



Work Force Adjustment

WFA



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada



Work Force Adjustment

What you need to know about the
Work Force Adjustment Appendix
A guide for PSAC members

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What is the Work Force Adjustment Appendix?

The Work Force Adjustment Appendix (WFAA) is the most important job protection document that PSAC has ever negotiated with the federal government.

- A collective agreement: Appendix D
- SV collective agreement: Appendix I
- TC collective agreement: Appendix T

Although the WFAA may be found in different parts of the collective agreement, it is exactly the same for all workers directly employed by Treasury Board.



It outlines the obligations that the employer, the Public Service Commission, the union and you have when the employer decides that your services will no longer be required beyond a specified date. This could be because of a lack of work, the discontinuance of a function, a relocation in which you do not want to participate or an Alternate Delivery Initiative.

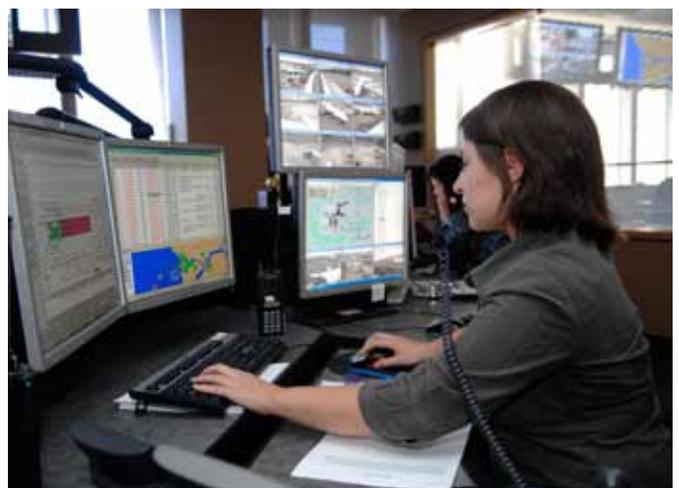
The WFAA consists of seven main parts and three annexes. Although the WFAA is the most significant document outlining job protection, it is also related to other legislation and documents including but not limited to:

- Other parts of your collective agreement
- The Public Service Employment Act and Regulations
- Public Service Commission guidance documents, and
- National Joint Council directives.

The WFAA is a result of collective bargaining and is an appendix to your collective agreement.

For Treasury Board collective agreements, the WFAA is found in the following places:

- EB collective agreement: Appendix B
- FB collective agreement: Appendix C





How does the Work Force Adjustment Appendix protect workers?

At PSAC we work hard during negotiations to do everything in our power to minimize the negative impact of work force adjustment. This means ensuring that changes to government priorities or changes to the way services are delivered, are implemented with minimal job loss and where possible through redeployment without relocation.



The employer has an obligation to make sure that:

- **Workers are as skilled as possible.** High skill levels translate into increased placement prospects and stronger job security.
- **It takes a proactive approach toward human resources planning.** Treasury Board must review existing work practices and stop work that is currently being done by contractors, temp agencies and consultants before entertaining cuts to the indeterminate work force.
- **It practices appropriate succession planning** and identifies other possible

placement opportunities for potentially affected workers.

The WFAA helps ensure that workers are treated equitably and in a consistent manner. PSAC is committed to strengthening equality measures in the WFAA. We have successfully moved the employer in a number of WFA situations to use seniority as a factor in determining which employees will be subject to layoffs or relocation, while at the same time balancing employment equity and accommodation obligations.

The WFAA contains measures to help ensure that workers are as fully and clearly informed of their options as possible should they face a work force adjustment situation.

It is incumbent on the employer to provide this information.

It is also important that workers clearly understand the process.





Why are Work Force Adjustment Committees so important?

Article 1.1.3 of the WFAA states that, *“Departments or organizations shall establish Work Force Adjustment Committees, where appropriate, to manage work force adjustment situations within the department or organization.”*



Work Force Adjustment Committees are critical mechanisms that help us ensure that the employer is proactively meeting its obligations to workers who may be or will be work force adjusted.

Some departments, agencies and the PSAC Components who represent workers in those workplaces have interpreted this article to mean that in order to be as proactive as possible, joint standing WFA committees should be established at the highest levels of the union.

Other employers and components establish WFA committees as soon as they are aware of a possible WFA situation. When we are proactive, we can help the employer find less disruptive alternatives to work force adjustments.

WFA committees are tasked with developing strategies **for all potentially affected employees** – not just those who could lose their jobs or be forced to decide whether or not to accept a different job.

The goal of these strategies is to create opportunities for:

- Learning, training and development
- Inter-organizational mobility and placement
- Employability





WFA committees will:

- Obtain information relevant to the WFA situation from all available sources.



- Obtain information on employment opportunities.
- Identify and examine examples of where employees in other workplaces have received training and successfully transitioned to new jobs. Highlight opportunities where workers could be re-trained and learn new skills.
- Develop plans to assist employees to transfer to future workplace opportunities.
- Develop policies and strategies to help ensure effective career transition.
- Consult with employee organizations and central agencies.

- Ensure that plans and strategies are effective, equitable and applied consistently.
- Identify how the WFAA will be applied if a WFA situation occurs.
- Review and monitor the implementation of transition initiatives.
- Set up regional or local WFA committees as required.
- Ensure communication between national and regional WFA committees.
- Ensure that workers are provided with information and counseling sessions related to transition issues, WFA issues and specific issues impacting surplus employees.





How to read and understand the WFAA

Introduction

The Work Force Adjustment Appendix is organized around key decision points. Some parts may apply to your work force adjustment situation. Other parts might not.

The following approach elaborates key considerations. There are many other rights spelled out in the WFAA so it's important to read it carefully. PSAC has also prepared some more in-depth fact sheets about the WFAA, which can be found at www.pfac.com.

Once the employer decides that a person or a group of people will be work force adjusted the three most important overall questions that have to be asked are:

- What are the employer's obligations?
- Do Parts I to VI of the Work Force Adjustment Appendix apply to the situation?



- Or instead, does Part VII of the Work Force Adjustment Appendix apply?





What does the WFAA oblige the employer to do?

Departments and organizations must:

- Consult with the union as soon as possible.
- Maximize employment opportunities for indeterminate employees.
- When possible, provide alternative employment opportunities and give employees every “reasonable opportunity” to continue their careers in the public service.
- Make sure employees are treated equitably.
- Establish joint Work Force Adjustment Committees.
- Review the use of private temporary agency personnel, consultants, contractors, term employees and all other non-indeterminate employees and where

practicable not re-engage them when it will facilitate the appointment of surplus or laid off persons.

- Identify situations where retraining can help workers continue their careers in the public service.
- Advise employees in writing about their status and any change to it.
- Actively cooperate with the Public Service Commission and other departments/ organizations. Interdepartmental cooperation is essential to maximize employment opportunities, although an organization’s first priority is to find jobs for workers in-house.

Additional employer obligations can be found in Part I of the WFAA.

What does the WFAA oblige workers to do?

In a work force adjustment situation, it’s important to be proactive and investigate other potential employment opportunities within the federal public service.

Once it’s clear that a work force adjustment is inevitable, employees are obliged to:

- Actively seek alternate employment in cooperation with their department and the Public Service Commission.
- Actively seek out information about their entitlements.

- Submit any documents (like resumes) or additional information that could help the employer to find them new work.
- Ensure that they can be contacted easily.
- Seriously consider training and job opportunities.
- Be aware of timelines and proactively consider options when they are required to make decisions.



Work Force Adjustment Appendix Parts I to VI

Under what circumstances do Parts I to VI of the WFAA apply and what happens in these circumstances?



Parts I to VI of the WFAA apply when there is:

- A lack of work
- The discontinuance of a function
- The relocation of a work unit
- The closure of an office or work location(s)

Parts I to VI can apply to individuals or to a whole group or work unit.

What happens when work force adjustment happens as a result of a Part I to VI situation?

Decision Consideration 1:

Specific individuals, groups of workers, work units or whole departments can be impacted by WFA under these parts.

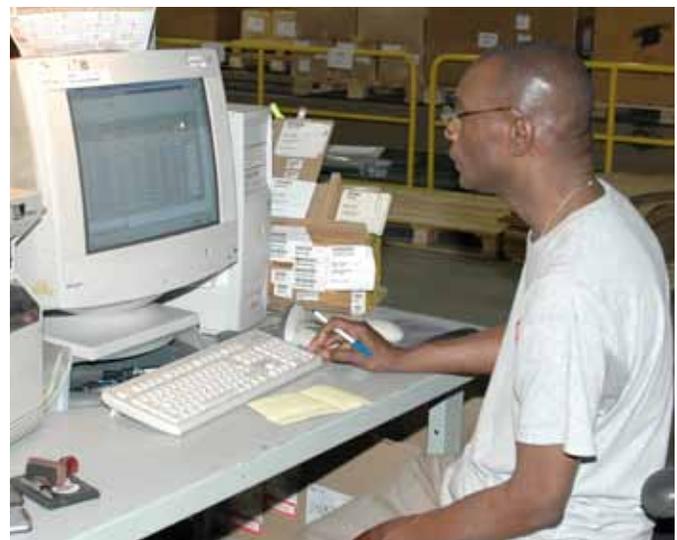
If there is a relocation of a work unit, all employees whose positions will be relocated have the choice of whether to move or be subject to the WFAA.

Otherwise, in most cases the deputy head of a department must notify employees in writing that they are “affected,” although this step could be skipped in some circumstances.

“Affected” status means that a worker **may** be work force adjusted or surplus. At this point in the process, **it does not mean that they will be.**

If more than one worker is involved, but the employer needs some workers to remain employed, the employer is obliged to choose those who will remain with a **merit** exercise.

If there is a relocation, employees will have six months to decide if they want to be relocated.



Relocation means that a workplace is going to be moved at least 40 kilometres from its original location (and from workers' homes).



Decision Consideration 2:

Workers may end up not being work force adjusted. They may experience an increased work load but their jobs are secure for now.

They may be declared “surplus” and receive a “Guarantee of a Reasonable Job Offer (GRJO)” which they can accept or reject.

The definition Guarantee of a Reasonable Job Offer specific to Part I to VI is *“an offer of indeterminate employment within the Core Public Administration, normally at an equivalent level, but which could include lower levels. Surplus employees must be both trainable and mobile. Where practicable, a reasonable job offer shall be within the employee’s headquarters as defined in the Travel Directive.”*

A Guarantee of a Reasonable Job Offer is a

technical term that applies to a job offer within the parameters that are set out in the WFAA (though workers being impacted may well feel that it is neither reasonable nor fair). There are consequences either way depending on their decision.

If the employer does not give a worker a “Guarantee of a Reasonable Job Offer,” they then must choose between four different alternatives with respect to their future intentions.

Decision Consideration 2(a): Worker receives a Guarantee of a Reasonable Job Offer

If workers receive a GRJO, they are put on “surplus priority” and paid until their home department fulfills their guarantee of a job.

If required, they must be willing to be trained and they must be mobile.

If workers refuse a GRJO, they will be laid off one month after refusing, but not until six months after the date they were declared surplus.



Once laid off, they will be on “lay-off priority” for up to 12 months during which time the Public Service Commission is obliged to find them a job preferably at their former classification and level.

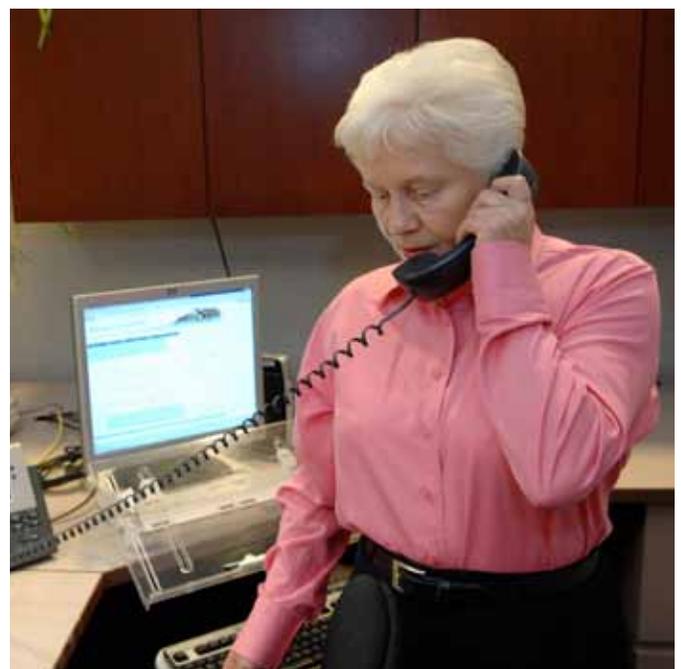


Decision Consideration 2(b): Worker does not receive a Guarantee of a Reasonable Job Offer

The worker becomes an “opting employee.” This means that within 120 days they must choose to either:

1. Become **surplus with surplus priority status for 12 months**. Their department is obliged to try to find them a job. If they don’t receive a job equivalent to their old job within that period, they will be laid off.
2. Accept a **Transition Support Measure**. The worker will receive a cash payment based on their years of service as specified in Annex B of the WFAA. They must resign without priority rights.

3. Accept an **Education Allowance**. The worker will receive the same cash payment as above as well as up to \$10,000 for reimbursement of receipted educational expenses. They may either resign immediately or go on leave without pay for two years allowing access to (self-funded) benefits while they attend school and then resign.
4. They may also be able to “**alternate**” **positions with a non-affected indeterminate employee** who wants to leave the public service. The alternation must result in the permanent elimination of the worker’s position and management has the final say in approving it. Alternation can take place between employees in the same group and level and it can take place between equivalent positions. The maximum rate for a higher paid position must be no more than six per cent higher than that of the lower position.





Work Force Adjustment Appendix Part VII

The provisions of Part VII of the WFAA are specific to Alternative Delivery Initiatives and are an exception to Parts I to VI of the WFAA unless otherwise specified. (This means that many of the obligations in the rest of the WFAA don't apply depending on the kind of WFA being contemplated.)



An **Alternative Delivery Initiative (ADI)**, is defined as the *“transfer of any work, undertaking or business of the Core Public Administration to any body or corporation that is a separate agency or that is outside the Core Public Administration.”* This includes:

- The devolution of work to another level of government.
- The creation of public-private partnerships (P3s).
- Any contracting out and/or privatization of your work.

Part VII can apply to individuals or to a whole group or work unit.

What happens when work force adjustment occurs as a result of a Part VII situation?

In ADI situations, positions move to a new employer. If a worker accepts a job with the new employer, their Treasury Board employment will ordinarily end on the day that the work is transferred to the new employer.

The employer must notify the union that it is contemplating an Alternative Delivery Initiative at least 180 days before the ADI is scheduled to begin.

Workers may still be declared “affected.” The meaning is the same as it is in Parts I to VI of the WFAA.

There are **three “types” of ADI** articulated in the WFAA. The employer’s obligations are different depending on which “type” of ADI is being contemplated.





The meaning of a Guaranteed Reasonable Job Offer (GRJO) is different in this part than it is in Parts 1 to VI, and many of the other obligations defined in those parts do not apply in this part.

The job offers in **Type 1** and **Type 2** arrangements are considered reasonable job offers. They are considered to provide “full” or “substantial” continuity.

- Often workers who transfer to a new employer under a Type 2 arrangement don't believe the offer is reasonable or fair especially when looking at it over the longer view of a career, but it is a technical term.
- If a worker refuses a job offer with the new employer in either of these instances, they are laid off and will receive a four-month notice of termination.
- The creation of the “agencies” like CRA, CFIA, and Parks are considered Type 1 offers.
- The most common forms of ADI have been Type 2 arrangements. This includes situations where work is contracted out, devolved or transferred to a public-private partnership.
- Type 2 arrangements should be viewed as minimum requirements. In the past, Type 2 arrangements have often exceeded the minimum requirements.

- Union leaders and participants in WFA committees should always argue for enhanced Type 2 arrangements. There are precedents supporting those arguments. Enhanced Type 2 agreements have been written into some requests for proposals as well as into federal-provincial agreements.
- Remuneration and tenure have on a number of occasions been increased to equivalent salary and a three-year tenure guarantee. Other improvements have been made as well.
- Although there may be an ethical obligation for the employer to negotiate a transfer of work which surpasses the minimum obligations outlined in a Type 2 arrangement, there is no contractual obligation for them to do so.

Job offers for **Type 3** ADI arrangements are not considered reasonable job offers. The pay and benefits offered by a Type 3 employer are too low for the employment to be considered continuous.





Comparable benefits with the three types of Alternative Delivery Initiatives:

Issue	Type 1	Type 2	Type 3
Employment rights	Retain continuous employment and all related rights (i.e. -- job transfer from the federal public service to the Canadian Revenue Agency)	May or may not retain continuous service (i.e. – similar to when Service Canada employees transferred to provincial governments)	Transfer to an employer with inferior working conditions which fail to meet the Type 1 or 2 criteria (i.e.– contracting out custodial and food preparation services)
Remuneration	Same remuneration (salary and supervisory differential)	At least 85% of hourly or annual remuneration (pay and supervisory differential)	No guarantee – whatever the new employer wants to pay
Tenure	Guarantee of 2 years minimum employment	Guarantee of 2 years minimum employment	No guarantee of tenure

Benefits	Core benefit coverage (health, LTD, and dental)	Some level of core coverage	No guarantee
Pension	Comparable pension (6.5% payroll, no obligation for defined pension plan) – if not three-month lump sum	Comparable pension (6.5% payroll, no obligation for defined pension plan) – if not three-month lump sum	No guarantee
Disability	Sick leave carryover up to LTD waiting period	Short term disability benefits of some sort	No guarantee
Vacation	Vacation transfer or pay-out	Vacation transfer or pay-out	Vacation transfer or pay-out
Severance	No severance	Severance if new employer doesn't recognize continuous service	Severance



Offer of employment	Guaranteed Reasonable Job Offer, written	Guaranteed Reasonable Job Offer, written	Not a Reasonable Job Offer, written
Offer timing	Must accept within 60 days	Must accept within 60 days	Must accept after 30 days as specified by employer
If you refuse offer	Four-month notice of termination	Four-month notice of termination	You become either a surplus or an opting employee
If you accept offer	Move to new employer	<p>You receive:</p> <ul style="list-style-type: none"> • Three months pay on day of offer • Eighteen months top-up in exchange for difference in remuneration • Six-month top-up if salary is less than 80% of current wage 	<p>You receive:</p> <ul style="list-style-type: none"> • Six months pay on the day of transfer • Twelve-month top-up for difference in remuneration <p>The total payment must not exceed one year's pay</p>





What you need to know about the merit process

The concept of merit has changed since that Public Service Modernization Act came into effect in 2003.



“Relative merit” no longer exists. This means that the Reverse Order of Merit (the process that was used during the downsizing exercises that occurred in the 1990s) isn’t a mandatory process any longer.

Management now has broad discretion with respect to merit criteria. At its discretion it can place greater emphasis on certain merit criteria than others to achieve a “right fit” decision.

The employer can rank assessment results or use any other merit criteria that is deemed to be fair and transparent.

The Public Service Commission’s **Guidance Series on Retention and Layoff**, is the key document that explains how employers must exercise merit.

PSAC believes that the wording in this documentation allows the employer to use seniority as part of the merit criteria.

Work Force Adjustment Committees must seriously examine the kinds of merit exercises that will be used in a WFA situation to ensure that they are transparent and fair.





Conclusion

Workers should not be penalized when employer's eliminate their jobs. The Union opposes job losses in many different ways. Often we oppose the initiative altogether and organize fight back campaigns. Sometimes we are successful in defeating job loss initiatives and sometimes we aren't. When job loss appears inevitable, workers have the Work Force Adjustment Appendix to fall back on.

Losing a job or having a job relocated is one of the most stressful events that can happen to workers. The WFAA isn't perfect but it provides important protections, which the Union tries to improve during every round of Collective Bargaining. This guidebook doesn't replace the WFAA but we hope that it will assist you in understanding it, and how it applies to your situation, if your job is threatened.



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If you would like to receive this document in an alternate format, please contact PSAC's National Education Section at 613-560-4200.



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