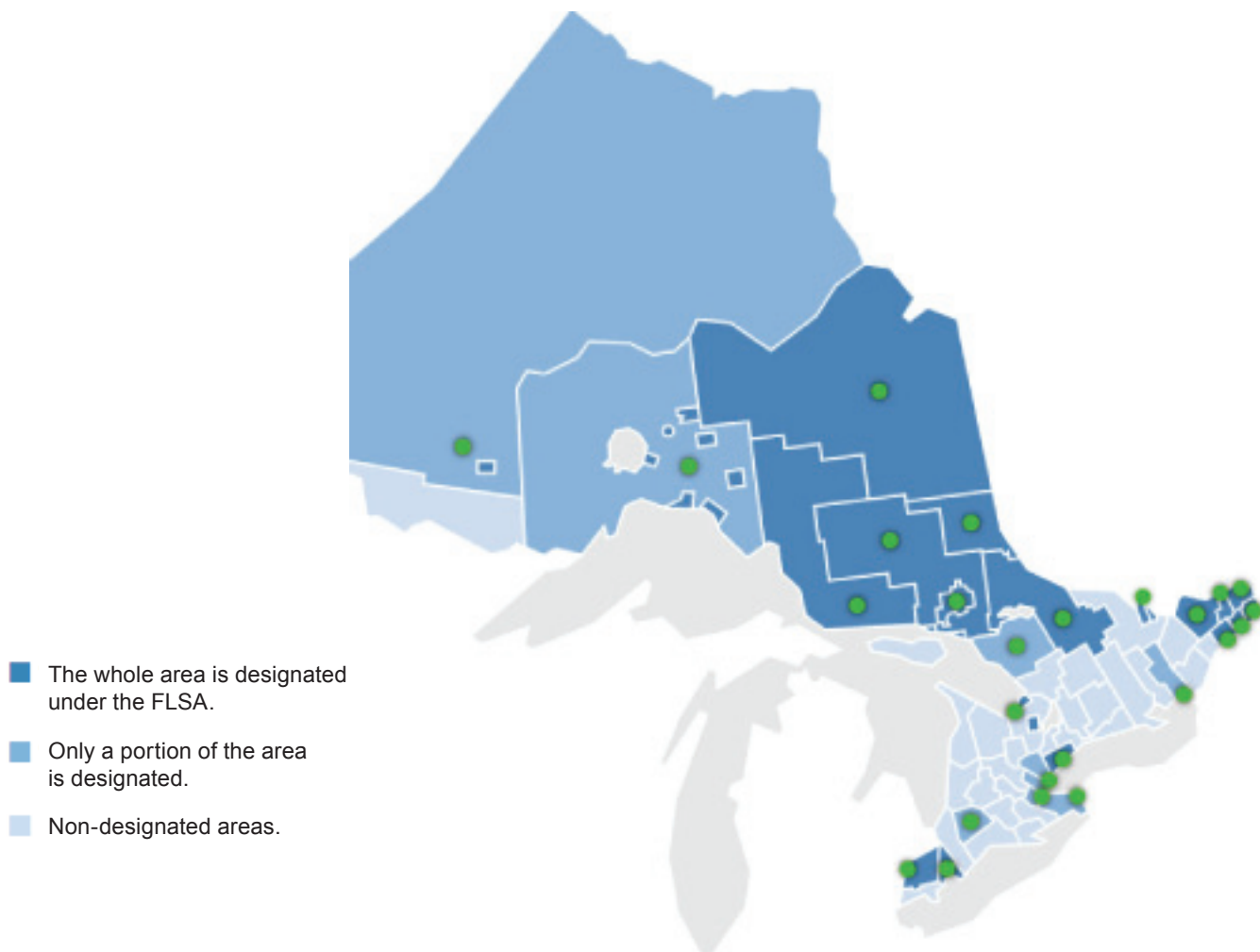
The term “government agency” is defined in the *French Language Services Act*. It includes ministries and other entities. More specifically, there are five entities that may be “government agencies” under the definition:

1. **Ministries** (except that a psychiatric facility, residential facility or college of applied arts and technology that is administered by a ministry is not included unless it is designated as a public service agency by the regulations);
2. **Boards, commissions or corporations** where the majority of the members or directors are appointed by the Lieutenant Governor in Council (“LGIC”);
3. **A non-profit corporation** or similar entity that provides a service to the public, is subsidized in whole or in part by public money and is designated as a “public service agency” by regulation;
4. **A long-term care home** as defined in the *Long-Term Care Homes Act, 2007* that is designated as a public service agency by the regulations, other than a municipal home or joint home established under Part VIII of the *Long-Term Care Homes Act, 2007*, or a home for special care as defined in the *Homes for Special Care Act* that is designated as a public service agency by the regulations; and
5. **A service provider** as defined in the *Child and Family Services Act* or a board as defined in the *District Social Services Administration Boards Act* that is designated as a public service agency by the regulations.

The definition of “government agency” in the FLSA does not cover municipalities. Accordingly, the regulation does not impose any duties related to the provision of municipal services. However, it is conceivable that a municipality could agree to provide a service *on behalf of* a government agency. If this is the case, under Regulation 284/11, the agreement between the applicable government agency and the municipality must include provision for the delivery of services in French.

✓ What is a “designated area”?

Twenty-five geographic areas in Ontario have been “designated” under the FLSA. The map of the designated areas can be consulted on the OFA website at <http://www.ofa.gov.on.ca/en/flsa-mapdesig.html>



The designated areas are also listed in the Schedule to the *French Language Services Act*. Some of the names used in the Schedule do not reflect the current legal names of municipalities. If you have any questions as to whether a particular place is in a designated area, you should check with the government representative with whom you usually deal.

✓ What are the provincial government's expectations of third parties who provide services in French on behalf of the government?

Expectations

Not all agencies located in a designated area are required to provide their services in French. If the government does not deliver its services directly, it must ensure that services are provided in French to the citizens of the designated area. It can do this by signing agreements with one or more third parties, which will provide the services on behalf of the government.

The **agreement(s)** signed between the government and a third party serving a designated area **must set out the expectations** for the provision of services, whether that is through the **direct offer of the service or by referral to another agency**.

The government identifies the agencies that are most capable of providing its services in French by taking into consideration such criteria as the agency's expertise, linguistic capacity and administrative ability, as well as its knowledge of the Franco-Ontarian community and the clients it serves. Wherever possible, the government uses Francophone agencies, which are often in the best position to provide a service in French.

Compliance

Since ministry and other government agencies have until **July 2014** to comply with the new regulation, they must review all existing service agreements with third parties and make any necessary changes to ensure that French-language services are provided by that date.

If your agency/organization does not already have a contract with the government to provide services in French to the public, you should be aware that **any new agreement** signed after July 1, 2011 must comply with Regulation 284/11 either **by including a clause** on French-language services or by **including a referral clause** so that clients who speak French are served in the language of their choice.

✓ What if my agency/organization signed an agreement with the government before July 1, 2011?

If your existing agreement with the government for the provision of services on its behalf was signed before July 1, 2011, the government has until July 1, 2014 to review the agreement to ensure that it includes a clause related to the provision of services in French.

The requirements of the regulation will be discussed with your agency during the annual contract negotiation process to ensure that the goals and objectives of the new regulation are fully understood and respected.

You must **indicate** to the government agency funding the provision of services **how you are meeting the French-language services requirements of your agreement**. Your usual provincial government contact will advise you on how to proceed.

✓ What if my agency/organization signed an agreement with the government after July 1, 2011?

If you are providing services on behalf of the government and the agreement with the government was signed after July 1, 2011, it should include **provisions related to the delivery of services in French**.

If the government agency did not identify you as a provider of French-language services, your agreement will include a **referral clause** so that clients who speak French are served in the language of their choice.

✓ **What implementation mechanisms are recommended under the new regulation to third parties that are providing services in French on behalf of the Government of Ontario?**

The service provider must **clearly indicate** to the French-speaking population that services are provided in French **through signs, notices and other forms of bilingual signage**. Publications and written and oral communications from third parties must be available in French and be of the same quality as those available in English.

The service provider must also ensure that all of the **agency's documents** and **its website** along with **greetings** and **recorded messages** from bilingual staff are in English and French. To this end, it must:

- identify and fill a certain number of bilingual positions to provide appropriate service in French;
- have qualified staff to provide quality service in French at all times;
- be able to refer clients to another agency serving the same area for French-language services if it is unable to provide them;
- have in place an agreement with one or more agencies serving the same area in the event that a referral is necessary.



Conclusion

The **implementation mechanisms** mentioned in this document respect the objectives for active offer of services in French by third parties under Regulation 284/11, which came into force on July 1, 2011 and was made under the *French Language Services Act* (1986).

Agreements between ministries and other government agencies and third parties must take into account the French-language services obligations of the Government of Ontario to Franco-Ontarian communities. Accordingly, existing contracts and agreements must be reviewed and include clauses on the delivery of services in French. Ministries and other government agencies may negotiate with third parties to determine how best to ensure an active offer of French-language services, either directly by the third party or through a referral to another agency/organization with French-language capacity.

If an agency acting as a third party has any questions about providing services in French, it should contact its usual Government of Ontario representative or the nearest Government of Ontario regional office.



For more information:

The government's news release on Regulation 284/11 can be viewed at:

<http://news.ontario.ca/ofa/en/2011/06/ontario-ensures-french-services-are-provided-through-third-parties.html>.

Ontario's Francophones are encouraged to consult www.serviceontario.ca to find services offered in French in their area.