

July 16, 2019

Uttara Chauhan  
Director, Policy and Program Design  
Temporary Foreign Workers Program  
Employment and Social Development Canada  
140 Promenade du Portage  
Gatineau, Quebec K1A 0J9

Jordan Thompson  
Acting Director, Temporary Resident Policy and  
Programs  
Department of Citizenship and Immigration  
365 Laurier Avenue West  
Ottawa, Ontario K1A 1L1

**Re: Proposal to Amend Immigration & Refugee Protection Regulations for Temporary Foreign Worker Program (TFWP)**

Dear Ms. Chauhan and Mr. Thompson,

On behalf of the Tourism Industry Association of Canada (TIAC), we are submitting our response to the proposed changes to the Temporary Foreign Worker Program (TFWP) published in the Canada Gazette, Part 1, Volume 153, Number 25.

In 2018, tourism added \$102 billion to Canada's economy, providing a larger economic contribution than the automotive sector, as well as the agriculture and forestry sectors combined. The visitor economy accounted for 2.1% of Canada's GDP last year and as Canada's largest service export, it also contributed \$22.1 billion in export revenue. According to Statistics Canada, there are in excess of 200,000 tourism businesses across Canada, most of which are small businesses who together make a significant contribution to the overall economy of the country. These businesses employ 1.8 million people in a variety of job types – from entry to executive and entrepreneurial. 65% of these workers are tenured career professionals in well-paid, stable jobs.

Despite these impressive numbers, Canada's growth is behind that of comparable countries. In part this is due to chronic labour shortages which are negatively impacting revenues and hampering business potential. In the context of unprecedented labour shortages, access to non-resident workers is a temporary solution for a permanent problem. In fact, Statistics Canada reports that in the first quarter of 2019, 56,590 jobs in the accommodation and food services industries alone have gone unfilled<sup>1</sup>.

Labour shortages and the recruitment and retention of Canadian workers first is a top priority for TIAC's members. Numerous labour market studies have built a solid foundation for understanding that tourism labour shortages are the result of a declining supply of labour and the high demand for Tourism product and services. There are simply not enough workforce entrants to fill seasonal or entry level occupations, especially in rural and remote communities which the new Tourism Strategy recently unveiled by the

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<sup>1</sup> Statistics Canada, Job vacancies, payroll employees, job vacancy rate, and average offered hourly wage by industry sector, quarterly, unadjusted for seasonality

Honourable Mélanie Joly specifically cites as a key area targeted for growth.<sup>2</sup> This is where a whole-of-government approach to policy development becomes critical. Federal budget 2019 recognized tourism as one of seven industries targeted for future growth along with a mandate to establish a new Economic Strategy Table. Future growth is dependant on a variety of factors, including the assurance of adequate human capital to ensure a strong tourism industry and reach government growth targets.

Due to the immediate and significant impacts of labour shortages on Canadian business revenues, worker morale and diminished productivity, an effective Temporary Foreign Worker Program that is administratively efficient, cost appropriate and balanced is urgently needed.

TFWs, on average, have accounted for less than 1% of tourism workers. However, the roles they fill are essential. Clearly evidenced by the chart below are the many policy changes since 2013 that have rendered the program virtually useless for Tourism businesses, causing a program usage decline of 77% from peak usage in 2012. This is occurring at a time when labour shortages are at their highest. In 2018, the number of temporary foreign worker (TFW) positions on positive Labour Market Impact assessments in NAICS code 72- the Accommodation and Food Services sector totalled 5,767 nationally compared to 2012 when that number exceeded 41,000. As a result of a declining supply of labour and the high demand for Tourism products and services, the accommodations and food services industry and the Tourism sector as a whole continue to face crippling labour shortages. TIAC firmly believes that additional changes that would enable the movement of TFWs from employer to employer “at any time” (not including cases of abuse) without in-depth consultation or specific avenues for employers to recuperate investments will further erode the usefulness of the program and exacerbate an already critical labour shortage.

**Number of temporary foreign worker (TFW) positions on positive Labour Market Impact Assessments (LMIAs) by North American Industry Classification System - 2002 (NAICS) and province/territory**

NAICS Codes and Industry Sectors 72 - Accommodation and Food Services	2011	2012	2013	2014	2015	2016	2017	2018
<b>Canada</b>	29,298	41,283	29,570	7,124	4,733	5,061	6,355	5,767
<b>Newfoundland and Labrador</b>	204	385	370	85	40	52	18	16
<b>Prince Edward Island</b>	62	89	40	22	13	9	8	8
<b>Nova Scotia</b>	647	504	394	159	75	79	73	67
<b>New Brunswick</b>	324	321	233	79	64	78	68	58
<b>Quebec</b>	801	883	769	352	182	174	204	212
<b>Ontario</b>	2,552	2,764	2,031	714	336	536	853	1,044
<b>Manitoba</b>	164	300	318	137	45	55	66	67
<b>Saskatchewan</b>	814	2,026	1,881	474	163	115	107	63

<sup>2</sup> <https://www.canada.ca/en/innovation-science-economic-development/news/2019/05/government-of-canadas-new-federal-tourism-strategy-empowers-communities-across-the-country-to-create-jobs-for-the-middle-class.html>

<b>Alberta</b>	20,853	29,163	19,488	3,948	3,077	2,537	2,463	1,691
<b>British Columbia</b>	2,769	4,673	3,924	1,133	722	1,421	2,485	2,533
<b>Yukon</b>	23	62	59	7	12	5	3	1
<b>Northwest Territories</b>	81	104	54	14	4	0	7	5
<b>Nunavut</b>	4	9	9	0	0	0	0	2

1. The source for all information in this report is Employment and Social Development Canada's (ESDC) LMIA System.
2. Effective February 2018, LMIAs in support of Permanent Residence (PR) are excluded from TFWP statistics reporting, unless reported separately. This may impact statistics reported over time.
3. The sum of the subtotals of TFW positions may not be equal to the grand total because some LMIAs have no NAICS associated with them.
4. Each LMIA application submitted is restricted to a single occupation, as defined by the NOC; however, it may be for any number of positions (for example, five welders)
5. The LMIA System tracks TFW positions only, not TFWs who are issued a work permit or who enter Canada. Not all positions approved result in a work permit or a TFW entering Canada. For information on the number of work permits issued, please consult Immigration Refugees and Citizenship Canada's (IRCC) Facts and Figures: <http://www.cic.gc.ca/english/resources/statistics/menu-fact.asp>
6. The numbers appearing in this release may differ slightly from those reported in previous releases of LMIA statistics due to data updates that occur over time.

TIAC is pleased to address the questions outlined in the Proposal to Amend Immigration & Refugee Protection Regulations for Temporary Foreign Worker Program (TFWP) consultation guide:

1. Would an occupation-specific work permit increase the likelihood that foreign workers would seek out better job opportunities within their occupation? What barriers to mobility would persist?

TIAC concurs that TFWs, like any other workers, should not be indentured or beholden to bad employers. TFWs who are in potentially abusive or unsafe working conditions should have an outlet to move to a safer and more stable job opportunity. That being said, we are concerned about the subjectivity of the use of the term 'better job opportunity', which is much broader than the background document's stated purpose of correcting power imbalances between employers and TFWs. Measures that allow workers to change jobs for any reason (without specifics or outlining measures to reciprocate fee and costs) is counter-productive and will further exacerbate labour challenges within our sector.

We are concerned that there is often a significant difference between stated policy objectives and the impact of regulations that result from them. Setting explicit criteria that define the conditions that allow a TFW to make a change is essential, including the TFW's responsibilities to employers should a change be made for any reason other than abuse.

There are several mobility barriers that TFWs seeking 'more favourable employment' may face. These issues are faced by all workers in the tourism industry, not just temporary foreign workers and include availability of housing, access to transportation options (especially in rural and resort communities), costs for re-locating, and consistency in training practices, to name a few. Specific to TFWs, there would also be potential for competition between TFWs for employment with LMIA approved businesses, which could further disrupt power balances. Mobility in terms of 'better opportunities' would also be limited by the streams in which they are accepted, as it is unlikely that 'low-wage' workers will find significant wage or opportunity growth within the program's restrictions.

2. What positive impacts would this occupation-specific work permit have for temporary foreign workers? What concerns or challenges would it pose, and how could these concerns be mitigated?

Except for the rare cases where TFWs have been mistreated or their or rights have been violated, the changes should/would have no 'positive impacts'. The background document implies that this may also provide "improved working conditions and higher wages". Foreign workers, under the current regulations, already make the same or similar wages to Canadian workers. Hiring available Canadian employees is a priority for tourism operators. It is unlikely that moving to a different employer in the same job category would make any difference in these aspects for entry-level and seasonal jobs. We believe that regulatory changes should focus on addressing the specific issues noted (i.e. mistreatment & abuse); the changes are not designed or intended to provide other enhancements or impacts.

3. What positive or negative impacts would this work permit have for employers and Canadian and permanent resident workers in Canada

Costs and processing times for TFWs are onerous, and the application process is already viewed burdensome. Tourism business are less likely to access TFW workers if policies that allow an employee to leave for another employer are unjust. Businesses invest heavily in TFWs to fill essential roles that cannot be filled by Canadians. Increased risk or burdens on employers will have an impact on the economy in 1000's of small communities that depend on the workers. Businesses will continue to experience labour and business growth challenges and revenues will be further hampered. Tourism businesses also report that the impact of not filling the jobs will lead to reduce hours and/or services or closures, accounting for billions in forgone revenues, hundreds of millions in annual taxes, and lost jobs. We believe that the terms for changing employers should be explicit and include a cost recovery condition in order to mitigate most negative impacts.

4. Should there be a designated time period (e.g. first two months after starting a job contract) when foreign workers are not permitted to change jobs?

TIAC believes that unless there is a proven case of abuse or unsavory workplace practices, should an employee leave anytime before a mutually agreed date set out in a employment contract, the new employer should be required to compensate the previous employer for the expenses associated with recruiting the temporary foreign worker, including costs associated with the Labour Market Impact Assessment and application process. The TFW or new employer should also be responsible for reimbursement of costs related to travel, housing and training if these were included in the terms of employment. A minimum notice period of two months should be considered, though for the seasonal and high-season nature of tourism work, any employee leaving a contract on short notice will have significant negative impacts on tourism businesses. There must be fair and explicit guidelines that support the rights of both TFWs and employers.

5. Would additional supports be required to help temporary foreign workers find a new employer in Canada with a valid Labour Market Impact Assessment in their occupation? If so, what kind of supports should be considered and who should provide them?

An accessible directory that connects trusted employers with an approved LMIA and available foreign workers with valid occupational-specific permits would benefit the tourism sector. The 'independent third-party' could serve as a clearinghouse/coordination body to help re-assign TFWs and be a first source to identify TFW workers' for qualified employers. For the travel and tourism sector, these resources could be available through national sector organizations such as Tourism HR Canada or through TIAC or in the Provincial/Territory through their Tourism Industry Associations. To ensure the privacy of workers and employers, we also recommend that these directories be moved from public databases, to those only used by those participating in the TFWP.

6. With greater mobility of foreign workers, what kind of mechanisms should the departments consider to track foreign workers and their new employers for compliance purposes?

Without a national database or directory that provides information on employers with an approved LMIA and similarly, a directory or list of available foreign workers with valid occupational-specific permits, it will be nearly impossible to track properly. TIAC recommends that in the case of occupation-specific work permits, the responsibility for tracking foreign workers should be on the government department responsible for issuing the work permits, with shared reporting by employers and the TFW. Should a TFW move to another employer, the former employer, the TFW and the new employer would be responsible to report the change in employment.

7. Is there a need to clarify or amend the responsibilities of employers and foreign workers in light of this new work permit?

It would be difficult if not impossible for the tourism industry to appropriately comment on the need to clarify or amend the responsibilities without understanding the full scope of the proposed changes. While we realize that most of these changes will flow from regulatory efforts, we know that significant, sustained, and advanced consultation are critical for the industry to be able to understand, comment and adapt to changes. Furthermore, it is imperative that employers who use the TFW program not be incumbered with additional costs or regulatory burdens due to these proposed changes. It is also important that the government ensure TFWs are well informed of rights and mechanisms to enable them to self-report/seek assistance.

8. Should additional changes be made to the work permit process to further support foreign worker mobility?

Again, it would be difficult for the tourism industry to appropriately comment on the need to clarify or amend the responsibilities without understanding the full scope of the proposed changes. However, our answers in previous questions do provide suggestions that would help mitigate impacts created by these changes including:

- With the exception of cases of abuse, require a minimum notice period of 2 months to move to another employer
- Allow for reimbursement clauses in employment contracts
- Create a national database or directory that provides information on employers with an approved LMIA and similarly, a directory or list of available foreign workers with valid occupational-specific permits

- Ensure TFWs are well informed of rights and mechanisms to enable them to self-report/seek assistance with job related issues
9. Are there particular considerations for specific Temporary Foreign Worker Program Streams that need to be taken into account when designing an occupation specific work permit?

Tourism businesses across Canada regularly struggle to find adequate labour to run their businesses, especially in remote areas or for businesses that have growing shoulder seasons when students are not available to work. These labour shortages are leading many businesses to struggle to operate at capacity, despite increased demand for services. TIAC recommends that the TFW program:

1. Discontinue the use of broad economic regions that make foreign recruitment inaccessible and instead, use industry labour market information as the main determiner of program access, regardless of skill level.
2. Provide a path to permanent residency for TFWs
3. Focus on creating a stronger enforcement regime and accountability process that exposes and penalizes those who abuse both the system and temporary foreign workers
4. That employers who use the TFW program are not incumbered with additional costs or regulatory burdens due to these proposed changes
5. Unless it is a proven case of abuse or unsavory workplace practices, should an employee leave anytime before a mutually agreed date set out in an employment contract, the new employer should be required to compensate the previous employer for the expense associated with recruiting the temporary foreign worker, including costs associated with the Labour Market Impact Assessment and application process.
6. An occupation-specific, open and accessible database that provides information on employers with an approved LMIA, as well as a directory or list of available foreign workers with valid occupational-specific permits
7. Consider extending seasonal TFW permits to allow workers to move between employers who have different seasonal demands (for example, one employer may hire a TFW from May-September, with another employer taking the employee on from October – December on the same work permit).
8. On-going and meaningful, consultation with tourism stakeholders to be able to understand the impact of potential changes, before those changes occur.

People are the backbone of the hospitality and tourism sectors. These sectors employ a high number of young people, indigenous people, and new immigrants. Yet, tourism businesses across Canada regularly struggle to find adequate labour to run their businesses. These labour shortages are leading many businesses to struggle to operate at capacity, despite increased demand for services.

An effective Temporary Foreign Worker Program that is administratively efficient, cost appropriate and balanced must be an integral part of the sector's labour solution.

TIAC appreciates the opportunity to contribute to this very important consultation.



Should you require additional information concerning this submission, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink that reads "Charlotte Bell".

Charlotte Bell  
President & CEO  
Tourism Industry Association of Canada (TIAC)