

July 18, 2019

Uttara Chauhan, Director, Policy and Program Design
Temporary Foreign Workers Program
Employment and Social Development Canada
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Jordan Thompson, Acting Director
Temporary Resident Policy and Programs
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RE: Alberta Hotel & Lodging Association comments on Canada Gazette, Part I, published on June 22, 2019, Introducing occupation-specific work permits under the Temporary Foreign Worker Program

Dear Ms. Chauhan and Mr. Thompson,

On behalf of the Alberta Hotel & Lodging Association (AHLA), thank you for the opportunity to provide feedback on the proposed changes to the Temporary Foreign Worker Program (TFWP). We are pleased to provide you with the following submission for your consideration.

Executive Summary

We applaud the government for taking the time to review the regulations surrounding the TFWP and welcome improvements that will support workers and Canadian businesses. Protecting temporary foreign workers from exploitation, abuse and unsafe working conditions is a top priority for the AHLA and its members. However, we believe that the proposed changes will unfairly harm employers with a proven record of treating employees in a fair and respectful manner, and in full accordance of the law.

While AHLA members support allowing employees to leave negligent and harmful employers, we are concerned with allowing employees to leave for any reason at any time. As employers are investing a significant amount of time, money and other resources in temporary foreign workers and their careers, providing workers with the ability to leave without just cause is unfair to the employer and counterproductive.

There is no guarantee that an employer could rely on a stable workforce if employees can change jobs so easily. This change would be a significant detriment to Canadian employers and businesses. The vast majority of our employers act in good faith and treat temporary foreign workers with respect and fairness in full accordance of the law. The overwhelming majority of employers, and by extension the Canadian economy, should not be punished for the harmful actions of a select few.

While we welcome amendments to the TFWP, the changes as proposed will not help to achieve an efficient and effective program. The AHLA believes there are better strategies to support both workers and employers. As such, we are pleased to provide below our feedback on the proposed amendments and present alternatives for your consideration.

Introduction

Labour shortages are a prominent and immediate concern for many industries in Canada, including the tourism and hospitality industry. 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. The AHLA represents more than 750 hotels, motels and resorts in Alberta and our industry generates \$3.1 billion and employs 36,000 people.

AHLA members have identified labour supply shortages as a top concern through good and bad economic times. These shortages are a challenge year-round, but are especially acute in rural communities and in resort areas during seasonal peak periods.

Nationally, the outlook for accommodation services is quite strong. Growing customer demand would support a 33% growth in available full-time accommodation jobs by 2035. However, this potential growth may not be met if labour challenges in the accommodations industry are not addressed. In fact, without significant changes, the accommodations industry could experience a shortfall in the supply of labour equivalent to 10,000 jobs by 2035.

The AHLA has supported its members with recruitment efforts to hire Canadians first. This includes a recent partnership between the Hotel Association of Canada, Tourism HR Canada and Immigration, Refugees & Citizenship Canada to mobilize at least 1,300 refugees and new Canadians into available hotel jobs. The AHLA is the delivery partner for this project in Alberta. The AHLA has also recently partnered with Goodwill Industries of Alberta to facilitate job placements for people with disabilities at AHLA member hotels. While these efforts are a step in the right direction and will assist with the chronic, year-round labour shortage, more support is required to address seasonal shortages for resort communities.

The reality is the labour pool is thin and finite. The workers that can work on a temporary basis in Canada don't always line up with the tourism season. For the ones that are available, there are many industries competing for the same worker pool and the hardest to fill jobs are not wanted by some Canadians. Simply put, there are not enough workforce entrants to fill seasonal or entry level occupations, especially in rural and remote communities.

Temporary Foreign Workers (TFW), on average, have accounted for less than 1% of tourism workers. However, the roles they fill are essential, as they provide immense value to help our businesses run and serve Canadians and international visitors. Due to the immediate and significant impacts of labour shortages on Canadian business revenues and productivity, including accommodation businesses, an effective, streamlined and balanced Temporary Foreign Worker Program is urgently needed.

Ability to Leave Good Employers for Any Reason

While AHLA members support allowing employees to leave negligent and harmful employers, we are concerned with allowing employees to leave for any reason at any time. In order to hire a Temporary Foreign Worker, employers must invest a significant amount of time, money and other resources. An employer may invest (at least) \$1,000 in a Labour Market Impact Assessment (LMIA) application and other costs. Furthermore, the application time and process can often take months to complete.

As employers are investing in temporary foreign workers and their careers, providing workers with the ability to leave without just cause is unfair to the employer and counterproductive. There is no guarantee that an employer could rely on a stable workforce if employees can change jobs so easily. This change would be a significant detriment to Canadian employers and businesses.

Hoteliers are less likely to access the TFWP if policies allow for an employee to leave for another employer without just cause. Additionally, the AHLA believes there should be explicit criteria that define the conditions that allow a TFW to change employers.

The vast majority of our employers act in good faith and treat temporary foreign workers with respect and fairness in full accordance of the law. The overwhelming majority of employers, and by extension the Canadian economy, should not be punished for the harmful actions of a select few.

Rural Employers

Further, rural employers will be disproportionately disadvantaged by the current proposal. Employees who agree and sign contracts to work in a rural or remote community may see this as an opportunity to leave their good employer to work in a more desirable region, such as a big city.

Rural employers in our sector are indeed struggling with labour shortages and, as such, they must invest time and resources into hiring foreign employees. Allowing these employees the possibility to leave for any reason will potentially result in even more unintended negative consequences for rural employers over others.

Designated Time Period

The AHLA strongly believes that there needs to be a designated time period in which employees must honour their commitment to employers. Employees should not be able to leave good employers – employers who are respectful and law-abiding – before a mutually agreed date set out in an employment contract. If an employee chooses to leave before the end of their contract, in cases where abuse is not present, they should be required to provide at least two months' notice before moving on to another employer.

With that said, an employee leaving a contract on even two months' notice will have very negative impacts on seasonal businesses. Furthermore, if an employee leaves without cause, the employer should be appropriately compensated for the time, money and other resources that they have invested to hire the Temporary Foreign Worker. It is strongly recommended that further consultation take place in order to ensure that a fair balance is struck that supports both the rights of temporary foreign workers and employers.

Additional Considerations

In order to improve the TFWP and to assist with the labour shortages that many industries face, we propose a number of additional measures for your consideration:

1. Trusted Employer Program

To better address concerns related to abusive or unethical employers, the AHLA recommends implementing a Trusted Employer Program. The Trusted Employer Program would certify businesses with a proven record of adhering to the law as “honourable employers” so that they do not have to complete a labour market assessment each time they want to hire a temporary foreign worker. This measure was recommended by the Deputy Critic for Immigration, Refugees and Citizenship, Larry Maguire, in June 2019. It was also recommended by the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities to improve the temporary foreign worker program in September 2016.

The AHLA has developed a very successful “Employer of Choice” program that could serve as a template for a “Trusted Employer Program.” Through the Employer of Choice program, hotel properties are subject to a rigorous certification process that ensures compliance with existing labour legislation and best practices in human resource management.

2. Create a national database that provides information on employers with an approved LMIA

Having an open and accessible directory that lists employers with an approved LMIA would be of great benefit to many sectors. This resource could be grouped by industry and would help re-assign temporary foreign workers to other qualified employers.

3. Lower the costs of LMIAs

The current cost of applying for an LMIA should be reviewed. Both employers and labour groups support a reduction in the cost of LMIA applications. The current fee is viewed as punitive and has negative impacts for both employers and employees. An assessment of how to decrease the \$1,000 cost per application should be undertaken.

Further, a review of the fee design should take into consideration the need to amend the fee charged to rejected applications, as well as the size of the business and number of applications.

4. Expand the duration of the current work permit for low-wage TFWs in positions that are not seasonal

Work permits should be lengthened to a minimum of two years for the benefit of both the employer and the employee, who will have a better chance of transferring to permanent residency by whatever means are available to them.

In past years, many AHLA members supported the transition of TFWs employed at their properties to permanent residency through the Alberta Immigrant Nominee Program. Many of these employees are still employed at these properties and have been promoted to supervisory or management roles.

5. More flexibility in the type of work permits available to TFWs

An employer-driven system is best suited to meet Canada's labour needs and ensure foreign workers are filling labour gaps in all regions of the country. Unfortunately, the current system limits employee options about the type of work they can undertake while in Canada. A system that increases worker flexibility — whether that be multiple employers/regionally based — will improve both the power dynamic in the worker-employer relationship and the program's capacity to meet dynamic labour market needs.

6. Streamlined LMIA Application Process

More support is needed for employers during the LMIA application process. The program is extremely complex, which makes it challenging and cumbersome to navigate. Additionally, the information required is not always clear, nor are any reasons provided for an LMIA rejection which causes confusion and uncertainty for employers. More clarity is required, illustrating parameters for how an application will be judged, which will alleviate frustration with the program.

The service experience can be improved through a variety of measures such as targeted education programs, enhanced processing times, and improved communication and reasoning for application rejections. The introduction of online application processing with streamlined forms is also recommended.

Conclusion

It is worth reiterating that the AHLA firmly believes that an opportunity to move to a safer environment should be made available for any worker who is experiencing abusive or unsafe working conditions. However, measures as proposed, which would allow workers to change jobs for any reason at any time, is counterproductive and will further exacerbate labour challenges. The mistreatment of TFWs in our sector is extremely rare, as the vast majority of our employers act in good faith and treat temporary foreign workers with respect and fairness in full accordance of the law. These employers should not be punished for the actions of a select few.

It is also imperative to note that prior to implementing any changes to the program, it will be vital to ensure that an effective and meaningful consultation process with stakeholders takes place. This measure will allow for industry to better understand the impact of any changes and learn the appropriate avenues to adapt.

Hoteliers have reported that the ongoing labour shortage is resulting in a number of consequences for business, guests, and the economy, including unsold rooms, curtailing expansion plans, scaling back operations, or opening doors with insufficient staff.

The Temporary Foreign Worker Program does indeed provide a means to help fill the labour gaps in the hotel industry (and others); however, it is evident that additional solutions will be needed. An adapted Temporary Foreign Worker Program that features a streamlined administrative process, appropriate fees and a balanced approach will be a vital component of the overall labour solution. With improvements such

as flexible work arrangements, paths to permanent residency, and consideration of regional labour needs, it can play a critical role in helping to address critical labour shortages.

Thank you for considering our feedback and the opportunity to comment on this important topic. Should you require more information on any of the areas we have addressed in this submission, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Kaiser', with a large, sweeping flourish underneath.

Dave Kaiser
President & CEO