

Make Significant Changes to Address Issues in Foreign Worker Programs

The federal government's Temporary Foreign Worker Program (TFWP) and Canada's Provincial Nominee Programs are important components of Canada's labour strategy. However, changes in how the programs are implemented and integrated federally are urgently needed. Change is needed to reform processes to increase Canadian businesses' ability to compete domestically and globally.

In spite of record levels of participation, immigration, and slower economic growth, the demand for workers is still expected to exceed the supply through 2022¹. Even with the implementation of the Express Entry system, the TFWP remains an essential tool for employers unable to attract domestic labour, or with positions that are non-eligible occupations for other immigration streams. The TFWP is a program established to serve the labour needs of Canadian businesses on a short-term basis; however Canada's employers have permanent jobs to be filled. Many businesses, struggling to meet their labour needs, rely on the TFWP primarily for unskilled workers in industrial, agricultural and retail settings.

Employers cite numerous concerns with the delivery model including:

- **Processing Errors:** Most provinces have to provide a Labor Market Impact Assessment (LMIA) for TFWs, which must be approved before Citizenship & Immigration Canada (CIC) will issue a work permit. Service Canada agents from time to time have declined LMIA applications in error and/or without justification or ability to appeal.
- **Calculation of Prevailing Wage Rates:** Prevailing wage rates established by Service Canada are creating challenges for some businesses since the calculation is not industry specific and often fails to recognize local employment demographics. Increased flexibility in wage determination is needed to ensure that the nature and location of the business, labour demographics and wage parameters are duly recognized at the local level when establishing wages for TFW's. Access to qualified workers may vary significantly by location (i.e. urban vs. rural, region vs. province etc.). Additionally, Service Canada may change the posted wage rate in the course of a day. Employers who unknowingly used a wage rate on their initial LMIA application that has subsequently become outdated may have their application denied, in which case they must re-apply causing costly delays.
- **National Occupation Classification (NOC Codes):** NOC codes are generic and do not adequately address the nature and location of the business.. Employers in smaller centers are disadvantaged because NOC codes do not adequately recognize and differentiate between skill level needs and regional demographics. Currently in Alberta there are no NOC codes for employers seeking to recruit grain farm operators under the TFW Program with pathways available to Permanent Residency. This puts Alberta grain farmers at a disadvantage to those in Saskatchewan and other provincial jurisdictions.
- **Barriers to Permanent Residency Transition:** Many employers who utilize the TFW program require unskilled workers, making the program a good fit. Reports indicate that TFWs provide a stable, diligent workforce. Not surprisingly, employers typically attempt to transition TFWs into permanent residents through Provincial Nominee Programs. This process poses additional problems. For example, in order to qualify for the Alberta Provincial Nominee Program, the immigrant must have obtained three years of related experience before coming to Canada; experience obtained while in Canada on the TFW program does not qualify.

Differences in Provincial Systems: Though the LMIA process is administered by Service Canada, a federal agency, regional Service Canada offices have latitude to interpret policy and manage the process. For example, Saskatchewan's Immigrant Nominee Program (SINP) varies from the Alberta Immigrant Nominee Program (AINP) and contains a number of flexibilities unavailable through the Alberta program.

¹ "Canada's Workforce Requirements 2013 to 2022." Workforce Outlooks Spring 2013, <http://www.workforceoutlooks.ca/information/WOCanada131.pdf> Retrieved on 29 May 2015.

Additionally, on June 20, 2014, the Minister of Employment and Social Development, Jason Kenney, announced major changes to the Temporary Foreign Worker Program (TFWP) in order to drastically reduce the number of foreign workers in the country.

We support the goal of promoting the hiring of local labor supply, particularly in the Employment Insurance program, as do thousands of member companies that offer countless job opportunities to those beneficiaries every day. But we believe that the strict limits on the use of temporary foreign workers now imposed under the TFWP are contrary to what is desirable for the Canadian labour force.

Increasing the cost for the analysis of a file and impose substantial fines on offenders to limit abuse is one thing, but:

- making LMIA's burdensome and unwieldy;
- requiring employers to develop transition plans for trades and professions in chronic shortage while we know their commitment to developing the workforce;
- performing continuous checks to ensure that the number of workers does not exceed the allowed threshold;
- refusing to process applications from districts with full employment which are located in large economic regions where there is no public transport infrastructure that allows commuting;

are merely red tape measures that hinder rather than encourage prosperity and employment.

Companies, rather than the Program, create jobs and it is important to avoid increasing barriers to employment. In fact, the new measures threaten the employment of Canadians who work for employers who hire temporary foreign workers by limiting their ability to meet customer demand. Many employers in the areas of accommodation, food services, retail trade, agriculture and food processing must use temporary foreign workers to fill their vacancies due to a lack of candidates.

The Canadian Chamber of Commerce considers it essential that the government take into account the different economic realities of businesses in the country and make significant changes to the TFWP for trades and occupations, industries and communities facing labour shortages.

Recommendations

That the federal government and the provincial/territorial governments work together to:

1. Use the Temporary Foreign Worker Program as a true temporary worker program for immediate shortages while enabling foreign workers to use other immigration programs for permanent residency.
2. Develop permanent solutions to chronic labour shortages by expanding pathways to permanent residency, including negotiating with the federal government to expand the Canadian Experience Class to give low- and semi-skilled temporary foreign workers the right to apply for permanent residency after three years of work experience in Canada, based on employer recommendations, satisfactory background check, appropriate prior experience in country of origin and minimum language proficiency requirements.
3. Implement a process by which employers are notified of any changes to processes or information utilized in the calculation and submission of their initial LMIA application, permitting employers the opportunity to update applications and avoid costly delays, particularly in the case of prevailing wage rates.
4. Improve processing efficiencies by recommending that the responsible department create a temporary foreign worker (TFW) industry specific labour pool where semi-skilled or skilled TFWs who have been terminated without cause can register with an open work permit, creating a 'pool' from which other qualified industry specific employers from across Canada can recruit.
5. Review National Occupation Classification (NOC) Code processes in all provinces, and establish flexible, responsive practices that incorporate rural, urban and regional labour market needs.

6. Amend the advertising criteria for LMIA's to allow companies from the same sector to jointly advertise rather than as individual organizations.
7. Simplifying the processing of applications and LMIA's for trades and professions in high demand while taking into account the varied situations in different labour markets in Canada;
8. Exempting companies engaged in workforce development from the obligation to provide transition plans for trades and professions experiencing chronic shortages;
9. Permit the application process for low wage temporary foreign worker positions in regions where there is full employment (ie. less than 6% unemployment) located in large economic regions as defined by Statistics Canada and used in the Temporary Foreign Worker Program.
10. Include transparency in requirements and guidelines.