Date: 20110210

Docket: T-894-10

Citation: 2011 FC 159

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, February 10, 2011

PRESENT: The Honourable Mr. Justice Scott

BETWEEN:

YVES MAYRAND

Applicant

and

CANADA REVENUE AGENCY

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1]   This is an application for judicial review of a decision dated April 15, 2010, of the

Assistant Director, Audit, of the East Central Ontario Tax Services Office of the Canada

Revenue Agency (the respondent), filed under section 18.1 of the *Federal Courts Act*,

R.S.C. 1985, c. F-7, by Yves Mayrand (the applicant), following the rejection of his request for a

review of the selection board's negative decision in a competition to staff the position of an

AU-01 tax auditor.

Facts

[2]   The applicant has been working for the respondent as a tax auditor (PM-02) since

June 2002. He is trained as an accountant and a member in good standing of the Certified

General Accountants of Ontario. He applied in an internal selection process conducted by the

respondent to staff a tax auditor position (AU-01), the deadline of which was October 19, 2007.

[3]   The AU-1 tax auditor position was classified as a unilingual English position, and the

applicant chose English as the language of correspondence for the selection process.

[4]   The selection process required that the skills of all candidates be first assessed using

standardized tests. Initially, the applicant failed this first stage of the selection process, but was

screened in again after he completed an external assessment to reach the required level.

[5]   Candidates who passed the first stage went on to the next stage, where their competency

in Planning, Organizing and/or Monitoring was assessed. This exam involved an interview with

a selection board, and a reference check with the candidates' immediate superiors; candidates

could obtain a maximum score of 20 for the interview and 10 for the references. A result of at

least 60% was required, making the passing grade 18 out of 30.

[6]   The applicant met with the selection board and answered the four questions, which were graded out of 20. He was awarded 11 out of 20. His immediate superior gave him 5 out of 10, pointing out that the applicant had to manage his workload better in order to meet deadlines. It should be noted that an error was made when the scoring tool was sent to the applicant's supervisor: the file was mistakenly named "ECO Criminal Matters CRAEEmployee-tef.doc"; the content, however, was not affected. This error was allegedly made by the translation unit.

[7]   On April 14, 2009, the applicant was informed in writing that he had been eliminated from the selection process since he had not obtained the required pass mark. The applicant submitted a request for individual feedback on the same day and chose to have the recourse procedure conducted in French.

[8]   The documents were translated, and a Francophone employee of the respondent working in the Audit Section, Marc Charron, translated some of the documents even though he is not trained as a translator. In accordance with the feedback procedure, the applicant submitted additional comments on September 11, 2009.

[9]   The respondent confirmed its decision to eliminate the applicant on November 19, 2009, and, on the same occasion, notified him of his right to request a review of the decision.

[10]   On November 20, 2009, the applicant filed a request to have the decision to eliminate him from the selection process reviewed. In that request, he submitted that the tool used to assess

the Planning, Organizing and/or Monitoring competency was subjective and that the supervisor should not have been consulted.

[11]   On the same day, that is, November 20, 2009, the applicant filed a grievance with his union, which was heard at a meeting on March 8, 2010.

[12]   As a result of an error in communication with the union, the respondent thought that the grievance and the request for review would be heard at the same time, explaining the long time that elapsed before the review procedure began.

[13]   On March 11, 2010, the applicant was informed that his request would be dealt with in writing.

[14]   On April 15, 2010, Neil Young, Assistant Director, Audit, rendered his decision, in which he rejected the applicant's arguments and upheld the decision of the selection board.

Impugned decision

[15]   In his decision, Mr. Young first noted that under the Directive on Recourse for Assessment and Staffing he had to determine whether the candidate was treated in an arbitrary manner during the selection process. Quoting the definition of "arbitrary" at section 4.2 of the Directive, Mr. Young found that the applicant was not treated arbitrarily and that the criteria, definitions and processes used to assess the applicant's competency in Planning, Organizing

and/or Monitoring complied with the respondent's policy and procedures. He therefore did not recommend corrective measures.

[16]   In reaching that conclusion, Mr. Young considered the information provided with the questions, the scoring key, and the notes and summaries provided by the members of the selection board. He also talked to the board members to properly understand the process and the context in which a locally developed tool had been used. In addition, he points out that all the applicant's submissions had been submitted to him in writing and translated into English for him. Mr. Young therefore considered the applicant's two main objections, the consultation of his immediate supervisor and the subjectivity of the scoring tool. He also examined the applicant's arguments concerning the impact of the error in the name of the scoring file sent to the applicant's supervisor.

Relevant legislation and policies

[17]   The following provisions of the *Canada Revenue Agency Act*, S.C. 1999, c. 17, vest in the respondent an exclusive right and authority to appoint employees and require the respondent to develop a staffing program. The *Public Service Employment Act*, S.C. 2003, c. 22, therefore does not apply to the respondent's employees:

Appointment of employees	Pouvoir d'embauche de l'Agence
53. (1) The Agency has the exclusive right and authority to appoint any employees that it considers necessary for the proper conduct of its business.	53. (1) L'Agence a compétence exclusive pour nommer le personnel qu'elle estime nécessaire à l'exercice de ses activités.

Commissioner's responsibility

(2) The Commissioner must exercise the appointment authority under subsection (1) on behalf of the Agency.

Nominations par le commissaire

(2) Les attributions prévues au paragraphe (1) sont exercées par le commissaire pour le compte de l'Agence.

Staffing program

54. (1) The Agency must develop a program governing staffing, including the appointment of, and recourse for, employees.

Programme de dotation

54. (1) L'Agence élabore un programme de dotation en personnel régissant notamment les nominations et les recours offerts aux employés.

Collective agreements

(2) No collective agreement may deal with matters governed by the staffing program.

Exclusion

(2) Sont exclues du champ des conventions collectives toutes les matières régies par le programme de dotation en personnel.

The following provisions of the Canada Revenue Agency's Staffing Program are relevant:

4.3-1 The Selection Process and Pre-Qualification Process are the principal mechanisms for the promotion and appointment of staff (both internally and externally). Selection Processes may also be used for staffing on a permanent, term or acting basis, as well as lateral moves.

4.3-4 The Pre-Qualification Process (PQP) is the process by which individuals identify career interests and can be assessed for pre-qualification for specific positions. PQP's will enable employees to be considered for further and future selection.

4.3-5 The recourse available to individuals varies according to the type and stage of selection process; recourse rights are outlined in the Staffing Program and the Directive on Recourse for Assessment and Staffing.

5.2 Individuals have access to recourse mechanisms including Individual Feedback, Decision Review and Independent Third Party Review, depending on the nature of the staffing activity and as per the Directive on Recourse for Assessment and Staffing.

5.3 Individual Feedback is provided upon request by the person(s) responsible for that particular assessment, stage of the selection process or staffing action.

5.5 Individual feedback is also a mandatory step before proceeding to other forms of staffing recourse.

7.2 With the exception of the assessment for a unilingual position, the ability to communicate orally and in writing, all examinations, tests and interviews for the purpose of determining qualifications of candidates shall be conducted in the Official Language of the candidate's choice.

7.3 The selection board members must be able to communicate effectively in the official language(s) chosen by the candidate..

7.4 Recourse will be conducted in the official language of choice of the individual seeking recourse.

Annex L of the Staffing Program, Directive on Recourse for Assessment and Staffing, describes the recourse available to the applicant:

4.1 In all cases, the grounds for recourse for Individual Feedback, Decision Review and Independent Third Party Review is whether the employee exercising recourse was treated in an arbitrary way. The focus should be on the treatment of the individual in the process and not on the evaluation of other candidates/employees.

4.2 The term <u>arbitrary</u> is defined as follows:
"*In an unreasonable manner, done capriciously; not done or acting according to reason or judgment; not based on rationale or established policy; not the result of a reasoning applied to relevant considerations; discriminatory, i.e., as listed as the prohibited grounds of discrimination in the <u>Canadian Human Rights Act</u>.*"

4.3 For each of the three recourse mechanisms, the review must be limited to circumstances that are directly related to the stage in question of the assessment, internal *selection process* or internal *staffing action*. For example, the Independent Third Party Review will be limited to decisions made during the placement stage of the internal *selection process*.

9.1 The *Authorized Person* responsible for the assessment, internal *selection process* or internal *staffing action or his or her delegate* (e.g., Selection Board Member, *Pool Administrator*, *Resourcing Advisor*, *Competency Consultant* or *Technical Competency Assessor*):

9.1.2 May choose to be accompanied by an individual of his or her choice during the Decision Review. The role of the accompanying person is that of an observer.

9.2 The *Decision Reviewer*

9.2.3 May choose to conduct the Decision Review verbally (in person or by telephone) or in writing (by letter or e-mail).

9.2.4 Shall conduct any meetings or interviews in the official language of choice of the candidate/employee.

9.2.6 Shall conduct the review and gather such information as is required in order to come to a decision. Generally, the review is comprised of the following steps:
-Review documentation presented by the candidate/employee and *Authorized Person* or delegate;
-Gather additional information, as required;
-Analyze the facts; and
-Make the final decision in writing and ensure that it is recorded in the staffing file or the employee's competency profile.

"*Authorized Person*"
Person who has been granted the authority to exercise a specific *staffing action* in accordance with CRA's *Delegation of Human Resources Authorities*.

"*Decision Reviewer*"
This is:
-for internal *selection process* (including non-PQP and PQP), supervisor of the *Authorized Person* responsible for the internal *selection process*.
-for internal *staffing actions*, supervisor of the *Authorized Person* responsible for the internal *staffing action*. . . .

Issues and standard of review

[18]   This application for judicial review raises only one issue, namely, whether the

respondent's decision was reasonable in the circumstances. According to Judge Mandamin in

Wloch v. Canada Revenue Agency, 2010 FC 743, at paragraph 21, the standard of review

applicable to this issue, namely, whether the decision maker considered the appropriate factors in arriving at his decision, is that of reasonableness.

[19]   The applicant, however, submits that this file raises questions of procedural fairness and that the standard of review applicable in the circumstances is that of correctness according to *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, at paragraph 43.

[20]   In this Court's opinion, this application for judicial review is reviewable on a standard of reasonableness, and the issues raised by the applicant are reviewable on that standard.

[21]   Essentially, the applicant raises six (6) grounds in support of his application for judicial review. I will review each of these grounds on a standard of reasonableness.

A.   *First ground*

[22]   The applicant alleges that the respondent did not respect the principles of natural justice since English-speaking candidates were selected and chosen even though the applicant's proceeding before this Court had not yet been resolved. There is no evidence before the Court to prove this allegation, and even if it had been proven, it did not amount to a breach of the rules of natural justice. Indeed, it appears that the respondent is keeping a position open pending this Court's decision on the application for judicial review filed by Mr. Mayrand. In the circumstances, the ground raised by the applicant is therefore not valid.

B.   *Second and third grounds*

[23]   The applicant then argued that the misnamed file that was sent to his supervisor on

July 6, 2009, was derogatory and intimidating. The applicant also submits that since the file used

to prepare the decision review request had an error in its name, there could also have been errors

in its content. In the applicant's words, the error in the name casts doubt on the committee's

ability and objectivity in managing information.

[24]   In the absence of concrete evidence of errors other than that in the file name, which was

acknowledged by the respondent, the Court is unable to reach the same conclusion as the

applicant. In fact, the applicant failed to produce any concrete evidence that the file contained

other errors. The e-mail sent to the supervisor asking for references for the applicant was called

"#3 Translation Request- ECO Criminal MatterCRAEmployee-tef.doc". The applicant asked that

the entire decision review process be conducted in French as is permitted by statute and the

respondent's policies. An error was made by the translation service used by the respondent. To

conclude from that that the review process is flawed and biased just because of a mistake in the

heading of an e-mail seems unreasonable in the circumstances. These grounds are therefore

rejected.

C.   *Fourth ground*

[25]   The applicant submits that the lengthiness of the selection, feedback and review process

was unreasonable and that this had resulted in a breach of procedural fairness. When one looks at

how the file unfolded, it can be seen that there was some delay in having the documents

translated. The Court must, however, conclude that the time limits prescribed in the respondent's regulations were generally met, with the exception of the misunderstanding resulting from a miscommunication between the union and the respondent's Human Resources unit regarding the processing of the grievance in March 2010. The respondent admits that there was some delay in having the documents translated; it denies, however, that this delay prejudiced the applicant in any way. A review of the timeline in this file leads the Court to find that the applicant was not prejudiced by the delays; indeed, the respondent has kept an auditor position open pending the decision of this Court. The fourth ground is also rejected since the applicant was not prejudiced by the delays.

[26]   The applicant also submits that he was prejudiced because the board members also participate in the feedback and review process, which is primarily designed to provide candidates with their results and explanations for those results. In his opinion, the board was both judge and party: there was therefore a breach of the rules of natural justice. A careful review of the file leads to the conclusion that such was not the case. In fact, the applicant seems to confuse the involvement of the board members at the feedback level and the fact that Mr. Young consulted them at the final decision review stage. At this last stage, it seems reasonable to the Court that the board members were consulted on the timeline of the process. The Court can therefore not accept the applicant's argument.

D.   *Fifth ground*

[27]   The applicant alleges in his written memorandum that the determination of the final score is not only arithmetic but also discretionary, since the board can, in his view, give additional marks to candidates. When prompted to clarify this allegation, the applicant submitted at the hearing that the assessment of the Planning, Organizing and/or Monitoring competency by the board left room for arbitrariness. In fact, in response to the Court's question on the scoring key, the applicant pointed out that the fact that there were no specific points allocated to the possible suggested responses was evidence that there was room for discretion, if not arbitrariness. In reply, the respondent argued before the Court that this part of the candidates' assessment was done using the assessment tools developed locally, as permitted by the respondent's staffing policy and regulations, namely, Annex F, Directive on Assessment Methods.

[28]   Furthermore, according to the respondent, this manner of proceeding respects the criteria of transparency, fairness and competency. At the Court's request, the respondent filed a copy of Directive F, a reading of which reveals that using locally developed tools assessment tools to assess a particular competency is only permitted when standardized assessment tools do not exist. At the hearing, the applicant claimed that the respondent has a standardized tool for assessing the Planning, Organizing and/or Monitoring competency. If this is true, the Directive was violated. Was this a fatal error? The Court does not think so, since Directive F permits exceptions as long as Human Resources approve use of a locally developed assessment tool. Since there is no evidence before the Court that standardized assessment tools were indeed available in September 2007, it is impossible to find that the Directive was violated.

[29]   Of concern, however, is the absence of an exact scoring key for the various suggested

responses. In fact, it cannot be argued that the processes used complied with policy since they

did not respect Directive F, which provides, among other things, at page 8, for the use of

structured interviews. In such cases, the Directive provides at page 9 that "(a)nswers to the

questions must be evaluated against established criteria. Developing rating scales and

predetermining the 'marks' for each answer will greatly simplify the evaluation." In the case of

the applicant, this part of the Directive was not followed since, as appears from the record, the

suggested answers were prepared but the rating scale provided for only three major categories,

with marks ranging from 0 to 11, 12 to 15 and, lastly, 16 to 20, without specifying how much

each answer sought was worth. If the respective values of the main answers sought are not set in

such a scale, it becomes impossible to determine whether the standards of transparency, fairness

and competency that govern all of the respondent's processes were respected. Even though the

respondent is no longer subject to the merit principle that applies to staffing in the Public

Service, the fact remains that, as Judge Heneghan pointed out at paragraph 36 in *Hains v.*

Canada (Attorney General), 2001 FCT 861:

> In my opinion that argument must also fail. The Appeal Board
> provided detailed reasons to express its view that the Selection
> Board erred in its use of the grid. It also found that the grid had to
> be set aside because the members of the Selection Board who
> testified were unable to explain how the grid was used. In my
> opinion, these findings are sufficient bases for the Appeal Board to
> find that the use of the marking grid was unreasonable.

[30]   In reviewing the individual marks given by the three selection board members and their combined score for the answers given by the applicant, it is impossible to determine the respective value of each of the answers sought or their respective weights in relation to one another. In these circumstances, the Court fails to see how Mr. Young could write in his decision, which is under review here, that the criteria, definition and process used to assess the applicant's competency in Planning, Organizing and/or Monitoring complied with the respondent's policy and procedure, both of which require transparency and fairness.

[31]   The scoring grid used was in no way transparent. In fact, a reading of the selection board's notes reveals that two members checked off the same items in the key, while just one member gave a mark of 11. Several items appearing on the grid were not checked off, yet some items were, to indicate that the applicant had failed to deal with these items specifically, while others were not, even though the applicant had not addressed them. Moreover, the respective point value of each of the missing items is unknown. In these circumstances, the Court has difficulty seeing how a determination as to the reasonableness and non-arbitrariness of the process could be made. The key also does not specify which answers are required for a candidate to obtain a passing, or higher, mark. This makes it impossible to argue that there was no room for arbitrariness. "Arbitrary" is defined as follows: "In an unreasonable manner, done capriciously; not done or acting according to reason or judgment; not based on rationale or established policy; not the result of a reasoning applied to relevant considerations . . .".

[32]   A reasonable decision requires that one can see and understand the reasoning of the selection board and observe from a scoring key that the candidate passed or failed depending on objectively allocated points. When one cannot determine the value of the items to be scored or identify the minimum items required to obtain a pass mark, it becomes impossible to determine that the decision was reasonable. Consequently, the Court finds that the review decision dated April 15, 2010, was not reasonable in the circumstances.

[33]   The applicant also objected to the selection board contacting his supervisor for references, which Directive F permits. One could possibly also question this part of the assessment in terms of its relevance, but it is not the role of this Court to substitute its judgment for that of Human Resources on the relevance of the assessment tools used; instead the Court has to ensure that Mr. Young's decision was reasonable considering all the circumstances and facts.

E.   *Sixth ground*

[34]   As to the sixth ground raised by the applicant, the Court has seen no concrete evidence that the official languages policy was breached. In these circumstances, this ground is also rejected.

[35]   The case is therefore referred back to the respondent so that it can re-assess the applicant's competency in Planning, Organizing and/or Monitoring, with costs, which are limited to the disbursements incurred by the applicant.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

-        The application for judicial review of the Canada Revenue Agency's decision dated

April 14, 2010, is allowed and that the matter is referred back to the respondent so that it can re-

asses the applicant's competency in Planning, Organizing and/or Monitoring by using an

appropriate assessment method, with costs, which are limited to the amount of the applicant's

disbursements.

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Judge

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SCHEDULE "A"

Annexe F - Directives concernant les méthodes d'évaluation

Énoncés du Programme

- Seul les candidats rencontrant les prérequis seront considéré(s) pour l'évaluation.
- L'évaluation est une comparaison entre les compétences/qualités du candidat et des critères d'évaluation établis, et non une comparaison entre les candidats eux-mêmes (c.-à-d. l'attribution d'un rang).
- Les méthodes d'évaluation seront utilisées pour déterminer à l'étendue à laquelle le candidat possède les compétences/qualités requises pour le(s) poste(s).
- Les personnes autorisées seront tenues d'utiliser les méthodes d'évaluation standardisées organisationnelles dans certaines circonstances déterminées telle que stipulé dans la directive concernant les méthodes d'évaluation.
- Les candidats seront informés par écrit de leur résultat par le biais d'une lettre ou d'un courrier électronique.
- Les candidats qualifiés seront informés de la période pour laquelle ils seront considérés pour le placement.
- Les recours seront disponible sous la forme de rétroaction individuelle aux candidats qui en font la demande suite à leur évaluation. Les candidats qui ont des inquiétudes suite à la rétroaction individuelle peuvent demander un processus de révision de la décision tel que stipulé dans le programme de dotation et la directive sur les recours en matière de dotation. Des mesures correctives seront prises lorsque appropriées.
- L'accès à l'information se fera conformément à la Loi sur l'accès à l'information et à la Loi sur la protection des renseignements personnels. Les candidats auront seulement accès à leur évaluation.

Énoncés de la Directive

- Les candidats seront évalués en fonction des exigences en matière de dotation.
- Les notes de passage doivent être établies séparément pour chaque qualité ou groupe de qualité lorsqu'il y a un sens logique (par exemple: connaissance de la Loi sur l'impôt et l'habileté d'interpréter et d'appliquer la Loi.
- Les méthodes d'évaluation seront utilisées pour déterminer l'étendue à laquelle le candidat possède les compétences/qualités requises pour le(s) poste(s).
- Les méthodes d'évaluation utilisées pour déterminer si le candidat est compétent peuvent comporter les éléments suivants : méthodes d'évaluation standardisées organisationnelles, échantillons du travail antérieur, entrevues, vérification des références et divers autres outils de sélection décrits dans cette directive.
- Selon la directive sur l'équité en matière d'emploi, les personnes autorisées doivent s'assurer que les méthodes d'évaluation ne constituent pas un obstacle pour les personnes des groupes cibles d'équité en matière d'emploi à moins qu'il y ait une exigence bona fide occupationnelle.

Sources d'information

- Loi sur l'accès à l'information et Loi sur les renseignements personnels
- Programme de dotation
- L'évaluation des candidats handicapés - brochure publiée par la CFP.

Outils d'évaluation organisationnels

- En règle générale, les tests standardisés développés au niveau organisationnel seront utilisés pour déterminer si les candidats sont compétents afin de ne pas avoir à élaborer des outils d'évaluation individuels pour chaque processus de dotation.
- Le choix d'outils d'évaluation et de méthodologies standardisés dont l'utilisation est autorisée au sein de l'Agence incombe à la Division du renouvellement du personnel et de la gestion de carrière. Cela comprend l'utilisation des outils standardisés d'évaluation du centre de psychologie du personnel de la CFP.
- Lorsqu'un outil d'évaluation standardisé a été adopté par l'Agence pour évaluer une compétence, il doit être utilisé. Toute dérogation à cet usage devrait être approuvée par la Division du renouvellement du personnel et de la gestion de carrière. Il est possible d'obtenir la liste des tests standardisés approuvés en s'adressant à la Division du renouvellement du personnel et de la gestion de carrière et (une liste sera publiée lorsque les tests standardisés seront complétés et approuvés).
- Les notes de passage pour les outils d'évaluation standardisés seront établies de façon à correspondre aux niveaux de compétence décrits dans le Répertoire des compétences.

Outils d'évaluation élaborés localement

- Lorsqu'il n'existe pas d'outils d'évaluation standardisés pour évaluer les compétences/qualités, il est loisible aux personnes autorisées d'élaborer leurs propres outils d'évaluation. Il est recommandé qu'elles consultent la Division du renouvellement du personnel et de la gestion de carrière et au sujet de l'élaboration d'outils d'évaluation élaborés localement. Dans le cas de mises en situation/simulation, les exercices "in-basket" et les centres d'évaluation, les personnes autorisées doivent consulter la Division du soutien du cheminement de la carrière et du renouvellement du personnel.
- Les méthodes d'évaluation élaborées localement peuvent prendre les formes suivantes :
  - simulations/ mises en situation;
  - tests écrits (test de connaissance);
  - entrevues dirigées (situationnelle et comportementales);
  - examen des réalisations antérieures et de l'expérience;
  - vérification des références;
  - exercices "in-basket";
  - centres d'évaluation.
- Les notes de passage doivent être établies séparément pour chaque qualité ou groupe de qualité lorsqu'il y a un sens logique (par exemple: connaissance de la Loi sur l'impôt et habileté d'interpréter et d'appliquer la Loi). Par contre, il est possible de combiner deux ou plusieurs qualités lorsqu'il est approprié de le faire.

a) Élaboration de exercices de simulations

  - Les exercices de simulations placent les candidats dans des situations réelles qui les contraignent à démontrer que leurs compétences/qualités conviennent aux exigences du poste. Le contenu de la simulation peut être directement extrapolé du travail lui-même ou être conçu de manière plus générale sous forme de situations et de problèmes qui ne sont pas spécifiques à une situation en milieu de travail.
  - Dans les exercices de simulation, les candidats doivent exécuter, au moment de l'évaluation, le travail proprement dit et les tâches qui lui sont liées.
  - Les exercices de simulation peuvent être utilisée pour évaluer des compétences/qualités simples (p. ex., assurer le fonctionnement d'une machine) aussi bien que complexes (p. ex., résoudre des problèmes administratifs).
  - Les exercices de simulation peuvent aussi être utilisées pour évaluer plus d'une compétence/qualité à la fois. Par exemple, un exercice conçu pour évaluer la capacité

d'un candidat à résoudre des problèmes administratifs peut exiger de celui-ci qu'il fasse un exposé sur la solution qu'il propose. Permettant aussi d'évaluer son aptitude à résoudre des problèmes et ses capacités de présentation/communication orale.

o Pour élaborer des exercices de simulation, il faut tout d'abord identifier des situations professionnelles correspondant aux compétences/qualités évaluées. Pour créer des situations professionnelles pertinentes, il importe de définir les éléments qui contribuent au succès des candidats. Cette information jouera un rôle important lors de l'élaboration de mises en situation dans lesquels les candidats sont placés dans des situations où ils devraient démontrer les comportements souhaités. Il pourrait être utile de poser les questions suivantes :

- Comment les candidats montrent-ils qu'ils possèdent dans une certaine mesure les compétences/qualités requises?
- Comment les bons candidats manifestent-ils ces compétences/qualités?
- Quel genre de problèmes permettent de faire ressortir les compétences/qualités requises?
- Dans quels contextes de travail les compétences/qualités se manifestent-elles?
- Quels aspects sont essentiels, cruciaux ou importants dans le contexte de travail?
- Quelle est la différence entre une situation facile et une situation difficile?
- Quelles sont les effets des différentes mesures qui devraient être prises dans les diverses situations?
- Quelle est la différence entre une intervention efficace et une intervention inefficace?

o **Exemple :** Prenons comme exemple le travail d'un consultant et les compétences/qualités requises pour fournir des conseils professionnels aux clients. On posant les questions ci-dessus, il serait possible d'obtenir l'information suivante :

- les consultants qui savent fournir des conseils professionnels utiles (a) posent des questions pertinentes, (b) écoutent attentivement les préoccupations exprimées par leurs clients, et (c) se montrent persuasifs lorsqu'ils présentent leurs propres idées.
- le face-à-face avec les clients est important. Habituellement, la rencontre ne se fait pas en tête à tête mais avec un groupe.
- la satisfaction du client est le résultat le plus important de consultations et de conseils professionnels efficaces. Il est indispensable que le client ait le sentiment que ses préoccupations sont comprises et qu'ils sont tenues compte dans la solution proposée.

o Grâce à cette information, il est possible d'élaborer des exercices de simulation. Il est indispensable que la situation permette d'observer les compétences/qualités recherchées. Ce point est plus important que la similarité entre l'évaluation et la nature proprement dite du travail. Voici quelques règles empiriques à suivre pour élaborer et animer les exercices de simulation :

- Plus les compétences/qualités ont un caractère **générique**, **moins** il est nécessaire que le scénario et le contenu soient **semblables** à la nature du poste. Si les problèmes présentés pour évaluer les capacités de résolution de problèmes sont trop similaires à ceux du poste, il peut arriver que les candidats ne doivent pas leur réussite au fait qu'ils savent mieux résoudre les problèmes mais parce qu'ils connaissent mieux le sujet que les autres candidats.
- Éviter le " coup double ", c'est-à-dire, la situation dans laquelle on ne peut manifester une compétence/qualité donnée que si l'on possède une autre compétence/qualité. Par exemple, si, lors de l'évaluation des capacités de résolution de problème, on demande aux candidats de résoudre des problèmes exigeant des connaissances extrêmement techniques, les candidats retenus devraient avoir non seulement les capacités nécessaires pour résoudre le

problème mais également connaître le domaine très technique en question. Il est parfois possible d'éviter cette situation lorsque l'on fournit aux candidats la documentation pertinente, ce qui permet d'évaluer séparément les connaissances et de réduire au minimum l'influence des connaissances techniques.

- Il faut neutraliser l'avantage dont jouit " l'initié " en s'assurant que la simulation n'est pas trop semblable au contexte de travail, ce qui favoriserait les candidats qui connaissent les tâches et les responsabilités du poste ou ce que les gestionnaires pensent du problème.
- Les différents points et le contexte des simulations devraient avoir le **même degré de complexité ou de difficulté** que la situation offerte par l'emploi lui-même.
- Les simulations peuvent prendre des formes très diverses, notamment écrite, orale, (exposés ou jeux de rôles) ou encore, utilisation de matériel et d'équipement.
- Normaliser l'exercice, y compris les instructions, l'information de base, le temps alloué, et les réactions typiques pour les jeux de rôles, afin d'être certain que la même information est fournie à tous les candidats.
- Informer les candidats des compétences/qualités qui seront évaluées au cours de la simulation.
- Définissez d'avance les indicateurs des compétences/qualités recherchées. Par exemple, dans le cas du consultant, (a) les questions qui sont pertinentes, exploratives et conformes aux préoccupations du client, (b) la mesure dans laquelle les candidats ont tenu compte des besoins et des préoccupations du client et y ont répondu, (c) l'assurance et la confiance avec laquelle les candidats ont présenté leurs idées.
- Élaborez des échelles de mesure des comportements attendus. Les candidats doivent être évalués en fonction de ces comportements, et non pas les uns par rapport aux autres.
- Utilisez des évaluateurs multiples afin que l'évaluation soit plus complète. Intégrez les notes accordées par chaque évaluateur après avoir discuté des écarts entre elles afin de parvenir à un consensus.

b) Élaboration de tests écrits

- Les tests écrits sont des instruments d'évaluation. Dans ces tests les candidats sont invités à lire des questions et à y répondre par écrit. Ces tests peuvent être utilisés pour évaluer les connaissances et les aptitudes.
- Les tests écrits peuvent être utilisés pour évaluer un large éventail de qualités. On peut s'en servir pour évaluer, entre autres, la connaissance des méthodes de bureau, la connaissance des dispositions législatives, la capacité de suivre des instructions et celle de résoudre des problèmes numériques.
- Pour chaque compétence/qualité à évaluer, établissez la liste des sujets qui seront couverts. Par exemple, le test de connaissance des méthodes de bureau pourrait porter sur des sujets tels que la connaissance de la correspondance, du classement, des procédures d'organisation des voyages, etc.
- Avant de rédiger les questions pour le test, choisissez sa forme de présentation, le nombre de questions, la durée et le niveau de difficulté.
- Les trois formes de réponses les plus courantes sont les suivantes :
  - **questions à choix multiples** - elles sont utilisées pour traiter un grand nombre de sujets pour lesquels il existe des réponses prédéterminées. Ces tests sont faciles à coter mais l'élaboration et la révision des questions exigent beaucoup

de temps. (Les personnes autorisées doivent consulter la Division du soutien du cheminement de la carrière et du renouvellement du personnel).

- **questions à court développement** - elles couvrent un grand nombre de sujets pour lesquels les réponses dépendent de la connaissance ou de la perception que le candidat a de la question ou du sujet. Il faut plus de temps pour coter ces questions que pour les précédentes, mais il en faut en général moins pour les élaborer.
- **questions à développement** - elles ne couvrent que quelques sujets pour lesquels les réponses prennent en général la forme d'une analyse approfondie des problèmes ou des questions. Il faut peu de temps pour les élaborer mais leur correction en demande beaucoup.

o Pour chaque question, il convient d'élaborer la (les) question(s) appropriée(s), et fixer le nombre approprié de points pour chaque réponse. Cela permet d'obtenir une réponse précise à chaque question. La cote accordée devrait correspondre à l'importance de la question. Les réponses et les notes accordées constituent le **guide de cotation**.

- le guide de cotation des questions à **choix multiples** doit comprendre un barème qui indique la réponse correcte. Il peut également comprendre une justification/explication de cette réponse. Si des points sont retirés lorsque le candidat s'est contenté de deviner la réponse correcte, il faut le préciser et l'indiquer dans les instructions à l'intention des candidats.
- le guide de cotation pour les réponses à **court développement** doit comprendre des procédures de cotation préétablies et une répartition des points. À chaque élément requis de la réponse doit correspondre un nombre de points déterminés.
- le guide de cotation des réponses à **développement** doit comprendre des procédures de cotation préétablies et une répartition des points. Pour chacun des principaux éléments de la réponse on doit indiquer le nombre de points correspondant. Si des points doivent être déduits pour les fautes de grammaire, de syntaxe et de ponctuation, il faut l'indiquer dans les instructions à l'intention des candidats.
- les guides de cotation pour les questions à court développement et à développement doivent être suffisamment clairs pour que les " correcteurs " puissent décider s'il convient d'accorder des points en cas de variante à la réponse.

o Le nombre des questions doit dépendre de l'ampleur et de la profondeur du traitement requis pour chaque compétence/qualité. En général, plus le sujet est important, plus il faut de questions.

o À moins qu'il ne s'agisse d'évaluer la rapidité de travail, le temps dont disposent les candidats doit être fixé de manière à ce que la majorité d'entre eux puissent finir le test. En règle générale, dans les cas des questions à choix multiples, on prévoit une minute par question. Le temps requis pour les questions à court développement et à développement est fonction de leur complexité. Vous êtes encouragé à faire un essai préalable du test afin de déterminer si la limite de temps fixée convient.

c) Entrevues structurées

o Une entrevue structurée est une série de questions liées à l'emploi, pour lesquelles il existe des réponses préétablies, uniformément utilisées dans toutes les entrevues concernant un poste particulier.

o Une entrevue structurée ne se réduit pas à poser les mêmes questions à tous les candidats. Pour que cette entrevue soit structurée, il faut qu'elle présente les caractéristiques suivantes :

- questions qui sont fondées sur les tâches et les responsabilités du poste;
- questions qui sont élaborées systématiquement afin d'identifier des compétences/qualités déterminées;
- réponses qui sont évaluées en fonction de critères établis.

o Lorsqu'on élabore des questions pour une entrevue structurée, il faut tenir compte du genre d'actions, de réponses et de comportements qui correspondent aux compétences/qualités évaluées.

o **Éviter les questions** qui ne sont **pas liées aux compétences/qualités**, telles que " Quel genre de personnes vous irrite le plus? ", ou " Décrivez le (la) meilleur(e) patron (patronne) que vous ayez jamais eu(e) ".

o Il y a trois types de questions d'entrevue :

- **question sur les connaissances professionnelles** - la plupart du temps, ces questions portent sur les connaissances de nature technique ou général, mais elles peuvent également avoir trait à des aspects plus complexes des connaissances du candidat. Les questions portant sur les connaissances professionnelles sont analogues aux questions posées dans les exercices écrits, mais le cadre de l'entrevue permet d'aller plus loin et d'ajouter des questions de suivi. Exemples : " Quelles sont les diverses étapes de l'enquête sur ce genre de plainte? " ou " Quelle est la cause possible de ce genre de défaut de fonctionnement de cette machine? "

- **question en situation** - ces questions portent sur des situations professionnelles hypothétiques qui obligent le candidat à dire ce qu'il ferait dans une situation donnée. Lorsqu'on élabore ce genre de questions, il est bon d'utiliser des incidents " critiques " dans lesquels les bonnes et les mauvaises réactions ont donné ou donneraient des résultats nettement différents. Utilisez ensuite ces incidents " critiques " dans les questions en décrivant des situations exigeant une réaction immédiate. Voici un exemple de question destinée à évaluer le jugement : " Un client mécontent vous a téléphoné. Il a essayé de prendre contact avec votre supérieur immédiat afin d'obtenir un rapport préparé par votre direction. Personne ne l'a rappelé. Il vous demande de lui faire parvenir une copie du rapport. Que faites-vous? "

- **question destinée à déterminer le comportement** - la question " comportementale " est fondée sur l'observation selon laquelle la meilleure façon de prévoir le rendement futur est d'examiner son rendement passé et actuel dans des situations similaires. Ce genre de question porte sur les aspects particuliers de la situation, de la tâche ou du problème; sur les mesures prises (ou non prises) par le candidat, et sur les répercussions de ces actions. Les questions " comportementales " vous permettent de poser d'autres questions exploratives. Voici un exemple de question " comportementale " et de question explorative pour évaluer la tolérance au stress : " Pourriez vous me décrire une situation récente dans laquelle vous avez été exposé à un niveau de stress inhabituel? Comment avez-vous réagi à la situation? En quoi votre réaction a-t-elle eu un effet sur les autres? "

o Lors de l'élaboration des questions considérez les points suivants :

- considérez le niveau souhaité de compétence/qualités lorsque vous décidez de la difficulté des questions;
- assurez-vous que les questions sont claires et sans ambiguïté;
- ne posez pas de questions (en particulier dans le cas des questions situationnelles) trop évidentes ou transparentes;
- évitez les questions " doubles " ou celles qui exigent qu'on fournisse plus d'un seul genre d'informations à la fois;
- posez des questions de suivi;
- essayez les questions sur vos collègues;

- élaborez différents types de questions à utiliser au cours de l'entrevue.
  o Les réponses aux questions doivent être évaluées en fonction de critères établis. L'élaboration d'échelles de cotation et l'établissement préalable de " notes " pour chaque réponse permettront de simplifier considérablement l'évaluation. En outre, si l'on prend le temps nécessaire, après chaque entrevue, pour assigner des points en fonction des observations consignées au cours de cet entretien, les notes seront attribuées au moment où l'information est encore toute fraîche dans l'esprit de l'interrogateur.

d) Examen des réalisations antérieures et de l'expérience

  o L'examen des réalisations antérieures et de l'expérience consiste à examiner et à évaluer l'information provenant d'une ou plusieurs sources concernant le candidat.
  o Il existe un certain nombre de méthodes acceptables pour évaluer les réalisations antérieures sur le plan des compétences/qualités, notamment :
    - questions d'entrevue fondées sur le comportement;
    - vérifications des références;
    - entretiens avec les superviseurs du candidat;
    - examen des évaluations du rendement et du rendement antérieur du candidat;
    - information fournie par les candidats eux-mêmes sur leurs demandes et leurs curriculum vitae.
  o L'examen des réalisations antérieures et de l'expérience est utile pour les diverses évaluations. Parfois, comme lorsqu'il s'agit du degré de scolarité ou du statut professionnel, l'examen se résume à une vérification des données de base. Dans d'autres cas, notamment lorsqu'il s'agit d'évaluer les compétences/qualités, l'examen requiert plus d'attention dans le tri des éléments, l'évaluation et l'intégration de données nombreuses.
  o Il est possible d'obtenir trois types d'information sur les réalisations antérieures d'un candidat :
    - **descriptions du comportement** - exemples ou incidents pertinents à une compétence/qualité donnée. Ces descriptions ont trait à des événements observables et sont habituellement vérifiables. Une description complète comprend non seulement ce que le candidat a fait ou n'a pas fait, mais également le contexte dans lequel le comportement (ou l'absence de celui-ci) s'est manifesté, ainsi que la description du comportement. Il est important que les descriptions du comportement représentent ce dont un candidat est capable sur une certaine période de temps, plutôt qu'à un moment déterminé.
    - **données biographiques** - elles sont factuelles et comprennent les antécédents et les activités. Les antécédents englobent les diplômes, les prix obtenus, le statut professionnel, les publications. Les activités ont trait à l'appartenance (à un club, une organisation, etc.), à la participation à divers groupes, etc.
    - **opinions** - elles ne se limitent pas aux faits et comportent des jugements de valeur. Il faut les utiliser avec énormément de prudence car il peut arriver que celui qui exprime une opinion a observé le candidat dans un contexte très différent de celui du poste à pourvoir. Cette personne peut également avoir un critère différent. Les opinions ne doivent être utilisées que pour confirmer d'autres éléments d'information plus factuels.
  o Il y a deux façons d'obtenir de l'information : activement ou passivement. Les méthodes actives comprennent les entrevues et les vérifications des références. Lorsqu'on utilise des méthodes passives, l'information doit être prise " telle quelle ", comme c'est le cas des curriculum vitae, des lettres de référence, des évaluations du

rendement et des formulaires de candidature normalisés (décrivant l'expérience, y compris des exemples de comportement).

- o Considérez tout d'abord l'information obtenue grâce à des méthodes passives. Cela permet ensuite, au cours des entrevues ou des vérifications des références, d'effectuer un examen approfondi de l'information pertinente ainsi révélée.
- o Il est légitime qu'un membre du comité de sélection utilise ce qu'il sait du candidat. Cette information peut et doit être utilisée lorsqu'elle n'existe pas pour tous les candidats.
    - On ne doit tenir compte que de l'information relative aux compétences/qualités à évaluer.
    - Ce sont sur les comportements, plutôt que sur les opinions, que l'on doit mettre l'accent.
- o L'information relative aux réalisations antérieures et à l'expérience d'un candidat, provenant de sources diverses, doit être intégrée. Il importe de tenir compte des éléments suivants lorsqu'on intègre une telle information :
    - Cotez les compétences/qualités, et non les sources d'information.
    - Tenez compte de la pertinence de chaque élément d'information et l'évaluer en fonction de ses propres mérites.
    - Tenez compte de la manière dont les éléments d'information sont présentés. Des incidents isolés, ou des opinions sans justification ne doivent pas avoir autant de poids que des données étayées par des faits.
    - Considérez la possibilité de recueillir plus d'informations lorsque cela se justifie.

e) Vérification des références

- o Lorsqu'on vérifie les références afin d'évaluer une compétence/qualité autre que la fiabilité/sécurité, il n'est pas nécessaire d'obtenir le consentement du candidat si l'arbitre appartient à une institution fédérale. Lorsque celui-ci n'appartient pas à la fonction publique, il faut obtenir l'accord du candidat. Cependant, par courtoisie, il est toujours souhaitable d'obtenir son consentement.
- o Il est de bonne pratique de prendre contact avec au moins deux ou trois personnes dont, notamment, le superviseur immédiat le plus récent, d'anciens employeurs ayant travaillé en étroite collaboration avec le candidat, des collègues, des subordonnés et (ou) des clients.
- o Il faut vérifier les références, qu'elles aient été fournies ou non par le candidat. Cela vous évitera de parler uniquement aux personnes ayant fourni une référence " positive ". Demandez aux arbitres les noms d'autres personnes qui pourraient vous aider à évaluer les compétences/qualités d'un candidat.
- o On utilise les vérifications des références pour corroborer, clarifier ou compléter l'information qui a déjà été obtenue au sujet d'un candidat. Cette information doit être constituée par des faits, des descriptions, des incidents pertinents et des exemples de comportement.
- o Élaborez des questions qui révéleront les incidents, les comportements et des exemples pertinents aux compétences/qualités désirées. Il est préférable de poser plusieurs questions précises que des questions vagues et imprécises. L'utilisation d'une série de questions (une question de base avec des questions de suivi possibles) est une technique utile. Par exemple, la question de base " Pouvez-vous me donner des exemples de la façon dont il/elle a fait preuve, ou non, d'initiative? " peut être suivie des questions suivantes " Qu'a-t-il (elle) fait exactement dans cette situation? ", " Réagissait-il (elle) toujours de cette façon dans des situations similaires? "
- o Vérifiez les références par téléphone ou en personne. Les vérifications écrites ne permettent pas d'obtenir des éclaircissements précis, de poser des questions de suivi,

ou de détecter des hésitations, des incohérences ou des remarques spontanées qui peuvent être fort révélatrices.

- o Élaborez une liste écrite des informations essentielles. Cette liste doit comprendre au moins :
  - une brève définition de la (des) compétence(s)/qualité(s) évaluée(s);
  - les questions élaborées pour chaque compétence/qualité;
  - suffisamment de place pour prendre des notes.
- o Ne prenez pas au pied de la lettre toute l'information fournie dans une vérification des références. Sans accorder d'importance excessive à des incidents isolés, cherchez à déceler des tendances dans le comportement d'un candidat. Tenez compte de l'effet des situations ou des contextes sur le rendement d'un candidat. N'oubliez pas que les conflits d'ordre personnel peuvent influencer les commentaires et les observations d'un arbitre.
- o Validez les commentaires d'un arbitre auprès d'un autre arbitre afin de neutraliser les risques de commentaires et d'observations fondés sur des conflits personnels.
- o Tenez compte de l'information obtenue grâce à la vérification des références ainsi que des renseignements recueillis grâce à d'autres sources/méthodes. Essayez de lier l'information provenant d'évaluations qualitatives (vérification des références, par exemple) à d'autres méthodes d'évaluation qualitative ou quantitative (simulations, tests, etc., par exemple).

Évaluation des candidats handicapés

- Les candidats handicapés sont des personnes qui s'estiment désavantagées ou qui pensent qu'un employeur les considérera comme telles, à cause d'un handicap persistent physique, mental, d'ordre psychiatrique ou sensoriel ou à cause de difficultés d'apprentissage.
- Une personne handicapée doit avoir les mêmes possibilités d'être évaluée en vue d'obtenir un emploi que n'importe quel autre candidat. Les méthodes d'évaluation devront peut-être être modifiées de manière à ce que les candidats handicapés soient capables de manifester leurs compétences/qualités.
- Lorsque l'on modifie les conditions d'évaluation d'un candidat, la nature des compétences/qualités que l'on mesure et le niveau auquel on les mesure doivent demeurer les mêmes. Les modifications doivent tenir compte du fait qu'un handicap peut empêcher le candidat de manifester une compétence/qualité, sans pour cela lui accorder un traitement préférentiel.
- Si un handicap empêche d'évaluer correctement une compétence/qualité, il faut veiller à ce qu'en modifiant la méthode d'évaluation, on ne change pas la nature de la compétence/qualité à évaluer. Par exemple, un test de mesure de l'acuité visuelle ne doit pas être modifié pour aider un candidat n'ayant qu'une vision partielle lorsque l'acuité visuelle est une exigence fondée de l'emploi.
- La modification d'outils et de méthodologies d'évaluation standardisés et des outils élaborés localement pour aider les candidats handicapés doit être traitée au cas par cas, en consultation avec la Division du soutien du cheminement de la carrière et du renouvellement du personnel.
- Ces modifications peuvent prendre les formes suivantes : présentation différente des tests, gros caractères, braille, bandes audio, prolongation des délais, interruptions et utilisation d'aides techniques.

Divulgation de renseignement sur les résultats des tests

- Lorsqu'il s'agit d'un test standardisé, seules les personnes autorisées peuvent divulguer les résultats obtenus par un candidat.

- Lorsqu'il s'agit d'un test élaboré localement, les personnes autorisées ne peuvent divulguer que l'information relative à l'évaluation du candidat, et la nature du test. La divulgation de renseignements personnels concernant d'autres candidats contrevient à la Loi sur la protection des renseignements personnels.

Ce tableau est désuet. Veuillez vous référer au Bulletin de dotation 2008-04 - Outils d'évaluation obligatoires pour le recrutement externe.

Groupes et niveaux occupationnels	À ce jour obligatoire	1er novembre 1999 Agence obligatoire
Recrutement postsecondaire	Examen de recrutement des diplômés	Examen de recrutement des diplômés
PM-02 Inspecteur des douanes	Test d'inspecteur des douanes	Test d'inspecteur des douanes
FI-01	Examen de connaissances en gestion des finances	Examen de connaissances en gestion des finances

Groupes et niveaux occupationnels	À ce jour Optionnel	1er novembre 1999 Agence obligatoire
Tous les agents de niveau d'entrée, excepté les vérificateurs (groupes AU et PM), le groupe CS et AS-01 et AS-03 (spécialistes en rémunération) et le groupe PE	Examen de compétence générale de niveau 2 ou Examen d'aptitude générale; toutefois il est de pratique courante d'utiliser l'un ou l'autre de ces tests.	Examen de compétence générale de niveau 2 ou Examen d'aptitude générale
Catégorie du soutien administratif (excepté lorsqu'embauché dans une situation urgente de courte durée)	Examen pour commis des centres fiscaux ou Examen de compétence générale de niveau 1 ou Examen de compétences de travail de bureau; toutefois il est de pratique courante d'utiliser l'un ou l'autre de ces tests	Examen pour commis des centres fiscaux ou Examen de compétence générale de niveau 1 ou Examen de compétences de travail de bureau
DA-CON	Examen d'aptitude à la conversion des données; toutefois il est de pratique courante d'utiliser le test "de clavier"	Utilisation du test "de clavier" (e.g. celui élaboré par le Centre fiscal de Sudbury ou QUIZ, acquis par le Centre fiscal d'Ottawa
Pour les postes de soutien administratif exigeant de corriger des erreurs grammaticales, d'orthographe et de ponctuation	Examen d'orthographe, de grammaire et de ponctuation (si un test doit être utilisé)	Examen d'orthographe, de grammaire et de ponctuation (si un test doit être utilisé)

Staffing Program
Annex F
Directive on Assessment Methods

Program Statements:

- Only candidates meeting the pre-requisites will be considered for assessment.

- Assessment is a comparison of a candidate's competencies/qualifications against established assessment criteria, not a comparison amongst candidates (not ranking).

- Assessment methods will be used to determine to what extent the candidate possesses the competencies/qualifications prescribed for the position (s).

- Authorized Persons will be required to use corporate standardized assessment methods in certain circumstances, as per the Directive on Assessment Methods.

- Candidates will be informed of their assessment results, in writing. This may be in the form of a letter or an e-mail.

- Qualified candidates will be informed of the period for which they can be considered for placement.

- Recourse will be available upon request in the form of Individual Feedback to candidates upon request who are assessed. Where appropriate, corrective measures will be taken. Candidates who have concerns following Individual Feedback can request Decision Review, as per the Staffing Program and the Directive on Recourse. Where appropriate, corrective measures will be taken.

- Access to Information will be in accordance with the Access to Information Act and the Privacy Act. Candidates will only have access to their own personal assessment information.

Directive Statements:

- Candidates will be assessed against established staffing requirements.

- Pass marks should be set separately for each qualification or groups of qualifications where it makes logical sense to do so (e.g. knowledge of the Income Tax Act and ability to interpret and apply legislation).

- Assessment methods used to determine to what extent the candidate possesses the competencies/qualifications prescribed for the position (s).

- Assessment methods will be used to determine if the candidate is qualified may include corporate standardized assessment methods, past performance, interviews, reference checks, and various other selection tools described in this directive.

- As per the Directive on Employment Equity, Authorized Persons must ensure that assessment methods do not constitute a barrier to Employment Equity designated group members unless there is a bona fide occupational requirement.

Sources of Information:

- Access to Information and Privacy Acts
- Staffing Program
- Service Provisions to Persons with Disabilities

Staffing Program
Annex F
Guidelines on Assessment Methods

Corporate Assessment Tools

- Standardized assessment tools developed at the corporate level, by the Resourcing and Career Management Division, will generally be used to determine if candidates are qualified in order to avoid the need to develop individual assessment tools for each staffing process.

- The choice of standardized assessment tools and methodologies authorized for use in the Agency is the responsibility of the Resourcing and Career Management Division. This includes the use of the Personnel Psychology Center (PSC) standardized assessment tools.

- Where a standardized assessment tool has been adopted by the Agency for the assessment of a competency, it must be used. Any exceptions to this usage must be approved by the Resourcing and Career Management Division. A list of the standardized assessment tools that have been approved can be obtained from the Resourcing and Career Management Division (a list will be made available once the standardized assessment tools have been finalized and approved).

- Passmarks are established for the standardized assessment tools to correspond to the levels of competencies in the Competency Catalogue.

Locally Developed Assessment Tools

- Where no standardized assessment tools exists to assess a competency/qualification, Authorized Persons have latitude to develop local assessment tools. For simulation exercises, in-basket exercises and assessment centres, advice must be sought from Resourcing and Career Management Division.

- Locally developed assessment methods may include:

⇒ simulations/role plays;
⇒ paper and pencil instruments (e.g. knowledge tests);
⇒ structured interviews (situational and behaviour based);
⇒ assessment of past performance and experience through track record interviews;
⇒ reference checking;
⇒ in-basket exercises; and
⇒ assessment centers.

- Passmarks should be set separately for each qualifications where it makes logical sense to do so (e.g. Knowledge of the Income Tax Act and Ability to interpret and apply Legislation). However, it is possible to combine two or more qualifications if there is a logical reason.

a) Developing Simulations

- Simulation exercises or simulations place candidates in realistic situations which require them to demonstrate job-relevant competencies/qualifications. The content of the simulation may be derived directly from actual work or may be designed in a more general manner by presenting situations and problems which are not specific to a particular work situation.

- In simulation exercises, candidates must demonstrate, at the time of assessment, actual performance of the job and job tasks.

- Simulation exercises may be used to assess simple (i.e., operating a given piece of machinery) as well as complex (i.e., solving administrative problems) competencies/qualifications.

- Simulation exercises may also be used to assess more than one competency/qualification at the same time. For example, an exercise designed to assess a candidate's ability to solve administrative problems may require the candidate to make a presentation of his/her proposed solution, thus assessing his/her problem solving and presentation/oral communication skills.

- As a first step in developing simulation exercises, start by identifying the job situations that are relevant to the competences/qualifications being assessed. In order to develop relevant job situations, it is important to define what are the elements that make incumbents successful. This information will be important for developing simulation exercises that place

candidates in situations where they should demonstrate the desired behaviours. Asking the following questions may be helpful:

⇒ How do incumbents demonstrate that they possess some degree of this competency/qualification?
⇒ How do successful incumbents demonstrate this competency/qualification?
⇒ What kind of problems elicit the required competency/qualification?
⇒ In what job situations is the competency/qualification demonstrated?
⇒ What aspects of the situation are essential, crucial or important?
⇒ What is the difference between easy and difficult situations?
⇒ What is the impact of the different actions that could be taken in the various situations?
⇒ What is the difference between effective and ineffective action?

- **An example**: Consider the job of a consultant and the competency/qualification of providing professional advice to clients. In asking the above questions, the following information could be elicited:

  ⇒ consultants who are good in providing professional advice (a) ask relevant questions, (b) listen well to their client concerns, and (c) are persuasive in presenting their ideas.
  ⇒ an important situation is the face-to-face meeting with clients. These meetings are not usually one-on-one but with groups.
  ⇒ client satisfaction is the most important result of effective consultation and professional advice. Clients need to feel that their concerns are understood and taken into account in the proposed solution.

- Using this information the simulation exercises can be developed. The essential requirement with respect to the simulation is that it provides an opportunity to observe the competencies/qualifications. This is more important than the similarity of the assessment with the actual job content. A few rules of thumb for developing and conducting simulations are:

  ⇒ The **more generic** the competencies/qualifications, the **less similar** the scenario and contents needs to be with that found on the job. If in assessing problem solving abilities, the problems presented are too similar to those found on the actual job, successful candidates may not have been successful because they are better problem solvers, but rather because they have greater familiarity with the subject matter.
  ⇒ Avoid "Double Jeopardy". Double jeopardy refers to the situation in which the demonstration of one competency/qualification depends on another competency/qualification. For instance, if in assessing problem solving abilities candidates are asked to solve problems that require highly technical knowledge, successful candidates would have

to possess not only problem solving abilities but also knowledge of the highly technical area. Assessing knowledge separately and minimizing the influence of technical knowledge by providing candidates with relevant background materials helps to alleviate the problem of double jeopardy.

⇒ Avoid the unfair advantage of "insider information" by ensuring that the simulation is not too similar to that found on the job, thus giving candidates, who are familiar with the duties and responsibilities of the position or with current management thinking on a problem, an advantage.

⇒ The items and context of simulations should be of the **same degree of complexity or difficulty** as those found on the job.

⇒ Simulations can take many forms, including written, use of equipment, and oral (such as presentations or role-plays).

⇒ Standardize the exercise, including instructions, background information, timeframes, and typical responses for role-plays, to ensure that all candidates receive the same information.

⇒ Inform candidates about which competencies/qualifications will be assessed through the simulation.

⇒ Define, ahead of time, the indicators of the competencies/qualifications being sought. For instance, in the example of the consultant, (a) questions that are relevant, probing and appropriate to the client's concerns, (b) the extent to which the candidates listened and responded to the client's needs and concerns, (c) the certainty and confidence with which candidates presented their ideas.

⇒ Develop rating scales that identify the list of expected behaviours that would earn a specific rating. Candidates should be assessed against these expected behaviours, not against each other.

⇒ Use multiple assessors to ensure a more complete assessment. Integrate the ratings of each assessor by discussing discrepancies in order to come to consensus.

a) *Developing Paper-and-Pencil Instruments*

- Paper-and-pencil instruments refer to assessment tools in which candidates read questions and respond in writing. Paper-and-pencil tests can be used to assess knowledge and skills/abilities.

- The application of paper-and-pencil tests is quite broad. They can be used to assess, among other things, knowledge of office procedures, knowledge of legislation, the ability to follow directions and the ability to solve numerical problems.

- For each competency/qualification that will be assessed, list the topic areas that would be covered for the competency/qualification. For instance, the topic areas covered by knowledge of office procedures might

be knowledge of correspondence, knowledge of filing, knowledge of travel procedures, etc..

- Prior to writing the questions for the test, decide on the format of the test, the number of questions, the time limit and the level of difficulty.

- The three most common response formats are:

  ⇒ **multiple-choice questions** - used to cover a large number of topics in which there are known predefined answers. Multiple-choice tests are easily marked but require a lot of time for developing, editing and revising questions. (The Resourcing and Career Management Division should be consulted)

  ⇒ **short answer questions** - used to cover a large number of topics in which the answers depend on a candidate's knowledge/perception of an issue or topic. Short answer questions require more time for marking than multiple-choice questions, but are generally less time consuming to develop than multiple-choice questions.

  ⇒ **essay questions** - used to cover only a few topics in which answers are generally in-depth analysis of problems or issues. Essay questions require little time to develop but are very time-consuming to mark.

- For each question, the appropriate answer (s), and the appropriate number of marks for each answer should be developed. This ensures that there is a clear-cut answer for each question. The marks assigned should reflect the importance of the question. The answers and allocated marks make up the **scoring guide**.

  ⇒ the scoring guide for **multiple-choice** questions must include a scoring key indicating the correct answer. It may also include a rationale/explanation for the correct answer. If marks are to be deducted for incorrect answers this must be determined and stated in the instructions for candidates, however this approach is not recommended.

  ⇒ the scoring guide for **short-answer** questions should include predetermined scoring procedures and scoring allocations. Each required point in the answer should be listed with its relative mark allocation.

  ⇒ the scoring guide for **essay** questions should include predetermined scoring procedures and mark allocations. The major points of the answer should be listed with their relative mark allocation. If marks are to be deducted for incorrect grammar, spelling, and punctuation, this must be stated in the instructions to the candidates.

  ⇒ the scoring guides for short-answer and essay questions should be clear enough that 'scorers' can judge whether or not marks should be given to a variation of the answer.

- The number of questions required will depend on the breadth and depth of coverage required for each competency/qualification. Generally, the more important the topic, the more questions that are required.

- Unless speed of work is being assessed, the time limit should be set to allow the majority of candidates to finish the test. A general guide for multiple choice questions is to allow about a minute per question. The time needed for short-answer and essay questions depends on the complexity of the question. Try the test in advance to test the time limit.

a) *Structured Interviews*

- A structured interview is a series of job related questions with predetermined answers that are consistently applied across all interviews for a particular job.

- A structured interview involves more than just asking the same questions to all candidates. In order for the interview to be structured, it must have the following characteristics:

  ⇒ questions that are rooted in the duties and responsibilities of the position
  ⇒ questions that are developed systematically to identify specific competencies/qualifications
  ⇒ answers that are evaluated against established criteria

- In developing questions for a structured interview, consider the kinds of actions, responses, and behaviours that are relevant to the competencies/qualifications being assessed.

- **Avoid questions** that are **not linked to competencies/qualifications**, such as *'What kind of people annoy you most?'*, or *'Describe the best person you ever worked for or with'*.

- There are three types of interview questions:

  ⇒ **job knowledge question** - these questions most often deal with knowledge of a technical or general nature, but can also probe on more complex aspects of a candidate's knowledge. Job knowledge questions are similar to questions asked in paper and pencil tests, but the interview setting allows for further probing with additional follow-up questions. Examples of job knowledge questions: *'What are the steps involved in the investigation of this kind of complaint?'* or *'What can cause this kind of malfunction in this machine?'*

⇒ **situational question** - these questions describe hypothetical job-related situations that require the candidate to reply with what they would do in a given situation. In developing simulation questions, consider "critical" incidents in which there have been, or would be, clear differences between the actions of good and bad performers. Then, turn these "critical" incidents into questions by creating descriptions of situations that require some immediate action. An example of a simulation question assessing judgment is: *'You have received an angry call from a client. He has been trying to reach your supervisor to obtain a report produced by your division. However, his calls have not been returned. He asks you to send him a copy of the report. What do you do?'*

⇒ **behavioural question** - the behavioural question is based on the observation that the best predictor of future performance is past and current performance in similar situations. Behavioural questions get at the particulars of the situation, task or problem; the actions taken (or not taken) by the candidate; and the impact of this actions. Behavioural questions allow you to ask probing follow up questions An example of a behavioural question and a follow up question assessing tolerance for stress is: *'Can you tell me about a recent situation where you have had to deal with more than the usual amount of stress? How did you cope with this situation? How did your reaction affect others?'*

- In developing questions consider the following:

  ⇒ consider the desired level of competency/qualification in deciding how difficult the questions should be
  ⇒ make sure that the questions are clear and unambiguous
  ⇒ do not make your questions (particularly for simulation questions) too obvious or transparent
  ⇒ avoid 'double-barreled' questions or those that ask for more than one kind of information at a time
  ⇒ ask follow up questions
  ⇒ try out questions on colleagues
  ⇒ develop a variety of different types of questions for use during the interview

- Answers to the questions must be evaluated against established criteria. Developing rating scales and predetermining the 'marks' for each answer will greatly simplify the evaluation. In addition, taking time following each interview to assign points based on notes taken in the interview will also ensure that ratings are assigned when the information is the freshest in the interviewer's mind.

d) *Assessment of Past Job Performance and Experience*

- The review of past accomplishments and experience consists of the consideration and evaluation of information about a candidate's past from one or more sources.

- Acceptable methods to assess past job performance linked to competencies/qualifications include the following:

  ⇒ behaviour-based interview questions;
  ⇒ reference checks;
  ⇒ supervisory interviews;
  ⇒ review of performance appraisals and employee track record; and
  ⇒ self-reported information from candidates on applications and resumes.

- A review of past accomplishments and experience is useful to different assessment situations. Sometimes, as in the case of education or occupational certification, the review will consist of no more than a verification of basic facts. At other times, such as the assessment of competencies/qualifications, the review will require more careful sifting, evaluating and integrating numerous pieces of information.

- Three types of information can be obtained about a candidate's past:

  ⇒ **descriptions of behaviour** - consists of examples or incidents that are relevant to a given competency/qualification. Such descriptions relate to observable events and are usually verifiable by others. A thorough description includes not only what the candidate did or failed to do, but also the simulation context in which the behaviour (or lack there of) occurred and the description of the behaviour. It is important that the descriptions of behaviour represent what a candidate is capable of over a period of time, rather than at only one point in time.

  ⇒ **biographical data** - is factual and includes achievements and activities. Achievements refers to degrees, awards, professional accreditation, publications. Activities refer to memberships, participation in various groups, etc..

  ⇒ **opinions** - go beyond facts and involve value judgments. Extra care is required in using opinions since the opinion giver may have observed the candidate in a context that is very different from that of the position being staffed. The opinion-giver may also have a different standard. Opinions must only be used to support other more factual information.

- There are two ways of obtaining information: actively or passively. **Active methods** include interviews and reference checks. With **passive methods**, information is taken 'as is', as in the case of resumes, letters of reference, performance appraisals, and standard application forms (outlining experience, including behavioural examples).

- Consider information from passive methods first. This will allow for (in-depth) probing in interviews or reference checks of significant information that has been uncovered.

- It is legitimate to use personal knowledge of a candidate on the part of a member of the selection board. This information can and should be used even when such information is not available for all candidates.

  ⇒ only information that is relevant to the competencies/qualifications being assessed should be considered.
  ⇒ behaviours rather than opinions must be the focus.

- Information on a candidate's past accomplishments and experience that is collected from a range of sources must be integrated. The following considerations are important to keep in mind when integrating information:

  ⇒ Assign ratings to competencies/qualifications, not sources of information.
  ⇒ Consider the relevance of each piece of information and evaluate each piece of information on its own merits.
  ⇒ Consider the pattern of evidence. Single isolated incidents, or unsupported opinions, should not be given as much weight as supported patterns of evidence.
  ⇒ Consider collecting more information, if warranted.

e) Checking References

- When a reference check is used to assess a qualification/competency other than reliability/security, consent is **not** required from the candidate when the referee is from within a federal institution. Consent from the candidate **is required** to contact a referee from **outside** the Public Service. However, consent should be obtained from the candidate, in all cases, as a matter of courtesy.

- It is good practice to contact at least two or three people which could include the most recent immediate supervisor, former employers who worked closely with the candidate, co-workers, subordinates and/or clients.

- Check references that are both provided and not provided by the candidate. This will help avoid talking to only "positive" references. Ask referees for additional names of individuals who might be helpful in assessing a candidate's competencies/qualifications.

- Reference checks are used to corroborate, clarify or add to information that has already been gathered about a candidate. As such, the information sought should be facts, descriptions, relevant incidents and behavioural examples.

- Develop questions that will elicit incidents, behaviours and examples that are relevant to the desired competencies/qualifications. A variety of specific questions are more effective than vague unfocused questions. Using a question-pattern (a basic question with some possible follow up questions) is a useful technique. For example, a basic question would be "Can you give me examples of how he/she demonstrated, or failed to demonstrate, initiative?" Follow up questions could be "what exactly did he/she do in this situation?", "Did he/she always respond in the fashion in similar situations?"

- Check references either by phone or in person. Written reference checks do not allow for effective clarification, asking follow up questions, or detecting hesitations, inconsistencies or off-the-cuff remarks that can provide additional information.

- Develop a written checklist of essential information. The checklist should include at least:

  ⇒ a brief definition of the competency(ies)/qualification(s) being assessed;
  ⇒ questions developed for each competency/qualification; and
  ⇒ room for notes.

- Do not take all information gathered in a reference check at face value. While not giving undue weight to isolated incidents, look for patterns in a candidate's behaviour. Consider the impact of situations or contexts on a candidate's performance. Be aware that personal conflicts may affect a referee's comments and observations.

- Validate the comments of one referee with another referee to counteract the potential of comments and observations based on personal conflicts.

- Consider the information gathered from reference checks along with information gathered from other sources/methods. Strive to link information from qualitative assessments (such as reference checks) to

other qualitative or quantitative assessment methods (such as simulations, tests, etc).

Assessment of Candidates with Disabilities

- Those candidates with disabilities are individuals who could consider themselves, or could believe that an employer would consider them, disadvantaged because of any physical, mental, psychiatric, learning or sensory impairment.

- A person with a disability must have the same opportunities to be evaluated for employment opportunities as other candidates. Assessment procedures may have to be modified so that candidates with disabilities are able to demonstrate their competencies/qualifications.

- When the conditions for assessing a candidate are modified, the nature of the competencies/qualifications being measured and the level at which they are being measured must remain the same. Modifications should allow for a disability that interferes with the demonstration of a competency/qualification, without giving any preferential treatment.

- If a disability prevents the proper assessment of a competency/qualification, be careful to ensure that modifying the assessment method, does not alter the nature of the competency/qualification being assessed. For example, a test to measure visual precision should not be modified to accommodate a candidate with partial vision where visual precision is a bona fide requirement for the job.

- Modification to standardized assessment tools and methodologies and locally developed tools to accommodate candidates with disabilities must be handled on a case-by-case basis in consultation with the Resourcing and Career Management Division.

- Modifications may include different testing formats, large print, braille, audio tapes, extensions of time limits, breaks and use of technical aids.

Disclosure of Test Information

- On a standardized test, Authorized Persons can only disclose to a candidate' his/her own test results.

- On a locally developed test, Authorized Persons can only disclose information about a candidate's own assessment, and the test instrument. Disclosure of other candidate's personal information is contrary to Privacy legislation.

This table is obsolete. Please refer to Staffing Bulletin 2008-04 – Mandatory Assessment Tools for External Recruitment
http://infozone/english/r2732472/hrb-dgrh/subSites/links/2008-04-e.asp

Staffing Program

Assessment Tools for External Recruitment

Occupational Groups & Levels	Today Mandatory	November 1, 1999 Agency Mandatory
Post Secondary Recruitment	Graduate Recruitment Test	Graduate Recruitment Test
PM-02 Customs Inspectors	Customs Inspector Test	Customs Inspector Test
FI-01	Financial Administration Knowledge Test	Financial Administration Knowledge Test
	Optional	Mandatory
All entry-level officers except for auditors (AU and PM groups), CS group & AS-01 and AS-03 (pay specialists) and the PE Group	General Competency Test Level 2 or General Aptitude Test; the current practice is to use one of the above tools	General Competency Test Level 2 or General Aptitude Test
Administrative Support Category (except if hired for emergency short-term situation)	Taxation Centre Clerical Test or General Competency Test Level 1 or Office Skills Test; the current practice is to use one of the above tools	Taxation Centre Clerical Test or General Competency Test Level 1 or Office Skills Test
DA-CON	Data Conversion Aptitude Test; the current practice is to use a "keying" test	The use of a "keying" test (e.g., one developed by Sudbury TC or "QUIZ" purchased by Ottawa TC)
Any positions in the administrative support category that require the correction of errors in grammar, spelling and punctuation	Grammar, Spelling, Punctuation Test (if a test is used which is the current practice).	Grammar, Spelling, Punctuation Test (if a test is used).

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-894-10

STYLE OF CAUSE: YVES MAYRAND
                                     v.
                                     CANADA REVENUE AGENCY

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: January 19, 2011

REASONS FOR JUDGMENT
BY: SCOTT J.

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APPEARANCES:

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                                                 (ON HIS OWN BEHALF)

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