

Recommendation 1 – On inspections: That, by October 31, 2022, Employment and Social Development Canada (ESDC) should provide the House of Commons Standing Committee on Public Accounts (PACP) with a report on: 1) the action plan of its national steering committee for improving and monitoring inspections, including statistics on in-person and virtual inspections; 2) progress related to communication with provincial and territorial authorities regarding the public health laws in force; 3) its national workload strategy; and 4) the measures taken to strengthen the procedure for reviewing housing inspection reports.

Based on the four parts stated above in recommendation 1 from PACP, the Department is responding with the following:

Parts 1 and 3

- 1) The action plan of the national steering committee (annex A) for improving and monitoring inspections, including statistics on in-person and virtual inspections; and,**
- 3) Its National Workload Strategy**

Throughout the pandemic, ESDC has been working to a) adapt its inspection process to include new COVID-19 conditions; b) verify the quality and timeliness of inspections; and c) provide inspectors with updated guidance, training, and tools.

In May 2021, the National Steering Committee was formed and it identified vulnerabilities and areas for improvement in the Temporary Foreign Worker Program employer compliance regime. An action plan was developed in July 2021, focused on five key areas, specifically: workload management; quality management; training; process guidance; and technology (see Annex A for the action plan, including progress made delivering on the plan).

Working groups with representatives within the Department from across Canada were formed to develop, support and track improvements in the five key areas identified in the National Steering Committee's action plan. For example, in August 2021, a working group on workload management was formed, which began putting the foundations in place, leading to the creation of a workload oversight network in October 2021 to monitor, analyze and coordinate workload priorities.

The workload oversight network, comprised of Service Canada employees from the regions and National Headquarters, was launched to bolster optimal inventory levels, by supporting the timely and quality delivery of new inspections, addressing the backlog of old pre-pandemic cases, completing active inspections and ensuring the Department is well positioned to contribute to the well-being of foreign workers.

In March 2022, in preparation for the upcoming agricultural season, a national workload strategy was developed, designed to support the delivery of high-quality and timely inspections, address aged inventory, and focus on higher-risk areas. The national workload strategy focused on the following areas: workforce (capacity), workload (inventory), data-driven decisions, operations, measuring and reporting, and communications/engagement.

With the implementation of the risk-based approach to manage inventories, the Department was able to reduce the overall inventory of inspections (all sectors) from 4,254 inspection cases on June 30, 2021, to 2,728 cases on October 16, 2022, which is a reduction of 36%. For the overall inventory (all sectors) of pre-pandemic cases, the total inventory has been reduced by 95% from 3,124 cases on April 24, 2020, to 139 on October 16, 2022. When looking specifically at the agricultural stream, the pre-pandemic total inventory has been reduced by 94% from 530 cases on April 24, 2020 to 31 on October 16, 2022. The Department is continuously managing inventories to reduce the overall inventory of inspections.

The quality working group implemented a new quality control process to provide greater clarity and support to inspection staff on expectations and improvements at every stage of inspections. Through this effort, the Department successfully delivered on the Ministerial commitment to reach 80% of inspection cases without substantive errors by March 2022 and 90% of inspection cases without substantive errors by September 2022.

At the onset of the pandemic, the Department implemented virtual inspections to ensure continuity of operations while following public health laws. Therefore, the majority of inspections conducted since the onset of the pandemic were virtual, with on-site activities reserved for the most egregious cases. As part of the resumption of regular operations, there has been an increase in the number of on-site visits completed. Between April 1, 2022, and October 16, 2022, on-site visits have occurred in 309 inspections, including 109 unannounced inspections. In contrast, between April 1, 2021, and October 16, 2021, on-site visits occurred in 137 inspections, including three unannounced inspections. Therefore, the number of onsite visits has more than doubled (126% increase) for the same time period in 2021 and 2022.

Part 2

2) Progress related to communication with provincial and territorial authorities regarding the public health laws in force

Prior to the pandemic, ESDC communicated with the provinces and territories in information sharing and establishing agreements to facilitate information access. As the pandemic hit, the need to reach out to provinces and local public health authorities shifted to focus on public health information and the need to better coordinate efforts and protect the workers and Canadians from the spread of COVID-19. The provinces and territories are responsible, under their jurisdiction, for establishing and enforcing their public health and safety laws and policies, including those for COVID-19, in their respective provinces or territories. Throughout the pandemic, the department has collaborated with provinces and territories to ensure that protocols were in place to exchange urgent information relating to public health and safety.

Information sharing agreements and letters of disclosure

A total of nine agreements are currently established with provincial/municipal authorities for the sharing of data specific to employer compliance inspections or information related to violations pertaining to COVID-19 requirements.

For example, in Ontario, the Government of Canada now regularly receives information, especially regarding COVID-19 outbreaks, where information is provided electronically on a daily basis.

The Department will continue to further its information-sharing agreements with provinces and territories.

As implemented early in the pandemic, important federal travel measures have been in force to protect the health and safety of temporary foreign workers and communities in response to COVID-19. In April 2020, one of the new employer requirements introduced in *the Immigration and Refugee Protection Regulations* was to ensure employers did not prevent temporary foreign workers from complying with a provincial or territorial COVID-19 law that governs public health.

ESDC introduced a risk management approach in its inspection guidelines for inspectors to assess this condition when it becomes aware of potential employer non-compliance through tips or allegations or when detected during the course of an inspection.

Although the federal government has lifted all COVID-19 border restrictions as of October 1, 2022 for anyone entering Canada including temporary foreign workers, the protection and the health and safety of workers continue to be prioritized. As such, the department continues to work in collaboration on a regular basis with provincial and territorial governments, which are responsible for establishing and enforcing provincial or territorial laws related to COVID-19, labour laws, as well as housing policies and regulations in their respective provinces.

In order to share information, identify and address challenges with provinces and territories, the department uses a variety of fora and communication networks to keep communication open. For example, the Federal/Provincial/Territorial Working Group on Worker Protections meets on a monthly basis. In addition, bilateral meetings take place on a regular basis with each of the provinces to discuss the regional needs and facts, and to help ensure respective public health responsibilities are implemented in a complementary manner. The department also regularly communicates updates on changes to federal portions of public health laws, requirements, and measures with a wide range of employers, key stakeholders and the provinces and territories. Furthermore, as part of our Agreements with migrant worker associations in each Canadian province, information is provided on a daily basis with updated and reliable information on relevant federal and provincial health laws and measures in place for workers, as well as information about their responsibilities and their rights.

At the regional level, each Service Canada region has its own governance procedures in place for communicating with provincial and territorial partners:

- In the Atlantic region, since 2021, ESDC leads Temporary Foreign Worker Program meetings with Federal and Provincial partners, to foster an open and collaborative relationship and address any challenges that arise. Regular (weekly, bi-weekly or monthly) meetings are scheduled, as needed, and ad hoc discussions can also occur through email and/or stand-up meetings.
- In the Québec region, collaborative meetings are regularly held with La Commission des normes de l'équité de la santé et sécurité au travail (CNESST). Bi-weekly meetings take place with the "Labour Standards" sector of the CNESST to discuss the Temporary Foreign Worker Program and with the "Health and Safety" sector and with the "Table Agri-Carrière" of CNESST on an ad hoc basis, on the request of either party.
- In the Ontario region, the Ontario Federal-Provincial Temporary Foreign Worker Collaboration Committee works in partnership to support temporary foreign workers working in the agriculture sector in Ontario. This committee acts as a dynamic forum for constructive exchanges between senior executives to promote a whole-of-government approach to address emerging issues, discuss best practices, lessons learned and current challenges.
- In the Western Canada and Territories region, most interactions with provincial and territorial partners is done through the Escalation Procedures that have been in place since March 2022.

Coordination with public health authorities

When the department is informed of a COVID-19 outbreak, a notification of outbreak inspection is created. Based on the protocol established in outbreak situations, the Department works in close collaboration with local public health authorities, and sometimes conducts a joint inspection. Since April 2022 (year to date: October 16, 2022), 33 notification of outbreak inspections were initiated, 21 of which have been completed to date.

Inspection Escalation process

As of March 2022, the Department has delivered on the Ministerial commitment to establish a protocol to take necessary action within 24 hours and no later than 48 hours if a temporary foreign worker's health and safety is suspected to be at risk, including notifying stakeholders, authorities and other jurisdictions. To support this process, guidance and procedures were developed, training was provided to staff, and the case management system was modified to account for the new process.

Part 4

4) Measures taken to strengthen the procedure for reviewing housing inspection reports

In November 2021, Service Canada implemented measures to improve the review of Housing Inspection Reports (HIRs) so that overcrowding can be addressed prior to temporary foreign worker arrivals. For example, Service Canada reviews the HIR's maximum occupancy and ensures that the number of workers being requested on the Labour Market Impact Assessment

application form is equal to or lesser than the total number of workers approved by the appropriate authority in that specific dwelling. Service Canada also confirms that the employer has a plan for occupants so housing will not exceed maximum occupancy.

HIRs are also being more closely reviewed at the compliance inspection stage. Inspection staff use the HIR as a reference tool to verify if accommodations are adequate, including verifying that the accommodations do not exceed occupancy limits and that there are no reasonable grounds to believe that accommodations pose a significant risk to workers' health and safety. If such issues are observed or uncovered during an inspection, the department will immediately inform the relevant provincial, territorial, and municipal authorities. Following the new escalation process that was introduced in March 2022, guidance and additional training were provided on the notification to the appropriate authorities when issues are discovered during an inspection process, which includes verifying the HIR.