

Recommendation 3 from the Standing Committee on Public Accounts (PACP)

Recommendation 3: By 31 May 2023, Employment and Social Development Canada should provide the Committee with a report on the department's use of a gender-based analysis plus lens to develop, monitor, and report on performance indicators for the Temporary Foreign Worker Program.

Employment and Social Development Canada (ESDC) recognizes the importance of applying a gender-based analysis plus (GBA Plus) lens in undertaking its mandate and is exploring opportunities to collect and integrate more robust GBA Plus data into program monitoring and reporting. The Department committed to sharing a detailed status report on this recommendation with the Committee by the May 31, 2023, deadline.

Employment relationships often entail inherent power imbalances. These imbalances are often exacerbated for foreign workers. Temporary foreign workers under the Program are issued employer-specific work permits, which specify that a worker is only authorized to work for a certain employer and occupation, making it difficult to change jobs in cases of mistreatment or abuse. This, along with the workers' temporary status in the country, and intersectional identity factors such as age, ethnicity, income, and low language fluency and literacy levels can further intensify the power imbalance favouring the employer. Temporary foreign workers in low-wage jobs like Primary Agriculture are often members of racialized communities and may be subject to increased vulnerabilities due to factors such as isolation (i.e., remote work locations) and dependence on employer-provided accommodations and transportation. The inherent imbalance in employment relations, and the factors that increase vulnerabilities for migrant workers, can result in increased hesitancy by workers to report complaints, even in situations of abuse.

In addition, Program data demonstrates that, overall, those identifying as female may face barriers to accessing positions through the Temporary Foreign Worker (TFW) Program. Of the 139,290 work permits issued under the TFW Program in 2022, approximately 17% (23,300) identified as female and 83% (115,985) as male. The disparity is even greater in the Primary Agriculture stream, where 3,643 (5%) of work permit holders were female and 66,173 (95%) were male. The TFW Program meets regularly with the countries participating in the Seasonal Agriculture Worker Program (SAWP). At an annual meeting in late in 2022, one of the outcomes stemming from the discussions with Mexican government officials was an agreement to explore actions to strengthen the gender perspective of the Program to increase female participation. Several factors correlate with the severe gender disparity, including the challenges faced by employers in providing appropriate accommodations for female workers in a male-dominant field. More broadly, cultural, social, and economic expectations and barriers faced by females, such as child rearing responsibilities, and chauvinistic perceptions of female abilities, may pose barriers to increasing their participation in this sector and in temporary labour programs in general. However, certain program areas do see greater parity. Of the work permits issued in 2022 in seasonal fish and seafood processing occupations, the breakdown is 2,191 (42%) females, and 2,973 (58%) males.

Research on migrant workers suggests that systemic racism can also exacerbate existing vulnerabilities. To ensure that program delivery is informed by the lived reality of all temporary foreign workers, the TFW Program will draw on elements from ESDC's Black Centric Lens, including but not limited to history, current demographic information, and the implementation guide. This analysis will serve to enhance understanding and foster the Program's important relationships with the communities it serves.

ESDC is mindful of these GBA Plus factors when considering program and policy reforms and strives to ensure that program initiatives strike a balance between meeting employer needs and ensuring migrant worker rights and protections. A suite of program reforms currently underway are aimed at further increasing worker protections and addressing the source of some of these vulnerabilities and power imbalances. As outlined in more detail below, these initiatives include work to strengthen program requirements and regulations to improve working and living conditions for temporary foreign workers; efforts to rebuild and strengthen the program's compliance regime; and, the recent launch of the Migrant Worker Support Program to better support temporary foreign workers in Canada in learning about and exercising their rights.

TFW Program work underway that seeks to improve on inherent vulnerabilities

On September 26, 2022, thirteen **New Regulatory Amendments** to the *Immigration and Refugee Protection Regulations (Temporary Foreign Workers)* came into force. These regulatory amendments strengthen worker protections by helping to prevent mistreatment and abuse of workers by further preventing bad actors from participating in the TFW Program. They strengthen the Department's ability to effectively conduct inspections and apply penalties in instances of non-compliance, and directly improve the protection of vulnerable temporary foreign workers. Under these amendments, employers are now required to provide all temporary foreign workers with information about their rights in Canada. To facilitate this, the TFW Program published a guide entitled "Temporary Foreign Worker: Your Rights are Protected," which is available in English, French, Spanish, Korean, Hindi, Chinese (simplified), Tagalog and Thai. The regulatory amendments also prohibit reprisal by employers against workers (for instance, against those who come forward with complaints), as well as prohibit employers from charging recruitment fees to workers and holding them accountable for the actions of recruiters in this regard. Employers are also required to provide reasonable access to health care services and, when applicable, to provide private health insurance for the period where temporary foreign workers are not covered by the provincial/territorial health insurance system. The exception to this rule would be SAWP workers, who are covered by health insurance as part of the agreement between Canada and the partner country. Lastly, employers are required to have a completed and signed employment agreement with each temporary foreign worker on or before the first day of work. These agreements must include information on the occupation, wages and working conditions.

ESDC is also currently **rebuilding the TFW Program Compliance Regime** to enhance the protection of vulnerable workers by addressing employer non-compliance with program conditions. The TFW Program is also considering lessons learned during the COVID-19 pandemic, which includes the recommendations from the Auditor General's December 2021 Report, and challenges identified prior to the pandemic. It is anticipated that the Rebuild will better equip the Compliance Regime with a strong and sustainable structure for high-quality inspections; enhance measures to hold employers accountable for their treatment of workers; and streamline processes for the Department, employers, and stakeholders to improve worker protections. To date, the Compliance Regime has been strengthened by enhancing inspection tools and mandatory training for inspection staff, raising employers' awareness of their obligations under the TFW Program's conditions, and expanding work with consulates to identify concerns that need immediate attention.

The TFW Program has updated the content of its **Compliance Inspection Training** to include a mandatory online course, "Introduction to Gender-Based Analysis Plus", which is administered by the Canada School of Public Service. The course introduces the concept of GBA Plus, and identifies how factors including gender, ethnicity, and disability can shape social, health, and economic opportunities and outcomes. The training includes the following topics: defining the key concepts of GBA Plus; applying foundational GBA Plus concepts and processes; identifying how GBA Plus can enhance responsiveness, effectiveness, and outcomes; and recognizing how various identity factors can influence federal government initiatives. The training prepares participants to put their GBA Plus insights into action by reflecting on the recurring barriers to accessing government services and ways to mitigate them.

In addition, the operation of the **Temporary Foreign Worker Tip Line** and **Consular Liaison Service** will continue to assist workers who report allegations of abuse and mistreatment. Through the Tip Line, workers are offered a personalized service, based on their needs, to report allegations of abuse or mistreatment, as they arise, to agents answering the phone five days per week (with weekend voicemail service) with the support of interpretation services in over 200 languages.

The Consular Liaison Service provides a direct connection between consulates and the TFW Program. The Service handles sensitive issues and concerns, brought forward by consulates and other stakeholders, that may affect foreign workers. Consulates often share information related to egregious cases (e.g., abuse and mistreatment in a workplace), which helps the Compliance Regime to focus its efforts on higher-risk employers. ESDC works closely with internal and external stakeholders and ensures coordination with provincial partners in situations where the health and safety of temporary foreign workers is a concern.

All leads, tips and allegations received by the Compliance Regime, whether through the Tip Line or the Consular Liaison Service, are reviewed and flagged within 24 hours based on their level of risk. Leads that are

considered high-risk are assessed as a priority; ensuring appropriate action can be taken as quickly as possible.

In fall 2022, the Department launched the **Migrant Worker Support (MWS) Program**, which helps workers better understand and exercise their rights while in Canada. The MWS Program supports community-based organizations in the provision of migrant worker-centric programs and services, including on-arrival orientation services, educational activities and materials, and assistance in emergency and at-risk situations. In 2023-24, the TFW Program also plans to launch a survey of temporary foreign workers to evaluate the degree to which organizations funded through the MWS Program are helping migrant workers understand and exercise their rights. The survey will allow the Department to strengthen its understanding of migrant workers and the impacts of the MWS Program, including through a GBA Plus lens, by gathering data on demographics and other variables that include gender, geographic location, language, and nationality. Regular qualitative and quantitative reporting from funding recipients will provide insights into the GBA Plus impacts of the funding program. For example, recipients may provide qualitative data that highlights the unique life circumstances of the temporary foreign workers they serve, including how their first language, gender, and occupation factor into their experience as temporary foreign workers in Canada. Furthermore, recipients will provide quantitative data that reports on the types of community-based services accessed by temporary foreign workers disaggregated by gender identity and geographic location. The quantitative data collected from the survey presents an opportunity for the Department to collect disaggregated data about temporary foreign workers themselves and their experiences living and working in Canada. Collecting demographic information, as well as information on migrant workers' understanding of their rights and the ability to exercise them, could reveal variances in vulnerability among the temporary foreign worker population. For example, the survey may shed light on the role that gender plays in the comfort level that workers have in exercising their rights, with or without access to community-based supports.

The Program will develop **a survey to be administered to employers** in collaboration with regional partners. The survey will capture data related to overall employer satisfaction with the service provided; timeliness of the service; whether temporary foreign workers were hired to address business' needs; how to improve service; and other relevant questions to assess the employers' user experience in the Program (the IRCC experience will not be measured). This survey will also allow the Program to capture data related to GBA Plus indicators, including data on region of employers, size of employers, employees' gender, etc.

Consideration for known GBA+ factors are also informing the design work of additional program reforms announced in Budget 2022. This includes work towards implementing the establishment of a **New Foreign Labour Stream for Agriculture and Fish Processing** tailored to unique needs of these employers and workers, and a **Trusted Employer Model** that reduces red tape for repeat employers who meet the highest standards for working and living conditions, protections, and wages in high-demand fields.

Overall, improving the quality, timeliness and reach of inspections and the supports delivered through MWS Programs are expected to affect temporary foreign workers of all genders equitably and positively. Given that gender and intersectional identity factors are known to exacerbate workplace abuse, these measures will be of particular benefit to higher-risk groups – including workers in racialized communities.

Data and limitations

ESDC maintains data systems, including the Integrity Case Management System and Labour Market Impact Assessment (LMIA) system, which enable comprehensive and reliable monitoring and reporting of the Programs' usage and outcomes. Program and policy options are modelled using TFW Program data and Immigration, Refugee and Citizenship Canada's (IRCC) work permit data. ESDC will continue to collect and monitor data for the performance of proposed initiatives for emerging GBA Plus impacts using these systems.

There are, however, limitations to the data that ESDC has at its disposal to inform a robust GBA Plus narrative, as it is reliant on information collected by other departments (i.e., IRCC) for information relating to the temporary foreign workers themselves. The TFW Program is currently working to better leverage data linkages amongst the LMIA system, ESDC Employer Compliance Data, and IRCC's work permit data (which provides opportunities to further disaggregate data regarding the migrant workers). Prioritizing the analysis of this data

will allow the Department to gather a more comprehensive level of demographic information — age, gender, and nationality — to support enhanced GBA Plus monitoring and reporting of the TFW Program. Data is not currently being collected on religion, on the 2SLGBTQI+ community nor on persons with disabilities. However, ESDC is exploring what opportunities may exist to collect this information in the future.

Reporting

The TFW Program is exploring opportunities to report publicly on GBA Plus performance indicators via the Departmental Results Report. Specific results would be reported in the GBA Plus Supplementary Information Table and reflected at a higher level in the GBA Plus section of the main report. The TFW Program has consulted with ESDC's Performance Measurement Division, and its GBA Plus Centre of Expertise, both agree with this approach.