



**HOUSE OF COMMONS
CANADA**

**CHAPTER 2, "SELECTING FOREIGN WORKERS
UNDER THE IMMIGRATION PROGRAM," OF THE
FALL 2009 REPORT OF THE AUDITOR GENERAL
OF CANADA**

**Report of the Standing Committee on
Public Accounts**

**Hon. Shawn Murphy, MP
Chair**

MAY 2010

40th PARLIAMENT, 3rd SESSION



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STANDING COMMITTEE ON PUBLIC ACCOUNTS

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THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

has the honour to present its

THIRTEENTH REPORT

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 2, “Selecting Foreign Workers Under the Immigration Program,” of the Fall 2009 Report of the Auditor General of Canada and has agreed to report the following:

INTRODUCTION

Canada has an ongoing need for permanent and temporary foreign workers of various skills, particularly considering the country's aging population and labour force. As a result, it is critical that the government's programs to facilitate the entry of permanent and temporary workers be designed and delivered in a way that ensures the right people are available at the right time to meet the needs of the Canadian labour market.

The *Immigration and Refugee Protection Act* (IRPA), which governs immigration in Canada, came into effect in 2002, replacing the *Immigration Act* of 1976. As a key player in the application of the IRPA, Citizenship and Immigration Canada (CIC) is generally responsible for the selection of immigrants and other foreign nationals and for ensuring that they are not a risk to the health and safety of Canadians. Since the federal government and the provinces and territories share responsibility for immigration, CIC has also signed agreements with most provinces and territories allowing them to play an active role in selecting immigrants to meet the specific needs of their labour markets. The IRPA was amended in 2008 to authorize the Minister of Immigration to give instructions for the processing of applications.

In an audit included in its Fall 2009 Report, the Office of the Auditor General (OAG) examined how CIC plans for and manages programs designed to facilitate the entry of permanent and temporary workers into Canada.¹ The OAG also looked at the role of Human Resources and Skills Development Canada (HRSDC) in supporting the planning and delivery of these programs, including the issuance of labour market opinions (LMOs) by its Service Canada offices.

As effective government programs for facilitating the entry of permanent and temporary workers into Canada are crucial for meeting the country's labour needs, the Public Accounts Committee held a meeting on the audit on 13 April 2010.² At the

¹ Auditor General of Canada, Fall 2009 Report, *Chapter 2 – Selecting Foreign Workers Under the Immigration Program*.

² House of Commons Standing Committee on Public Accounts, 40th Parliament, 3rd Session, Meeting 8.

meeting, the Office of the Auditor General was represented by Sheila Fraser, Auditor General of Canada; Richard Flageole, Assistant Auditor General; and Suzanne Therrien, Principal. Human Resources and Skills Development Canada was represented by Janice Charette, Deputy Minister and Andrew Kenyon, Director General, Temporary Foreign Workers Directorate. Canadian Citizenship and Immigration was represented by Neil Yeates, Deputy Minister; Les Linklater, Assistant Deputy Minister, Strategic and Program Policy; and Claudette Deschênes, Assistant Deputy Minister, Operations.

STATUS REPORTS

The audit found a number of problems with the management of selecting foreign workers under the immigration program. The main findings were that:

- CIC has made key decisions without properly evaluating their costs and benefits, risks, and potential impacts on other programs and delivery mechanisms. The OAG did not find that a shift in the type of workers accepted was part of any well-defined strategy to best meet Canadian labour market needs.
- the inventory of Federal Skilled Worker (FSW) applications has almost doubled since the OAG's 2000 audit, and measures taken by CIC to limit the number of new FSW applications were implemented without sufficient analysis of their potential effects.
- CIC and HRSDC have not clearly defined their respective roles and responsibilities for systematically verifying the genuineness of job offers for the Temporary Foreign Worker Program (TFWP). There was also no systematic follow-up process by either department to verify that employers of temporary foreign workers have complied with the terms and conditions of the work permits.
- while CIC has introduced tools to improve efficiency, any gains will be limited until the information technology system that has been under development for 10 years is put in place.

The OAG made 11 recommendations, and both CIC and HRSDC clearly agreed with these recommendations and presented action plans to the committee of how they will address them. The Auditor General commented favourably on the departments'

plans, saying “we believe that they address the issues raised in the chapter.”³ However, she recommended that both departments report to the Committee on the progress and results in implementing their action plans, in particular regarding:

- the completion by CIC of a visioning exercise, with provinces and territories, for foreign worker programs;
- the management by CIC of the inventory of applications, both old and new, and of the related processing times; and
- changes made or planned to the design and delivery of the TFWP.

Since key provisions of the departments’ action plans are not scheduled to be implemented until December 2010 at the earliest, the Committee believes that it is necessary to monitor their progress. The committee thus recommends:

RECOMMENDATION 1

That Citizenship and Immigration Canada and Human Resources and Skills Development Canada provide a status report to the Public Accounts Committee by 31 January 2011 on their progress in addressing the recommendations made by the Office of the Auditor General in Chapter 2 of the Fall 2009 report.

MINISTERIAL INSTRUCTIONS

In June 2008, Parliament passed amendments to the IRPA. These amendments removed the requirement that all applications received had to be processed to a final decision, and authorized the Minister of Immigration to give instructions for processing applications. In November 2008, the Minister issued instructions establishing eligibility criteria for all FSW applications received after 26 February 2008. To be eligible for processing, applicants must have at least one year of experience in one or more of the 38 occupations identified in the instructions. Previously, applicants needed experience in one or more of 351 occupations.

The main objectives of the new eligibility criteria were to reduce the number of new applications, and thus the processing time for applications, as well as to ensure a

³ Meeting 8, 9:10.

better link between the selection of skilled workers and the needs of the labour market. CIC forecast that applications submitted under the new criteria would only wait 6 to 12 months for a decision. The Deputy Minister of CIC told the Committee that currently the wait is about 7 months for 80% of applications made under the new instructions.⁴

The audit noted that CIC was unable to provide sufficient evidence to support the choice of criteria set out in the ministerial instructions.⁵ CIC could not explain how it settled on reducing the number of admissible occupations as a criterion for eligibility, nor any analysis on the extent to which the criterion would help reduce the number of new applications. The Auditor General told the Committee that, “We saw little evidence that this shift was part of any well-defined strategy to best meet the needs of the Canadian labour market.”⁶ It is important that ministerial instructions be based on sound analysis and a well-defined strategy in order to ensure that they have the result intended with respect to the number of applications received and their match to the needs of the Canadian labour market.

The Deputy Minister of CIC stated that the number of applications received under the ministerial instructions is significantly more than they can process or accept under planned immigration levels, and they are looking to further refine the instructions to a more targeted set of occupations. He explained,

We’re working on developing a second set of ministerial instructions and we’re consulting now both with the public and stakeholders, and provinces and territories, because, as we have found, we still had a large number of applications in those 38 categories. The more we have to process, the longer it takes. So we’re looking to come up with a revised set of instructions over this spring and that’ll help us really focus our efforts going forward.⁷

⁴ Meeting 8, 9:45.

⁵ Chapter 2, paragraph 2.53.

⁶ Meeting 8, 9:05.

⁷ Meeting, 8, 9:30.

In order to anticipate the future occupational needs of the Canadian labour market, CIC is using the Canadian Occupational Projection System developed by HRSDC. This system provides information on current and future conditions of labour supply and demand by occupation and industry.

The Committee is concerned that the continually changing nature of the labour market makes it very difficult to accurately predict labour market needs and to modify ministerial instructions in a timely manner to take this into account. Additionally, it is hard for federal ministerial instructions to encompass variations in regional and local labour market demands. In order for the ministerial instructions to be effective, they will have to be based on a thorough analysis of the labour market, be flexible enough to accommodate changing circumstances and variations in needs, and anticipate how applicants will respond to the instructions. This will not be easy to achieve. CIC will need to have a clear and effective rationale in the implementation of criteria for accepting new skilled workers. Hence, the Committee recommends:

RECOMMENDATION 2

That Citizenship and Immigration Canada identify specific objectives by 30 September 2010 for the next ministerial instructions issued under the *Immigration and Refugee Protection Act*.

MANAGING THE INVENTORY

The amendments to the IRPA and the subsequent issuance of ministerial instructions are in part a response to the inventory, or backlog, of applications for permanent residency status through the FSW program. In February 2008, when the ministerial instructions were issued, the inventory was over 635,000 applications. This inventory has almost doubled since 2000, with people waiting an average of 63 months, or just over five years, for a decision on whether they would be granted permanent residency. In 2005, CIC estimated that it would take 8 to 25 years to eliminate the inventory entirely. CIC did take some administrative measures to reduce the inventory, such as contacting applicants already in the inventory to offer a refund of their

processing fee if they decided to withdraw their application rather than continue waiting for a decision, and allocating resources to missions with larger inventories.

The ministerial instructions were introduced to reduce the flow of new applications and thus allow more resources to be dedicated to processing older applications. With the introduction of the ministerial instructions, CIC has created two inventories: an older inventory of applications made prior to the instructions and another inventory based on the 38 occupations outlined in the instructions. The Deputy Minister of CIC told the Committee that progress has been made in reducing the older inventory, which is now 40% lower than its peak.⁸ However, CIC has now has a second inventory that stands at 129,000 applications as of December 2009. When the two inventories are combined, the total reduction is a more modest 18%.

The Auditor General expressed concern that the new inventory could continue to grow and create another backlog. CIC had set a target of processing new applications within 6 to 12 months. According to CIC, 80% of new applications are currently being processed within 7 months. However, this statistic is not based on 100% of applications, and, more importantly, the audit notes that CIC will give priority to applications received since the ministerial instructions came into effect.⁹ Thus, CIC's ability to manage incoming applications has a significant impact on how effectively they can work to eliminate the older inventory.

CIC has set a target for processing new applications and can issue new ministerial instructions to help manage the flow of applications, but this does not address how and when CIC will eliminate the old inventory. According to the audit, "The Department was therefore unable to determine when this inventory was likely to be eliminated nor has it defined what would be a reasonable timeframe to do so."¹⁰ Many of the applicants on the old inventory have been waiting years for a decision, meaning that it is more difficult for these applicants to address the changing needs of the labour market. This also raises questions of equity in comparison to newer applicants. As the

⁸ Meeting 8, 9:15.

⁹ Chapter 2, paragraph 2.60.

¹⁰ Ibid., paragraph 2.59.

Committee believes that CIC should have a plan for eliminating this inventory, it recommends:

RECOMMENDATION 3

That Citizenship and Immigration Canada articulate a clear strategy and timeline for eliminating the inventory of applications received prior to 27 February 2008 under the Federal Skilled Worker program.

VISION FOR THE IMMIGRATION PROGRAM

As immigration is an area of shared responsibility, CIC is working with the provinces and territories to agree upon a common vision for immigration, that is, a strategic roadmap for the future of the program. According to Les Linklater, Assistant Deputy Minister, Strategic and Program Policy at CIC, “Our long-term goal with the visioning exercise is to understand how to best meet structural and cyclical labour market needs through immigration, long-term skills needs, short-term pressures, and the variety of programming that best suits the response to these types of pressures.”¹¹ This exercise will address the relationship between the Provincial Nominee Program (PNP) and the FSW program, as well as their respective contribution to meeting Canada’s labour market needs. Also, an evaluation of the Federal Skilled Worker program and a national evaluation of the PNP will begin this year.

The OAG recommended that CIC develop, in consultation with the provinces and territories, a strategic roadmap of the immigration program, including a clear vision of what each category is expected to contribute.¹² CIC’s action plan indicates that it will develop its roadmap by the fall of 2010 and complete the visioning exercise by winter 2010. The Committee expects that CIC will provide an update on the progress of these activities in its status report, as discussed earlier. However, the Committee would like to ensure that the completed roadmap clearly articulates what each category is expected to contribute to the overall immigration program, so it recommends:

¹¹ Meeting 8, 10:10.

¹² Chapter 2, paragraph 2.34.

RECOMMENDATION 4

That Citizenship and Immigration Canada provide to the Public Accounts Committee by 31 January 2011 its roadmap on the future of the immigration program.

GLOBAL CASE MANAGEMENT SYSTEM

The Global Case Management System (GCMS) was launched with the purpose of supporting CIC's entire client management operations. However, in its 2006 audit of large information technology projects, the OAG found that CIC had to struggle with a number of problems, including changes in the project's scope, difficulties accessing funds, and a lack of people with the required skills.¹³ The current audit did not re-examine the GCMS development process, but noted that the estimated total cost of GCMS is now around \$387 million, almost twice the original estimate of \$194.8 million. Moreover, the implementation of GCMS internationally is scheduled to begin in June 2010, almost 10 years after the initial launch of the project. According to the OAG, as a result of the delays in implementing the system, employees in offices abroad are still burdened by paperwork and spend a great deal of time on clerical tasks.

During the Committee meeting, the Deputy Minister of CIC indicated that there is a "great expectation" for GCMS to allow CIC to manage its caseload more efficiently by making it possible for immigration cases to be processed from any office around the world using a single system.¹⁴ In addition, in his opening statement to the Committee, the Deputy Minister indicated that GCMS "is already helping [CIC] to detect and prevent fraud" since being implemented internally in 2004.¹⁵

Considering the time and cost overruns of the project, it is important to evaluate its effectiveness in attaining the gains outlined by the Deputy Minister. Thus, the Committee recommends:

¹³ Auditor General of Canada, November 2006 Report, *Chapter 3—Large Information Technology Projects*.

¹⁴ Meeting 8, 9:40.

¹⁵ Meeting 8, 9:15.

RECOMMENDATION 5

That Citizenship and Immigration Canada evaluate the effectiveness of the Global Case Management System in identifying fraudulent applications and in increasing the efficiency of application processing by 30 June 2012.

TEMPORARY FOREIGN WORKER PROGRAM

The Temporary Foreign Worker Program (TFWP) is of particular concern to the Committee as it involves an especially vulnerable group of immigrants that may, for instance, lack sufficient knowledge of either of the official languages. Moreover, there has been a significant increase in demand for temporary foreign workers, with the number of temporary work permit applications received abroad rising from 91,270 in 2002 to 204,783 in 2008, a growth of more than 124% over the period.

The design and implementation of TFWP is an area of shared responsibility between HRSDC and CIC. While CIC oversees the selection of temporary workers, HRSDC issues a labour market opinion (LMO) for the employer. In its audit, the OAG has identified serious problems with the design and delivery of TFWP. The OAG found that there was no systematic process for ensuring the genuineness of job offers, so work permits could be issued for jobs or employers that do not exist. Furthermore, there was no systematic follow-up by either CIC or HRSDC to verify that employers in Canada are complying with the terms and conditions of the work permits. This raises questions about the integrity of the program and puts many foreign workers, in particular live-in caregivers and lower-skilled temporary workers, in a vulnerable position.

Regulatory amendments to TFWP proposed in December 2009 will clarify the roles of CIC and HRSDC, as well as establish specific criteria to guide the assessment of the genuineness of an employer's job offer to a temporary foreign worker. According to the opening statement by the Deputy Minister of CIC, these changes would also establish consequences for employers who fail to meet their commitments to workers

and grant the government more authority to review the actions of employers and third parties acting on their behalf.¹⁶

The Committee is also encouraged by HRSDC's pilot monitoring project of following up with employers to ensure that they are in compliance with all of the conditions associated with the issuance of an LMO. Where non-compliance is evident and corrective action is not taken, employers will be issued a negative LMO by HRSDC, preventing them from hiring foreign workers. Although HRSDC did indicate that out of 250 reviews conducted, 93% were found to be compliant, with only 11 employers unable or unwilling to take corrective action, the Committee would like to have a more in-depth breakdown of the results of HRSDC's reviews going forward. Therefore, the Committee recommends:

RECOMMENDATION 6

That Human Resources and Skills Development Canada provide in its status report a statistical breakdown of review findings for programs that comprise the Temporary Foreign Worker Program, such as the Live-in Caregiver Program.

In addition to signing an information-sharing agreement with each other, HRSDC and CIC also signed agreements with British Columbia, Alberta and Manitoba to support enforcement of federal and provincial laws and standards. The Deputy Minister of HRSDC indicated to the Committee that negotiations to reach similar agreements with Saskatchewan are underway and are expected to be completed soon, while it is anticipated that agreements with Ontario, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador will be concluded later this year. The purpose of these agreements is to allow the involved parties to share information on employer violations of labour standards and information about LMO applications submitted through Service Canada.

¹⁶ Meeting 8, 9:15.

The Deputy Minister of HRSDC indicated that “these agreements are vital in helping us to improve program integrity and address instances of worker abuse or mistreatment.”¹⁷ Therefore, in order to monitor progress of HRSDC and CIC in signing these agreements, the Committee recommends:

RECOMMENDATION 7

That Citizenship and Immigration Canada and Human Resources and Skills Development Canada report in their status reports on the progress made in negotiations with the provinces and territories to sign information-sharing agreements.

PROVIDING IMMIGRATION SERVICES

Many Members’ of Parliament constituency offices, especially in urban areas, deal with a large number of immigration cases, taking up an inordinate amount of constituency resources. The requests for assistance can be quite varied, such as helping with the completion of an application, wanting to know the status of an application, or understanding the reasons for the rejection of an application. While Members are happy to provide services to their constituents, this work can overwhelm their constituency offices, comprising as much as 80% of their work. CIC needs to explore new ways of coordinating its work with that of constituency offices. It is not apparent what the long term solution to this problem is, but at the very least it deserves greater examination. The Committee recommends:

RECOMMENDATION 8

That Citizenship and Immigration Canada examine ways to coordinate their work more effectively with the constituency offices of Members of Parliament, including providing more up-to-date statistics, guidelines, and tools on its website.

¹⁷ Meeting 8, 9:20.

CONCLUSION

Immigration has played a fundamental role in the economic, social, and cultural development of Canada. Given our aging population and labour market demands, Canada must seek out and attract permanent and temporary foreign workers with the skills required to meet the needs of Canadian employers. It is thus very important for the health of Canada's economy that CIC, in conjunction with HRSDC, effectively design and implement programs for accepting foreign workers into Canada.

In order to help it manage the flow of new applications under the Federal Skilled Worker program, CIC has issued ministerial instructions to limit applications to selected occupations. However, CIC has received more applications than expected and risks creating a second backlog of applications under the new criteria. The Committee is concerned that CIC does not appear to have a strategy for eliminating its backlog of older applications. In consultation with the provinces and territories, CIC is undertaking a visioning exercise on the future of the immigration program, but it is not clear how the Federal Skilled Worker program and the Provincial Nominee Program work together. CIC has developed a new IT system to improve its efficiency in processing applications and has worked with HRSDC to improve oversight of the Temporary Foreign Worker Program. These initiatives need to be monitored to ensure they have their desired effects. The Committee hopes CIC and HRSDC will work diligently to address the issues identified by the OAG in order to ensure that the foreign worker programs are delivered efficiently and effectively and meet the needs of the Canadian labour market.

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<u>40th Parliament, 3rd Session</u>		
Department of Citizenship and Immigration	2010/04/13	8
Claudette Deschênes, Assistant Deputy Minister Operations		
Les Linklater, Assistant Deputy Minister Strategic and Program Policy		
Neil Yeates, Deputy Minister		
Department of Human Resources and Skills Development		
Janice Charette, Deputy Minister		
Andrew Kenyon, Director General Temporary Foreign Workers Directorate		
Office of the Auditor General of Canada		
Richard Flageole, Assistant Auditor General		
Sheila Fraser, Auditor General of Canada		
Suzanne Therrien, Principal		

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (40th Parliament, 3rd Session: [Meetings Nos 8 and 11](#)) is tabled.

Respectfully submitted,

Hon. Shawn Murphy, MP

Chair