

November 14, 2024

The Honourable Anita Anand, P.C., M.P.
President of the Treasury Board of Canada
90 Elgin Street, 8th Floor
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By email: president-presidente@tbs-sct.gc.ca; monique.lugli@tbs-sct.gc.ca

Re: Upholding the Indigenous exception to prescribed presence in the workplace

Dear Minister:

We were recently approached by the Indigenous Federal Employees' Network (IFEN), which represents Indigenous public sector workers across all federal departments, with concerns about the implementation of the *Direction on Prescribed Presence in the Workplace*.

IFEN said that many Indigenous federal public sector workers are being told by managers that the clear exception to the *Direction* (for Indigenous employees whose location is critical to their identity to work from their communities) is invalid if they live within 125 km of their formal work location. We hope that the repeated denials of remote work to exempt Indigenous employees can be easily remedied with clear communication from your office to all federal departments that each exception is a standalone. There is no obligation to meet multiple criteria.

The examples cited in Appendix A demonstrate the adverse impact on Indigenous members. We are very concerned that the important effort to attract and retain Indigenous employees is being compromised by lack of explicit and appropriate guidance on RTO exceptions. Your office is well aware of the importance of this exemption for Indigenous cultural survival and wellbeing, as part of Canada's ongoing reconciliation efforts to reckon with genocide and colonial legacies in our current workplace.

A key issue is the impact on Indigenous women in the federal public service, who have expressed significant concerns regarding safety within federal workplaces. These concerns are heightened in the context of Canada's ongoing crisis of Missing and Murdered Indigenous Women and Girls (MMIWG), leading many Indigenous women to prefer working from their homes and communities. The arbitrary denial of this well-documented exemption request conflicts starkly with Canada's commitment to advancing reconciliation.

It directly undermines obligations set out in the *United Nations Declaration on the Rights of Indigenous Peoples*, the *Truth and Reconciliation Commission's Calls to Action*, the final report of the National Inquiry into MMIWG, and the Clerk's Indigenous hiring targets, along with other repeatedly stated national reconciliation goals.

As this constitutes a clear violation of an exception that your office has repeatedly emphasized as a key reconciliation commitment, we expect clear communications spelling out clear guidance on the exceptions provided to all Deputy Ministers, Deputy Minister equivalents and other relevant senior civil service staff for all federal departments and agencies covered by the *Direction* **no later than November 28, 2024, at 5:00pm ET.**

We are available to discuss this issue before that date. If we do not hear from your office confirming these steps, we will explore other options to increase pressure to resolve this problem.

Sincerely,



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CC: See attached page

ANNEX 1

Indigenous Employee Statements

Employee A

- Has worked for the department for 17 years. Has always worked on reserve.
- Received approval from their director during the pandemic to move from Thunder Bay, ON back to their reserve in BC, which is approximately 108kms from an ISC regional office in Vancouver.
- The approval was based on an Indigenous employee's cultural connection to their community and was not combined with the distance from a regional office.
- Even though they work in British Columbia, they are an HQ employee, which means they also work HQ hrs (5:30am to 1:30pm).
- This has also allowed them to be more involved in their community through volunteer activities etc. and their children are immersed in the community and through cultural practices.
- Their request to renew her full time telework agreement was denied.
- This means the following:
 - They will no longer be able to work HQ hrs. and will not align with the team.
 - They have only one staff member that works in a regional office, the other staff are located in different time zones.
 - It will have devastating financial impacts due to the loss of not being able to work on reserve
 - While 108 kms away from the regional office, their commute time would be approximately 2 hrs. each way. This does not take into consideration inclement weather.
 - They love her job, is a strong First Nations employee and has praise from their director but is currently looking at other departments where the criteria to work from an Indigenous community is not combined with the 125 km exemption. (Ex. Canadian Heritage job posting advertises the possibility of 100 telework for Indigenous employees to work from their community)
 - They are considering leaving government all together
 - This situation is causing them extreme stress and anxiety, sleepless nights and frustration.

Employee B

- Has worked for the Federal Government for 28 years. They have always worked on reserve, in their home community.
- The regional office in Kahnawake is closing because the building is unsafe and there are no plans to move staff elsewhere in the community.
- Even though they work in Kahnawake, they are an HQ employee.
- This allows them to be more involved in their community.
- Their full-time telework request was denied.
- This means the following:

- It will have devastating financial impacts due to the loss of not being able to work on reserve, which has been doing for 28 years.
- As they are an HQ employee, they are the only one of the team that works in a regional office. Montreal is not the regional office, and we do not provide any Estates Services in that office so they would just be plugging in as I do at home.
- They love their job, is a strong First Nations employee and has praise from their director but is currently looking at other departments where the criteria to work from an Indigenous community is not combined with the 125 km exemption.
- They are also considering potentially leaving government all together and retiring early.
- This situation gives them extreme stress, sleepless nights and frustration.

Employee C

“In terms of the requirement that employees return to the office a minimum of three days per week, with executives returning for four, this has a serious impact for Indigenous employees who work on-reserve, as we would no longer be able to meet the requirement to work at least 90% of the time on-reserve. I have for some time now arranged for office space, at my own expense, in the (urban reserve) that is part of the X First Nation.

As a status ‘Indian’, there are tax advantages to working at least 90% of the time on reserve. In seeking an extension of my secondment, I had done so on the understanding that the exemption for Indigenous employees would continue to apply. (CRA is notoriously difficult about this, and in the event of an audit, would require strong evidence of on-reserve office presence.)

Additionally, a colleague and I have the opportunity to connect with other Indigenous community members who are active in the Indigenous community here in (urban center), as well as a few other First Nations federal public servants from other departments similarly leasing office space in the same building, and so there is a social dynamic that is also important to us to maintain ties and involvement in our community.”

[CRITICS]

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