



# Evaluation of the Labour Market Opinion Streams of the Temporary Foreign Worker Program

*Evaluation Directorate - Strategic Policy and Research Branch  
Human Resources and Skills Development Canada*

*Evaluation Division - Research and Evaluation Branch  
Citizenship and Immigration Canada*

*Internal Audit and Program Evaluation Directorate  
Corporate Affairs Branch Canada Border Services Agency*

*Final Report  
September 2012*



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## *List of Abbreviations*

CBSA	Canada Border Services Agency
CIC	Citizenship and Immigration Canada
FWS	HRSDC Foreign Worker System database
F/P/T	Federal/Provincial/Territorial
HRSDC	Human Resources and Skills Development Canada
LCP	Live-In Caregiver Program
LMO	Labour Market Opinion
NOC	National Occupational Classification
SAWP	Seasonal Agricultural Worker Program
SAWs	Seasonal Agricultural Workers
TFW	Temporary Foreign Worker
TFWP	Temporary Foreign Worker Program
WP	Work Permit



# *Executive Summary*

## **Background**

The Temporary Foreign Worker Program (TFWP) enables employers in Canada to hire foreign workers on a temporary basis to meet short-term skill and labour needs when Canadians or permanent residents are not available. Four TFWP labour market streams – high-skilled occupations, low-skilled occupations, the Seasonal Agricultural Worker Program and the Live-In Caregiver Program - require a positive Labour Market Opinion (LMO) before a foreign worker is hired. An LMO determines whether there is a need for a foreign worker and no Canadian workers are available to fill the position, and what impact the foreign worker would have on the Canadian labour market.

An evaluation of the LMO streams of the TFWP was launched in July 2010 and covered the period from January 2007 to December 2010. The evaluation examined issues related to relevance and performance using multiple lines of evidence.

## **Key Evaluation Findings**

The TFWP was found to be complementary to other federal economic immigration programs and was determined to be consistent with government-wide priorities to build a strong and competitive Canada.

Employers indicated that the TFWP enhanced their ability to meet their labour and skills requirements and reported that, without the Program, they would not have been able to fill the position or would have had no alternative strategy. The TFWP is effective in responding to the short-term needs of participating employers. However, concerns were raised by employers in cases where workers are required for longer periods of time or where the need for workers is immediate.

Most TFWs surveyed indicated that the actual working conditions were more or less the same as specified in their contracts. When differences were noted, the most commonly identified issues were work hours, overtime pay, or job duties being different than specified.

Surveyed employers and key informants were of the view that TFWP regulations and LMO requirements are effective in limiting the potential negative impacts of the Program on the employment opportunities of Canadians and permanent residents. However, concerns have been raised in the academic literature and among some stakeholders regarding the potential that the TFWP may place downward pressure on prevailing wages and restrict efforts by employers to recruit and train Canadians in particular sectors or regions that rely heavily on the Program for their labour force needs.

The evaluation found that the cost effectiveness of delivering the Program was impacted by the amount of effort spent reviewing and processing LMO applications that do not result in positions being filled by TFWs.

## Recommendations

The evaluation resulted in eight recommendations:

- HRSDC should implement strategies to ensure the timely and efficient processing of LMO applications, particularly in the regions and at times where the demand for the Program is strong and during the implementation of the compliance framework.
- HRSDC should introduce non-refundable LMO application fees, thereby offsetting some of the costs associated with Program delivery and potentially reducing the number of applications that do not result in positions being filled.
- HRSDC and Citizen and Immigration Canada (CIC) should improve communication and coordination of activities between the two departments in order to improve the understanding and effectiveness of the LMO application assessment process.
- HRSDC should implement ongoing monitoring of employers, including following up with a sample of temporary foreign workers, to ensure that job contract obligations are met.
- HRSDC and CIC should improve their data collection systems so that sufficient and complete information is available for monitoring and reporting purposes. In addition, both departments ought to strengthen the linkages between TFW and employer data. This will ensure that additional information required as per the new regulations are captured, while providing a more complete picture of the Program
- HRSDC should develop a methodology to calculate expenditures by TFWP activity area, particularly for activities related to LMO processing, to allow for better understanding of expenditures and efficiency.
- HRSDC should continue to monitor the impact of the Program on the Canadian labour market within regions and sectors that rely heavily on the Program.
- HRSDC and CIC should seek opportunities to strengthen linkages between the Program and federal economic immigration programs, thereby expanding the number of pathways open to temporary foreign workers to transition to permanent residency.

## *Management Response*

An evaluation of the labour market opinion streams of the Temporary Foreign Worker Program (TFWP) was launched in July 2010 and covered the period from January 2007 to December 2010. The objective of the evaluation is to assess issues related to relevance and performance (effectiveness, efficiency and economy) of the TFWP.

The TFWP is legislated through the *Immigration and Refugee Protection Act* and *Regulations* and is jointly administered by Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC)/Service Canada. HRSDC/Service Canada reviews employer applications for temporary foreign workers and issues an opinion on the likely impact on the Canadian labour market, while CIC reviews visa and work permit applications from temporary foreign workers, issues visas and authorizes work permits. The Canada Border Service Agency (CBSA) determines admissibility at the Port of Entry when the workers arrive in Canada and issues the work permit on behalf of CIC.

On April 1, 2011 CIC and HRSDC introduced a series of amendments to the *Immigration and Refugee Protection Regulations* to strengthen the protection of temporary foreign workers and improve the integrity of the TFWP. As part of the regulatory changes, every returning employer seeking to hire a temporary foreign worker must be assessed for compliance with their commitments to temporary foreign workers previously employed before they are issued a Labour Market Opinion (LMO) or work permit. These changes ensure that employers who do not pay proper wages or provide working conditions consistent with their offers of employment to TFWs are stopped from hiring temporary foreign workers. Employers must also comply with the new regulatory requirements for the genuineness assessment of a job offer to a temporary foreign worker. The genuineness assessment enhances HRSDC's and CIC's ability to ensure an employer and job offer are genuine.

CIC and HRSDC are continuing to take steps through the Economic Action Plans 2012 and 2013, and other program improvements, to better align the TFWP with labour market demands, make sure that businesses make genuine efforts to consider Canadians before looking abroad, and ensure Canadian employees are not replaced by foreign workers. As part of these and future program improvements, the TFWP will strengthen program efficiency and integrity through legislative, regulatory and program policy changes. As a partner, the CBSA will continue to work with and support HRSDC and CIC in the delivery of the Temporary Foreign Worker Program.

## Recommendations

The recommendations arising from the evaluation are as follows:

1. **HRSDC should ensure that the strategies needed to facilitate timely and efficient processing of LMO applications are in place, particularly in regions and at times where the demand for the Program is strong and during implementation of the compliance framework.**

### ***Management Response:***

HRSDC agrees with the recommendation as stated.

### ***Actions Taken:***

- HRSDC/Service Canada has established the Live-in Caregiver Centre of Specialization and the Seasonal Agricultural Worker Program in Ontario, and the Multi-stream Centre of Specialization in New Brunswick to centralize processing for certain occupations to reduce processing times and improve and the consistency of LMO application assessments.
- HRSDC/Service Canada and CIC work together in the negotiation of Temporary Foreign Worker Annex agreements with provinces and territories. These agreements give a greater role to provinces and territories in managing the entry of temporary foreign workers by clarifying their authority to waive the requirement for LMOs where they have determined it is appropriate to do so, as well as to implement pilot projects to address regional economic priorities. Such agreements have been signed with the provinces of Ontario, Alberta, British Columbia, and Nova Scotia, as well as with Yukon. A separate Protocole d'entente has been concluded with the province of Quebec, under which the provincial government identifies high demand occupations for which LMO applications receive facilitated processing by the ministère de l'Immigration et des communautés culturelles and Service Canada (Quebec Region).
- As part of the changes to the Employment Insurance (EI) Program that were announced in Budget 2012, HRSDC/Service Canada will also improve the administration of the TFWP through enhanced information sharing with the EI Program to help ensure that temporary foreign workers do not displace Canadian workers. Information on available jobs, which might otherwise be filled by TFWs, will also be sent regularly to EI claimants to help them find work. HRSDC will also, in collaboration with interested provinces and territories, explore mechanisms to share aggregate and employer-specific LMO information to inform investments in training for EI claimants.

## **2. HRSDC should introduce non-refundable fees charged to employers for LMO applications.**

### **Management Response:**

HRSDC agrees with the recommendation as stated.

### **Action Taken:**

- HRSDC will be establishing a fee for LMO processing in order to enable the TFWP to more accurately recover the cost of delivering the program (including compliance and monitoring) and shift the cost burden of processing LMO applications from taxpayers to employers. The fee is expected to be implemented in 2013.

## **3. HRSDC and CIC should improve communication and coordination of activities between the two departments in order to improve the understanding and effectiveness of the LMO application assessment process.**

### **Management Response:**

CIC and HRSDC agree with the recommendation as stated.

### **Action taken:**

- The April 2011 amendments to the *Immigration and Refugee Protection Regulations* clarified the respective roles and responsibilities of CIC and HRSDC for the TFWP. They also identified specific factors that both departments must consider in the verification of the genuineness of a job offer, and in the determination of whether an employer provided wages, working conditions and employment that were substantially the same as outlined in the LMO. CIC and HRSDC worked closely in the development of operational guidelines for officers and clients to support the implementation of the new regulations.
- A CIC-HRSDC Memorandum of Understanding (MOU) on information sharing was concluded in 2009. The MOU is being amended to support the implementation of the 2011 regulatory changes. The MOU provides for the sharing of personal information to support program integrity initiatives, such as administering the compliance framework of the TFWP.
- CIC and HRSDC have identified the data elements to be shared through an improved system interface, and business requirements have been developed. A work-around solution to enable sharing of key existing data as an interim measure is also under discussion between the Departments. System changes are dependent on available resources.
- Interoperability of the information management systems of the two departments remains a challenge. Work continues to address that challenge, with HRSDC instituting improvements to its Foreign Worker System to improve the interface with key CIC systems. The Foreign Worker System currently has a 'CIC notes to file' field that allows SC officials to provide additional LMO information to CIC to inform decisions on work

permits. An HRSDC-CIC information sharing “inbox” is also in place to allow officers to exchange information and make inquiries about LMOs, work permits, and processing issues. This has greatly facilitated communication on individual files, and informs the development of policy and operational guidance for officers in the field. A CIC-HRSDC-CBSA TFWP Directors’ Working Group is also in place to share information, as well as to facilitate policy and operational coordination between departments.

- Responsibility within CIC for functional guidance to officers has recently been centralized within the Operational Management and Coordination Branch. Instead of numerous contact points across the Department (at headquarters, in regional offices across Canada and at missions overseas) there is now one mailbox for all functional guidance questions from the field. It is expected that this change will contribute to greater consistency in officer decision-making.

#### **4. HRSDC should implement ongoing monitoring of employers, including following up with a sample of temporary foreign workers.**

##### ***Management Response:***

HRSDC agrees with the recommendation as stated.

##### ***Action taken:***

- HRSDC/Service Canada is continuing to take steps to improve program integrity through legislative, regulatory and program policy changes. Under the new *Immigration and Refugee Protection Act* and pending *Regulation changes*, HRSDC will have the authority to compel employers to produce documents on demand; conduct on-site visits; interview temporary foreign workers; and ban employers from using the program for failure to abide by agreed stipulations. HRSDC is also exploring authorities to facilitate the movement of TFWs from one employer to another when non-compliance is discovered, and when deemed necessary to protect the interests of the workers. The end result will be an improved employer compliance review system.
- HRSDC and CIC have also contributed to a number of initiatives, in collaboration with other government departments, to strengthen protections and prevent human trafficking as part of the National Action Plan to Combat Human Trafficking. As well, HRSDC and CIC publish a pamphlet, available in seven languages to inform TFWs of their rights in Canada and recourse mechanisms available to them where those rights have been compromised.
- Information sharing between HRSDC and relevant provincial and territorial ministries will be key to establishing a robust compliance regime for the TFWP. Information sharing agreements help further strengthen Program integrity and protections for temporary foreign workers by enabling provinces and territories to disclose information regarding employers’ compliance with provincial/territorial labour codes, and health and safety standards. The information can help in deciding whether to issue a positive or negative LMO, whether to issue a work permit, and whether non-compliant employers should be denied access to temporary foreign workers. Information sharing agreements also enable HRSDC and CIC to disclose information regarding employers using the TFWP to help provinces and



territories enforce provincial/territorial labour and occupational health and safety standards. To date, HRSDC has concluded such agreements with Alberta, Manitoba, British Columbia and Saskatchewan and others are underway with Ontario, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland and Labrador and Yukon.

- A new F/P/T working group has been established as a forum to address outstanding issues, the identification of shared objectives and key elements of information to be shared to support respective program implementation goals. This should facilitate constructive communication with experts in privacy legislation in the federal, provincial and territorial governments, and lead to the conclusion of more effective agreements, as well as targeted investments in improvements to information management systems with a view to improving interoperability.
- Work continues on enhanced information collection, analysis, and sharing protocols to support information sharing and program implementation, as well as improved Foreign Worker System capabilities to strengthen data integrity and support TFWP's expanded compliance activities authorized by the new Regulations. In addition, a Performance Measurement Framework has been developed to track the key TFWP re-design objectives; including improved efficiency and enhanced integrity.

**5. HRSDC and CIC should improve their data collection systems related to contact information for employers and TFWs participating in the Program so that sufficient and complete information is available for monitoring and reporting purposes.**

**In addition, CIC and HRSDC should strengthen the linkages between TFW and employer data, developing database systems that are more compatible and have increased capabilities to match LMO applications data with WP applications data.**

***Management Response:***

CIC and HRSDC agree with the recommendation as stated. HRSDC and CIC are taking steps to better collect employer and temporary foreign worker data and improve performance measurement of the TFWP.

CIC currently enters employer and TFW contact information into the Global Case Management System at the time of application, when a work permit is processed. Applicants are required to provide up-to-date contact information to CIC for the duration of the application processing stage, however there is no requirement for TFWs to keep CIC updated on their whereabouts after they have been issued a work permit, or if they have left the country.

***Action Taken:***

- Efforts are being made by CIC and HRSDC to improve the management of data on TFWs and on the employers who hired them. This will be key to improving information sharing and associated cooperation between HRSDC, CIC and other interested departments, such as CBSA, as well as with provincial and territorial governments.

- Work continues on enhancing information collection, analysis, and sharing protocols to support information sharing and program implementation, as well as on improving Foreign Worker System capabilities to strengthen data integrity and support TFWP's expanded compliance activities authorized by the new regulations. In addition, a Performance Measurement Framework has been developed to track improvements to the TFWP and results achieved, including improved efficiency and enhanced integrity.
- An online system was developed by CIC in 2006 to allow applicants to update their foreign national contact information. Under the responsibility of Operational Management and Coordination Branch, CIC will expand this online system to include the ability for TFWs to update contact information at any time during their stay in Canada. With the expansion of online applications (all temporary resident applications have been on-line since December 2012) applicants are increasingly providing accurate e-mail addresses which is improving the ability to communicate with the TFWs.

**6. HRSDC should develop a methodology to calculate expenditures by program activity area, particularly for activities related to LMO processing.**

***Management Response:***

HRSDC agrees with the recommendation as stated.

***Action taken:***

- HRSDC will assess the feasibility of developing a time and motion study in 2014-15 to review different methods to measure and track processing times and associated costs by program streams.

**7. HRSDC should continue to monitor the impact of the Program on the Canadian labour market within regions and sectors that rely heavily on the Program.**

***Management Response:***

HRSDC agrees with the recommendation as stated.

***Action taken:***

- As part of the LMO assessment process, employers are required to demonstrate that they have made genuine efforts to hire Canadians first. Advertising requirements are the primary mechanism to ensure that Canadians are aware of these employment opportunities. Also, to prevent downward pressure on Canadian wages, employers must first demonstrate to HRSDC that wages offered to temporary foreign workers are the same wages that are paid to Canadians doing the same job and in the same location.
- As part of the changes to the Employment Insurance Program that were announced in Budget 2012, HRSDC/Service Canada is making improvements in how information is shared between the TFWP and the Employment Insurance Program, as well as enhancing

the availability of information on available jobs to Employment Insurance claimants. Through access to Employment Insurance claimant data, TFWP officers will be able to better assess whether there is a legitimate shortage of workers in a particular occupation and region, and challenge employer assertions that Canadians are not available. Using the Job Bank, a new Job Alerts system is being developed that will send information on available jobs to Employment Insurance claimants, so that they can apply to suitable jobs as soon as they are posted. As employers seeking to hire temporary foreign workers are generally required to advertise available positions on the Job Bank, this will help to ensure that Canadians have the first opportunity to apply for jobs before an employer turns to temporary foreign workers. These changes will be implemented by winter 2013.

- In 2013-14, HRSDC will work on a review of the on-going reliance on the TFWP by some employers and the impact it has had on the Canadian labour market, particularly on domestic wages and working conditions. The review will draw upon TFWP administrative data and be complemented by additional sources of labour market data and anecdotal information from the Labour Market Information program and employer interviews.

#### **8. HRSDC and CIC should seek opportunities to strengthen linkages between the Program and the economic immigration programs.**

##### ***Management Response:***

CIC and HRSDC agree with the recommendation as stated.

##### ***Action taken:***

- Economic Action Plan 2012 announced the Government of Canada's intention to build rapid and flexible economic immigration selection systems with a primary focus on meeting Canada's labour market needs. CIC has primary responsibility for this objective, although HRSDC has a supporting role given its overall responsibility for policies and programs to manage the Canadian labour market. Canada's slow-growing labour force, aging population and increasing demand for labour, both highly-skilled and lower-skilled, ensure that immigration will play an increasingly important role in Canada's economy for years to come. It is necessary to assess the impact of immigration in the Canadian economy and society, and work to maximize the economic contribution of immigrants, particularly by improving the outcomes of immigration. The immigration process must help match the right people with the right skills to meet Canada's short, medium and long term labour market requirements and be flexible to adapt quickly to changing needs and priorities. This includes ensuring complementary requirements and outcomes for the Temporary Foreign Worker Program and the permanent immigration programs.
- In January 2013, led by its Immigration Branch, CIC brought forward amendments to the *Immigration and Refugee Protection Regulations* to better facilitate the transition of qualifying temporary foreign workers in National Occupational Classification (NOC) 0, A and B occupations to Permanent Residence Status through the Canadian Experience

Class. The change reduced the qualifying work experience requirements of temporary foreign workers to 12 months (instead of 24 months) of accumulated full-time work experience in Canada in the preceding 36 months.

- CIC's Immigration Branch has also worked with HRSDC to streamline the arranged employment process by replacing the Arranged Employment Opinion (AEO) with a LMO to make sure that a genuine need is being met in the labour market, to speed up the process for employers and applicants, and to offer comparable service standards to employers regardless of whether the LMO will support a temporary or permanent immigration application. As a result of the changes, rather than requiring employers to apply to HRSDC for either a LMO or an AEO, employers are now required to apply to HRSDC using an application for an LMO, and to identify whether it is in support of a temporary application, or a permanent application, or both. Merging the AEO into the LMO process reduces the burden on employers wishing to retain a temporary foreign worker they already employ as they are now not required to seek a subsequent opinion. These changes were implemented on May 4, 2013.
- Starting in fiscal year 2013-14, CIC Immigration Branch's annual reporting through the Performance Management Framework includes indicators regarding transitions of temporary residents (including temporary foreign workers) to permanent residence status. This reporting should contribute to enabling a better understanding of the extent to which there are effective linkages between the TFW program and the economic immigration programs.
- An implementation working group comprised of CIC and HRSDC officials was established to develop a comprehensive operational plan to ensure that the necessary procedures, systems support and communication tools were in place when the amendments to the *Immigration and Refugee Protection Regulations* came into force.
- Also, CIC and HRDSC continue to review the TFWP to ensure that it is meeting its labour market and immigration objectives.

# 1. Introduction

This report presents the findings of the Evaluation of the Labour Market Opinion Streams of the Temporary Foreign Worker Program (TFWP) conducted by Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC). The objective of the evaluation is to assess the continued relevance of the TFWP, its performance in achieving immediate and intermediate intended outcomes, and its performance in terms of efficiency and economy. The information contained in the report is drawn from multiple lines of evidence: 1) a literature review; 2) a document, file and administrative data review; 3) a survey of employers; 4) a survey of temporary foreign workers; 5) a survey of third party agencies; 6) key informant interviews and; 7) case studies. The administrative and file review focused on the years 2007 to 2010. The period for primary data collection (i.e. key informant interviews and surveys) took place between December 2010 and January 2012. Since data collection for the evaluation began in 2010, several significant changes have been made to the Program including amendments to *Immigration and Refugee Protection Regulations and implementation of the compliance framework*. The effectiveness of these changes is not addressed in this evaluation.

The evaluation report is organized as follows:

- Section 1 presents background information on the TFWP;
- Section 2 presents the objectives and methodology for the evaluation;
- Section 3 presents the major findings of the evaluation; and
- Section 4 presents the recommendations arising from the evaluation.

## 1.1 The Temporary Foreign Worker Program

The TFWP enables employers in Canada to hire foreign workers on a temporary basis to meet short-term skill and labour needs when Canadians or permanent residents are not available. Since the end of the Second World War, several countries in the Organization for Economic Co-Operation and Development (OECD) have introduced foreign worker programs as a means to respond to domestic labour and skills shortages in particular sectors. In Canada, one of the earliest initiatives involving temporary foreign workers (TFWs), the Caribbean/Mexican Seasonal Agricultural Workers' Program, was first implemented in 1966 to facilitate the entry of workers for temporary employment during peak demand periods. Today, Canadian employers hire thousands of foreign workers to fill immediate and short-term skills and labour shortages.

CIC and HRSDC are jointly responsible for the component of the TFWP that requires a work permit (WP) and a labour market opinion (LMO). A WP is an official document issued at ports of entry by the Canada Border Services Agency (CBSA) that allows someone who is not a Canadian citizen or a permanent resident to work in Canada. In most cases, the WP is issued only after CIC has determined the eligibility of the foreign worker. For positions

requiring an approved job offer from an employer in Canada, CIC works with HRSDC which issues an LMO regarding the impact the foreign worker would likely have on Canada's labour market.

CIC is solely responsible for facilitating the entry of TFWs who:

- require a WP but not an LMO. Examples of occupations that require a WP but not an LMO are those covered under international agreements, entrepreneurs and intra-company transferees; and
- do not require a WP. Examples of occupations where a WP is not required include news reporters, public speakers, some performing artists, and foreign government officials.<sup>1</sup>

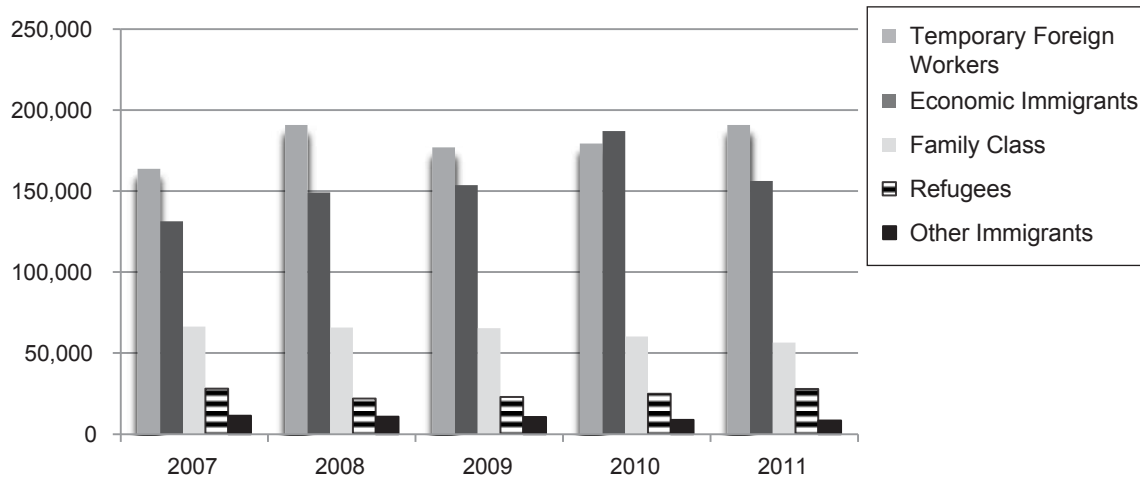
From 2007 to 2010, there were 717,444 entries of TFWs who required a WP for both LMO and LMO-exempt categories (an average of nearly 180,000 per year) of which 338,338 workers (47%) required an LMO (an average of nearly 85,000 per year). The percentage of TFWs entering the country who required an LMO declined in each of the four years. It is important to note that the data presented on the number of TFWP entries includes both LMO and non-LMO exempt categories as no separate data exists on the LMO exempt group.

Table 1: Percentage of TFWs with Work Permits for Whom an LMO Was Required, 2007-2010			
Year	Require LMO	Total TFWs with WP Entries	Percentage
2007	85,126	164,720	52%
2008	98,427	192,180	51%
2009	81,708	178,268	46%
2010	73,077	182,276	40%
<b>Total</b>	<b>338,338</b>	<b>717,444</b>	<b>47%</b>
Source: CIC Facts and Figures, 2010.			

In contrast to CIC economic immigration programs, the TFWP is largely a demand-driven program which enables employers to hire workers on a temporary basis. The number of TFWs entering Canada annually has surpassed the number of immigrants entering Canada under economic immigration programs such as the Federal Skilled Workers Program and the Provincial Nominee Program.

<sup>1</sup> For the full list of jobs that require a work permit but not an LMO and those that do not require a WP visit: <http://www.cic.gc.ca/english/work/apply-who-nopermit.asp>

**Figure 1: Number of all TFWs (including non-LMO) and Other Immigrant Groups, 2007-2011**



Source: CIC Facts and Figures, 2010

## 1.2 The Four Streams Requiring a Labour Market Opinion

The evaluation focuses on the four program streams that require an LMO:

- **Occupations requiring a high level of formal education or training.**<sup>2</sup> High skilled occupations include management or other positions requiring post-secondary education/training such as a university degree, college diploma or apprenticeship. These positions are related in general to management, scientific, professional and technical occupations and trades. For the purposes of this report, these workers are referred to as high-skilled workers.
- **Pilot Project for Occupations requiring lower levels of formal education or training.** Positions under this stream typically require, at most, a high school diploma or a maximum of two years of job specific training. For the purposes of this report, these workers are referred to as low-skilled workers.
- **Seasonal Agricultural Worker Program (SAWP).** The SAWP allows for the entry of temporary foreign workers to meet the seasonal needs of agriculture producers of commodities including vegetables, tender fruits, tobacco, apples, apiary (bee yards), ginseng, nursery, greenhouse vegetables and sod. Under this stream, the WP remains valid for a specific job and for a maximum of eight months. Employers in Canada are required to provide free housing, cover partial round trip airfare, and assure the employees are covered by worker health insurance plans and registered under provincial worker insurance regimes. Specific bilateral international agreements also guide program delivery and operations. For the purposes of this report, these workers are referred to as seasonal agriculture workers (SAWs).

<sup>2</sup> Except where exempted.



- **Live-in Caregiver Program (LCP).** The LCP allows Canadian residents to employ qualified TFWs to work and live in their private residence when there is a shortage of Canadians or permanent residents to fill the positions. The job must be to provide care for children, the elderly, or persons with a disability. Under the specific parameters of this program, live-in caregivers have up to four years to gain the two years (or 3,900 hours) of work required to become eligible for permanent resident status. The employment contract, which is reviewed by HRSDC as part of the LMO process, must reflect employer requirements including health care, workplace safety insurance, and payment of any recruitment fees.

Of the 338,338 TFWs who required an LMO entering Canada from 2007 to 2010, 124,365 were high-skilled workers, 75,060 were low-skilled workers, 94,039 were SAWs, and 44,874 were live-in caregivers.

Table 2: Number of Temporary Foreign Workers Entering Canada by Stream 2007 – 2010					
Year	High Skilled	Low Skilled	Seasonal Agricultural Worker Program	Live-in Caregiver Program	Total
2007	33,413	15,365	22,575	13,773	85,126
2008	35,628	25,733	24,183	12,883	98,427
2009	29,432	19,069	23,383	9,824	81,708
2010	25,892	14,893	23,898	8,394	73,077
<b>Total</b>	<b>124,365</b>	<b>75,060</b>	<b>94,039</b>	<b>44,874</b>	<b>338,338</b>
<b>Percent</b>	<b>37%</b>	<b>22%</b>	<b>28%</b>	<b>13%</b>	<b>100%</b>

Source: CIC Facts and Figures, 2010

## 1.3 Roles and Responsibilities of HRSDC, CIC and CBSA

While non-LMO streams of the Program are the sole responsibility of CIC, the LMO streams are jointly administered by CIC and HRSDC. Both departments are responsible for providing policy and program direction. The *Immigration and Refugee Protection Act* provides a broad legislative framework for HRSDC, CIC, and CBSA. The mandates and authorities are further defined in the *Immigration and Refugee Protection Regulations*.

### Review of the LMO Applications By HRSDC

A number of steps are involved in hiring a TFW. Employers must first determine whether an LMO is required. If an LMO is required, employers must apply to a HRSDC/Service Canada regional office which then reviews the application. HRSDC takes various factors into consideration when assessing an application for an LMO to hire a TFW.



Table 3: Labour Market Opinion Assessment Criteria	
Criteria	Description
Occupation	HRSDC and CIC use the National Occupational Classifications system to categorize the positions based on the majority of duties the applicant is expected to perform.
Wages and Working Conditions	HRSDC also uses the National Occupational Classifications system to identify wages and labour market trends when assessing the job offer. The proposed wage rate must be consistent with the wages being paid to Canadians working in the same occupation and geographical area. The wage range identified in the advertisement must also be consistent and include reference to the benefits package being offered. Any benefits provided to Canadian workers or permanent residents must be extended to temporary foreign workers.
Advertisement and Recruitment Efforts	Employers are expected to conduct recruitment activities consistent with the practice within the occupation (as described on HRSDC website). Employers must demonstrate that they have met the advertising requirements by providing proof of advertisement and the results of their efforts to recruit Canadians or permanent residents as part of the LMO process (e.g., information on the qualifications of Canadian applicants and why they were rejected).
Labour Market Benefits	HRSDC will consider direct labour market benefits from the hiring of the foreign worker(s) such as transferring skills and knowledge to Canadians, filling a labour shortage, or directly creating or retaining opportunities for other Canadians.
Union Consultation	HRSDC will consider the relevant union's position on hiring a foreign worker, involvement in identifying unemployed Canadians, and confirmation that the conditions of the collective agreement (e.g., wages, working conditions) will apply to the foreign worker.
Labour Dispute	HRSDC will not confirm the LMO if making an offer to a foreign worker for a position may affect current or foreseeable labour disputes at the workplace, or affect the employment of any Canadian worker involved in such disputes.

If the requirements are met, HRSDC issues a positive opinion. As of May 19, 2009, HRSDC established a maximum six-month LMO validity period during which an LMO may be used to apply for a Work Permit (WP). In addition, HRSDC no longer grants LMO extensions; instead, a new LMO application is required. The LMO duration of employment is the timeframe of work that the employer has requested and to which HRSDC has agreed.<sup>3</sup> Ultimately, it is the CIC officer who determines the length of the WP.

An LMO may be revoked prior to the issuance of a WP under certain circumstances such as when, for example, the application included false or misleading information; or new facts come to light subsequent to the date of the issuance of the LMO.

<sup>3</sup> In the case of passport expiry, a Work Permit may be issued for a shorter duration than identified in the LMO.

## **Review of Work Permit Applications by CIC**

Once a positive LMO is obtained, foreign workers must apply for a work permit. The work permit application is assessed by CIC officers in visa offices abroad and, if successful, a letter of approval is sent to the foreign worker. When entering Canada, the letter of approval, along with other necessary documents of the foreign worker (i.e., valid passport, temporary resident visa, reference letter, etc.), are assessed at a port of entry by a CBSA Officer, who is responsible for issuing the work permit and allowing entry into the country. In Canada, CIC's Centralized Processing Centre and local offices may issue extensions or a new work permit to LMO-required work permits with a new LMO. Where an LMO is required, the WP application may be submitted at a port of entry if a foreign worker holds a positive LMO issued by HRSDC and is a national or permanent resident of the United States or is a resident of Greenland or St. Pierre and Miquelon; does not need a temporary resident visa (TRV) to visit Canada; does not require a medical certificate; and will not be working under the LCP or the SAWP.

The LCP requires that the first WP application be received at a mission. Once TFWs are in Canada on an LCP WP, they may apply through CIC's Case Processing Centre in Vegreville, Alberta (CPC-V) for a new WP to reflect any changes in work conditions. SAWP applicants must also apply at missions overseas. Overseas TFWP applicants must submit the following documents to the visa office in their country of residence in application for WP: a completed application form; a cost-recovery fee, evidence that the eligibility criteria are met (job offers or contracts, LMOs, etc.); background documents showing the education qualifications and experience of the applicant for the employment; proof of identity; and any other documentation required to demonstrate that the requirements of the Act or Regulations are met.

Applicants from within Canada applying to CPC-V must also include a copy of their current immigration document. CIC also considers whether the foreign worker has been certified/licensed for regulated occupations in Canada (e.g. doctors, engineers, tradespersons) as indicated on the LMO. CIC may also use additional criteria when issuing WPs to foreign workers in regulated occupations.

## **Issuance of Work Permits By CBSA**

The Canada Border Services Officers determine the admissibility of foreign workers at Canadian ports of entry before issuing WPs and authorizing their entry into Canada. They have the final decision and can deny entry if they find the foreign worker inadmissible for not meeting requirements under *Immigration and Refugee Protection Act/Immigration and Refugee Protection Regulations* or any other applicable act or regulation (e.g. the *Customs Act*). The CBSA is also responsible for removing inadmissible persons from Canada.

## New Regulations and the Compliance Framework

On April 1, 2011, a series of amendments to the *Immigration and Refugee Protection Regulations* came into force to improve the protection of workers and enhance program integrity. In addition to labour market factors, HRSDC/Service Canada now also assesses:

- the genuineness of the employer and the job offer;
- compliance with any federal-provincial agreements that apply to the employers of foreign nationals;
- whether the employer making the offer provided previous foreign nationals with wages, working conditions and occupation that were substantially the same as those that were originally offered.
- under the Live-in Caregiver Program, whether the employer has a legitimate need, can provide adequate accommodations to the caregiver, and has sufficient financial resources.
- HRSDC has been given the authority to conduct mandatory compliance reviews for all returning employers. HRSDC/Service Canada officers will consider whether the wages, working conditions, and occupation provided to the foreign nationals were substantially the same as those originally offered by the employer. All employers will be subject to the “substantially the same” criteria. The risk criteria determine the level of review. Low risk employers are subjected to a review of their current LMO application and their attestation regarding the previous employment of TFWs. Higher risk employers are required to submit documentation such as payroll information, time sheets, bank-processed cheques, overtime pay, and proof that employers paid transportation and accommodation costs. Employers may also be asked to describe the work performed by TFWs so that officers can compare it to the duties described in the application. The new regulatory amendments establish consequences for employers that have not provided substantially the same wages, working conditions, and employment on previous LMOs. These employers will be issued a negative LMO and may become ineligible to access the TFWP for a period of two years.

If CIC officers are not satisfied with the LMO or believe that a more detailed assessment of an employer should be conducted, the officers may also assess the genuineness of the job offer when processing WPs. The operational manual developed by CIC instructs officers to use “reasonable discretion when determining how detailed (or not) an employer assessment is required.”

The new regulations also established a limit of cumulative duration of four years from TFWs followed by a period of at least four years in which they may not be authorized to work in Canada.<sup>4</sup>

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<sup>4</sup> For more details visit: <http://www.gazette.gc.ca/rp-pr/p2/2010/2010-08-18/html/sor-dors172-eng.html>

## 1.4 Program Partners and Stakeholders

HRSDC and CIC partner with other federal departments, as well as with provincial and territorial governments, to administer the TFWP and respond to regional short-term labour market demands. HRSDC and CIC also engage a wide variety of stakeholder associations, and community organizations to inform them of program enhancements, to seek feedback in the administration of the Program, and to establish a network to support future engagement efforts or other initiatives. Appendix A summarizes the role of various groups in the Program, including provinces and territories, employers and national industry representatives, community and labour organizations, recruitment agencies, sector councils, business associations, immigration consultants, and temporary foreign workers.

## 1.5 Program Logic Model

The logic model for the TFWP is presented in Appendix B. As indicated, the activities of the TFWP correspond with five core functions: program design and development, partnership management, information and communication, service delivery, and monitoring and compliance. These activities lead to a number of immediate and intermediate outcomes which are intended to contribute, over the long term, to a skilled, adaptable, and inclusive labour force and efficient labour market as well as migration that significantly benefits Canada's economic, social, and cultural development.

## 1.6 Budget

The Government of Canada costs associated with the TFWP (including LMO and LMO exempt streams) increased from an estimated \$88.3 million in 2007-08 to \$111.6 million in 2009-10, most of which was incurred by the administering government departments, HRSDC, CIC and CBSA, that process applications.<sup>5</sup>

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<sup>5</sup> CIC, Total Government of Canada Estimated Processing Cost – Temporary Foreign Workers.

## 2. *Evaluation Context*

### 2.1 Evaluation Objectives and Scope

In accordance with the Treasury Board of Canada Secretariat *Policy on Evaluation* effective April 1, 2009, the evaluation is designed to assess the continued relevance of the TFWP, its performance in achieving immediate and intermediate intended outcomes, and its performance in terms of efficiency and economy. The specific evaluation issues and questions are listed in the table in Appendix C.

The scope of the evaluation covers the four streams of the TFWP requiring Labour Market Opinions (LMOs) issued by Human Resources and Skills Development Canada (HRSDC). The evaluation focuses on the years 2007–2010. Since 2010, several significant changes have been made to the Program including amendments to *Immigration and Refugee Protection Regulations* and implementation of the compliance framework. The effectiveness of these changes is not addressed in this evaluation.

### 2.2 Evaluation Approach and Methodology

To address the complexity of the TFWP, the evaluation uses multiple lines of evidence including primary data sources (interviews with key informants as well as surveys of employers, TFWs and third party representatives), secondary data sources (literature review, document and file review, and administrative data review) and case studies which draw from both primary and secondary sources. Note that the HRSDC and CIC data appearing in the tables and figures of this report may differ from those reported in previous HRSDC and CIC releases. These differences reflect adjustments to administrative data files which occur normally over time and reflect refinement in methods of calculation for the purpose of increasing accuracy in the way in which statistical information is presented.

#### 2.2.1 *Key Informant Interviews*

Interviews were conducted with 110 key informants as follows: 9 HRSDC policy and program representatives at National Headquarters; 9 CIC policy and program representatives at National Headquarters; 12 CBSA national and regional representatives; 21 HRSDC field staff; 14 CIC field staff; 14 provincial and territorial government representatives; 8 third party representatives; and 23 other stakeholders. The interviews were conducted to address evaluation questions dealing with relevance, program effectiveness and efficiency including program design, impact, and unexpected outcomes.

## 2.2.2 Surveys

Surveys were conducted with 2,650 employers, 1,521 TFWs, and 159 third party representatives. For the employer and TFW surveys, target numbers of completions were established for each of the four streams. The following table summarizes the number surveyed and the response rate by program stream.

Table 4: Number of Surveyed Participants and Response Rates by Stream						
Program Stream	Employers <sup>6</sup>		TFWs		Third Parties	
	Surveyed	Response Rate	Surveyed	Response Rate	Surveyed	Response Rate
High-skilled	937	24%	389	12%	120	n/a
Low-skilled	877	16%	380	14%	90	n/a
Seasonal Agricultural Worker Program	509	37%	378	10%	10	n/a
Live-in Caregiver Program	663	39%	374	18%	107	n/a
<b>Total</b>	<b>2,650</b>	<b>26%</b>	<b>1,521</b>	<b>13%</b>	<b>159</b>	<b>11%</b>

The response rates are under-stated for all three surveys:

- The response rate <sup>6</sup>for employers assumes that all e-mails sent were received by the target representatives except those which (1) bounced back or (2) which were followed up on unsuccessfully by telephone. Employers requesting high-skilled and low-skilled workers were most likely to complete the survey online because the email contact information for these employers was the most complete and up-to-date. As a result, less follow-up was required and online surveys were closed once the target numbers were reached. With more follow-up, the response rates for high-skilled and low-skilled streams would have improved as a result of both increasing the number of respondents and by identifying more employers that should be classified as Unable to Contact.
- Due to the multiple avenues through which TFWs were approached, it is not possible to determine how many distinct workers were actually notified about the survey. The response rate calculated above was developed by comparing the number of completions to the maximum number of TFWs for whom attempts were made to contact directly or indirectly through their employers. The actual number contacted is likely far less given that not all employers would have been successful in referring their TFWs or all of their TFWs to the survey. The effort of employers varied from posting a notice to forwarding the website address or evaluator's telephone number to the workers, to distributing paper copies and return envelopes. Furthermore, some TFWs may no longer have been

<sup>6</sup> The total surveyed by stream does not add up to the total surveyed because some employers and third parties participated in more than one stream.



employed at the time of the survey (this was a more significant issue with the SAWs because of seasonality and the shorter term of the work permits, which meant that the worker may have returned home by the time the survey was conducted).

- Third party representatives were emailed an introduction letter, which described the evaluation and included a link to the online survey. The response rate, calculated as a percent of the number of emails distributed, was 11%. However, the effective response rate is considerably higher as numerous emails sent to third parties bounced back and many others may not have bounced but were targeted at representatives no longer working at the agency.

## **Employers**

The purpose of the survey of 2,590 employers was to obtain their perspective on program design, delivery and effectiveness in meeting their particular labour market needs. The sample was drawn from a random subset of employers selected from HRSDC's Foreign Worker System (FWS). The subset was representative of the total population that submitted LMO applications from 2007 to 2010 with respect to program stream, region, North American Industry Classification System code, and size of employer.

Employers completed the survey online (1,379 completions), by telephone (1,208 completions) or by mail or fax (3 completions). Employers requesting high and low-skilled workers were those most likely to complete the survey online (71% of employers requesting high-skilled workers and 84% of employers requesting low-skilled workers that responded did so by completing the survey online, compared to 35% and 20% of SAWP and LCP employers respectively). This was partly due to high and low-skilled employers having the most complete and up-to-date email contact information on file. Where an email address was available, a formal invitation letter was sent to employers with a link to an online survey with a personalized code. The email informed employers of the different options available to participate in the survey. Approximately 30% of the email addresses recorded in FWS were found to be incorrect (i.e. emails bounced back). Where a telephone number was available in the database, calls were made to employers directly to obtain their email address so that a formal letter of invitation could be sent. A time was set up for an interview for employers who preferred to complete the survey over the telephone.

## **Temporary Foreign Workers**

The survey of 1,521 TFWs obtained input on the effectiveness of the Program in ensuring the rights and protections of TFW as well as the effectiveness of the application process and the assistance provided in facilitating timely entry of TFWs. Sample populations of TFWs with valid WPs as of December 31, 2010 were obtained from both CIC's Field Operations Support System database and HRSDC's Foreign Worker System (FWS). The Field Operations Support System contains contact information for the TFW in Canada, which is provided by the applicant at the time of the WP application. However, because TFWs generally do not

know where they will be staying or what their phone number at the time of the application, the contact information was generally that of employers or third party agencies or incorrect (e.g., the TFW had moved since arriving in Canada).

After testing both sources, the FWS was used as the primary source of information to reach TFWs through their place of employment and the Field Operations Support System was used as a secondary population list. A subsample from FWS was created by matching FWS with data from the Field Operations Support System on TFWs who had valid work permits as of December 31, 2010. FWS does not contain personal contact information for the TFW in Canada. As a result, using the FWS subset required attempting to contact the TFW through their place of employment. The primary advantage of FWS over the Field Operations Support System is that it contained more detailed information on the employer, including the name of a key contact in the company.

To complete the surveys of TFWs, over 3,000 emails to TFWs or their employers including reminders were sent; over 7,000 phone calls including call-backs were made and over 800 copies of the survey questionnaires were mailed. Over three-quarters of the surveys were completed by telephone. TFW were provided with the opportunity to respond in various languages. Surveys were completed in English (51%), Spanish (23%), Tagalog (22%), and French (4%).

### **Third Party Representatives**

An online survey of 159 third party representatives was conducted to augment the findings of the survey of employers and TFWs regarding the LMO and WP application process, particularly with respect to the application process. The subsample of third party agency representatives was compiled from third party names included in the employer contact list obtained from HRSDC Foreign Worker System database (FWS).

### **2.2.3 Literature Review**

The literature review focused on obtaining information to address evaluation questions related to the need and relevance of the Program, program responsiveness to the needs of employers, compliance with program requirements and efficiency of program delivery. A particular emphasis was placed on literature related to the protection of TFWs and unanticipated impacts of the Program. The literature review drew from academic research, business reports, papers produced by sector councils, think-tanks, and government, news articles, and labour market information. The literature review also examined information on similar programs in other countries.



## **2.2.4 Document and File Review**

In the document and file review, particular emphasis was given to obtaining information to address evaluation questions related to the need and relevance of the Program, implementation of program policies and directives, communication strategies, and efficiency of program delivery. Examples of the documents reviewed include operational manuals and profiles, mission directives, briefing notes, internal reviews and evaluations, policy documents, and process and procedure documents.

## **2.2.5 Administrative Data Review**

The administrative data included statistical analysis of data from HRSDC Foreign Worker System database (FWS), the Field Operations Support System, the Computer Assisted Immigration Processing System, and the Longitudinal Immigration Database. The FWS database contains data on employers participating in the Program. The Field Operations Support System and the Computer Assisted Immigration Processing System databases used by CIC and CBSA contain information submitted on WP applications. Analysis of the Computer Assisted Immigration Processing System and the Field Operations Support System provided information related to design, implementation, and effectiveness in meeting labour market needs, and program efficiency and economy. Analysis of FWS provided information on the demand for the Program in particular regions, sectors, occupation and streams. It also helped to address evaluation issues related to the timeliness and efficiency in processing of LMO applications, the effectiveness and consistency of the process, and the responsiveness of the Program to identified needs on the LMO applications.

## **2.2.6 Case Studies**

Twelve case studies were conducted, each focused on a specific evaluation question or research area. The case studies relied heavily on bringing together various lines of evidence collected through document, file and administrative review, literature review, key informant interviews, and the surveys. Additional data was collected through:

- Interviews with 15 representatives of organizations, which are either themselves heavy users or represent heavy users of the TFWP, to further assess factors that contribute to the use of the Program across employers, sectors, regions and time.
- Interviews with 26 HRSDC and CIC staff to further assess issues related to governance, assessment of advertising requirements and prevailing wage, monitoring activities, efficiency and economy associated with processing of applications, and the effectiveness of outreach strategies.
- Interviews with 4 representatives from provincial or territorial governments to further investigate provincial policies, regulations and procedures related to protecting the rights of TFWs.

- A review of program budgets and expenditures, outputs from outreach activities, operational manuals, policy directives, bulletins, Memorandums of Understanding, HRSDC and CIC websites, and other publications.
- Statistical analysis of data from the Longitudinal Immigration Database, which links immigration and tax information, on the income of past participants in the LCP who became permanent residents.
- Statistical analysis of a subset of employer data from the FWS to review the characteristics of heavy, medium, light and former users of the Program.

## 2.3 Evaluation Strengths and Limitations

### Evaluation Strengths

- The evaluation data obtained from each line of inquiry was analyzed to address each evaluation question, taking into account their strengths and limitations. Multiple lines of evidence were triangulated to determine the extent to which findings were consistent across the various data sources.
- Significant sample sizes incorporated the perspective of all key stakeholder groups involved with the Program and provide for a high degree of reliability. The sample size for employer survey achieves a confidence interval of  $\pm 1.9\%$  for the total number of employers surveyed (across streams of employers, the confidence interval ranged from  $\pm 3.2\%$  for employers surveyed under high skilled, to  $\pm 4.0\%$  for SAWP employers). The confidence interval for the total sample of TFWs was  $\pm 2.5\%$ , ( $\pm 5\%$  within each of the four streams).
- Use of administrative data to assess trends in the processing and outcomes of LMO and WP applications, and the economic outcomes of TFWs who became permanent residents.
- A variety of descriptive and inferential statistical analyses were utilized (e.g. cross tabulation, ANOVA) to further analyze data collected through surveys.

### Challenges and Limitations

- There is the potential for non-response bias in the survey of employers and TFWs. The characteristics of employers and third parties who responded to the survey may be different from those who did not. Although there are minor differences in characteristics between the two groups, which are generally the result of targeted sampling, the employers surveyed are generally representative of the overall population. There is less basis for comparing the characteristics of the TFWs that responded to survey to those that did not.

- Potential respondent bias (i.e. target groups with a vested interest in the program). Some groups included in the analysis could have a vested interest in supporting the Program, such as employers, particularly those who hired and intend to continue to use the program. Potential bias was mitigated through use of multiple lines of evidence, particularly by validating findings through other primary and secondary research.
- The sample of TFWs was developed, in part, through the referrals from employers, particularly for the SAWs. This introduces a potential bias given that the willingness of employers to inform their workers or to assist in the evaluation by contacting their workers may be influenced by their experience with the Program and the workers. The findings of TFWs who were reached through their workplace were compared with those who were reached directly and no material differences were found; however, TFWs survey findings may not be fully representative as the sample was not randomly selected. Almost all SAWs and live-in caregivers and about two-thirds of high-skilled and low-skilled workers were eventually reached through their place of employment.
- During the course of the evaluation, the Program experienced a number of significant changes (e.g. regulatory changes and limits on the number of years TFWs can stay in Canada), which may have impacted the perception of some key informants.



### ***3. Major Findings of the Evaluation***

This chapter consists of two sections, corresponding to the evaluation issues of relevance and performance. For ease of reporting survey results, quantifiers are used as follows: “few” indicates less than 10% of respondents, some indicates more than 10% but less than half, and most indicate over 50% of respondents. Unless otherwise noted, quantifiers and percentages are calculated out of the number of employers or TFWs who provided a response. For key informant interviews, the quantifiers used were as follows: “few” indicates 3 or fewer respondents, “some” indicates more than 3 but less than half, and “majority” indicates over 50% of respondents.

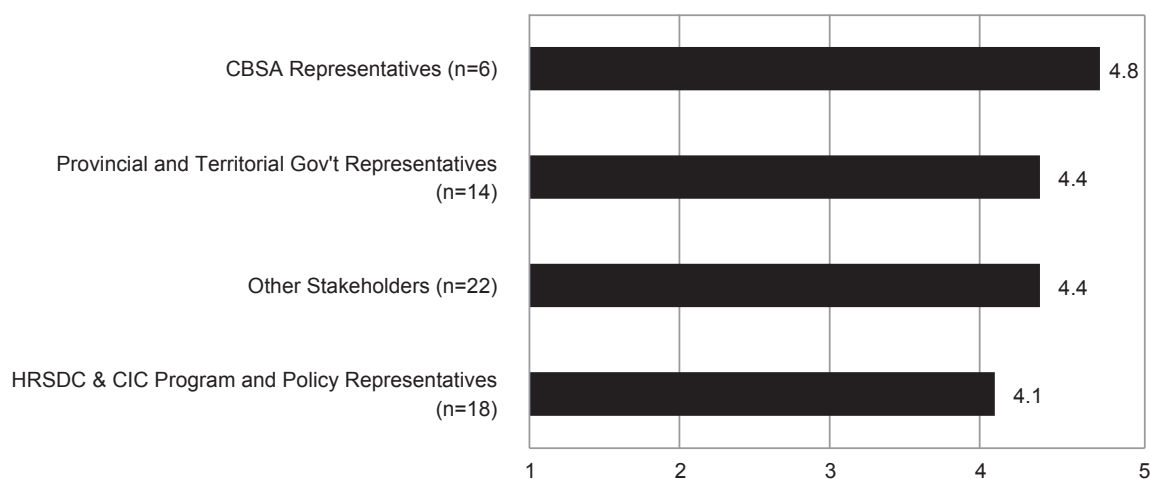
#### **3.1 Relevance**

##### ***3.1.1 Need for the Temporary Foreign Worker Program***

The Program is used by employers to fill positions that are vacant because of skill or labour shortages. In the absence of the TFWP, most employers reported they would have no alternatives to fill the positions; however, some employers in high and low skilled stream noted that they would have attempted to use economic immigration programs or increased efforts to hire Canadians or permanent residents.

According to employers and key informants, the need for the Program is a function of a growing economy, which creates the demand for workers to fill positions, and difficulties in filling those positions because of skills shortages (for example, continued technological developments drive the need for high-skilled workers), labour shortages (for example, increasing rates of retirement amongst Canadian baby boomers), or the limited interest of Canadian and permanent residents in filling particular types of positions. When asked to rate the need for the Program on a scale of 1 to 5, where 1 is not at all and 5 major need, all key informant groups reported a need for the Program.

**Figure 2: Average Ratings on the Need of the Program**



*On a scale of 1 to 5, where 1 is no need at all 3 is somewhat of a need and 5 is major need*

Source: Key informant interviews, 2011

The interest of Canadians and permanent residents in particular positions can be constrained by the temporary, seasonal, cyclical, or manual nature of the position. Almost all employer association representatives highlighted difficulties in recruiting locally for temporary or seasonal positions. Seasonal jobs do not provide security or stability and such positions are unlikely to be sufficiently attractive to encourage people to relocate across provinces. The agricultural sector faces the challenge of having to fill relatively large numbers of positions in a short period of time to prepare for the growing or harvesting seasons. For example, a data review of HRSDC Foreign Worker System (2010) shows that the average number of positive TFWs positions per employer ranges from two positions amongst employers hiring high-skilled workers and three positions amongst employers hiring low-skilled workers to six workers amongst SAWP employers.

The relative interest of Canadians and permanent residents in particular positions can also be influenced by the number of readily available higher paid jobs in a particular region. Close proximity to major construction projects or resource industries such as mining, oil and gas can severely impact the ability of employers in other industries such as accommodation or agriculture to recruit local workers.

Interviews with employers show that, to varying degrees, the Program assists employers across the streams to address both skill shortages and labour shortages. As indicated in Table 6, employers using the high-skilled stream were those most likely to attribute their use of the Program to an inability to recruit specific skills. Employers using the low-skilled stream as well as the SAWP stream were more likely to attribute their use of the program to an inability to find workers (i.e. labour shortages rather than skills shortages).

Table 5: Reasons for Using the TFWP Instead of Alternative Strategies			
Responses	High Skilled (n=631)	Low Skilled (n=581)	Seasonal Agricultural Worker Program (n=455)
Unable to recruit specific skills (skill shortages)	65%	37%	13%
Unable to find workers in Canada (labour shortages)	54%	78%	70%
TFWs perform effectively	42%	61%	71%
It is more cost-effective to use the TFWP	7%	8%	10%
It is easier to recruit TFWs	5%	6%	12%
Source: Employer survey, 2011 (allows for multiple responses)			

In the absence of the Program, over one-half to two-thirds of employers across these three streams said they would not have been able to fill the position or would have had no alternative strategy.

Table 6: Alternative Actions in Absence of the TFWP (High Skilled, Low Skilled and Seasonal Agricultural Worker Program)			
Ranked Responses	High Skilled (n=631)	Low Skilled (n=581)	Seasonal Agricultural Worker Program (n=455)
Would not have filled position or would not have an alternative	65%	67%	53%
Use economic immigration program	27%	27%	9%
Increase efforts to recruit Canadian and permanent residents	22%	20%	22%
Increase training for existing employees	9%	6%	2%
Raise wages	9%	12%	5%
Recruit underemployed groups	6%	11%	6%
Promote existing workers	4%	4%	0%
Invested in physical capital	3%	6%	12%
Other	5%	6%	10%
Closed or sold business	6%	11%	20%
Source: Employer survey, 2011 (allows for multiple responses)			

As shown in Table 6, some employers indicated that they would have attempted various alternative strategies such as bringing in workers through an economic immigration program or increasing their efforts to hire a Canadian or permanent resident. Smaller numbers of employers across the streams noted they would have increased training for existing employers, promoted existing workers and tried other strategies to fill the positions.

If the LCP was not available to them, employers of live-in caregivers said they would have attempted to hire a live-out caregiver (20%), tried other ways to meet the needs (19%), quit their job or reduced the hours they work (15%), use a daycare program (11%), or asked their family to help (7%).

Table 7: Alternative Actions in Absence of the TFWP: Live-in Caregiver Program	
Ranked Responses	Seasonal Agricultural Live in Caregiver Program (n=494)
Hire a Live-out Caregiver	20%
Increase efforts to hire a Canadian or Permanent Resident (e.g. students/underemployed)	19%
Find other way to meet needs	19%
Quit job or reduce work hours	15%
Use daycare programs	11%
Use economic Immigration Program	9%
Ask family and friends to help	7%
Use agency to find live-in caregiver	5%
Use long-care facilities/programs	5%
Source: Employer survey, 2011 (allows for multiple responses)	

The relative need for the Program is reflected in the demand of employers for temporary foreign workers, which varies over time and across positions (streams), regions, sectors, and types of employers. Demand is strongest during periods of low unemployment rates and strong economic growth.

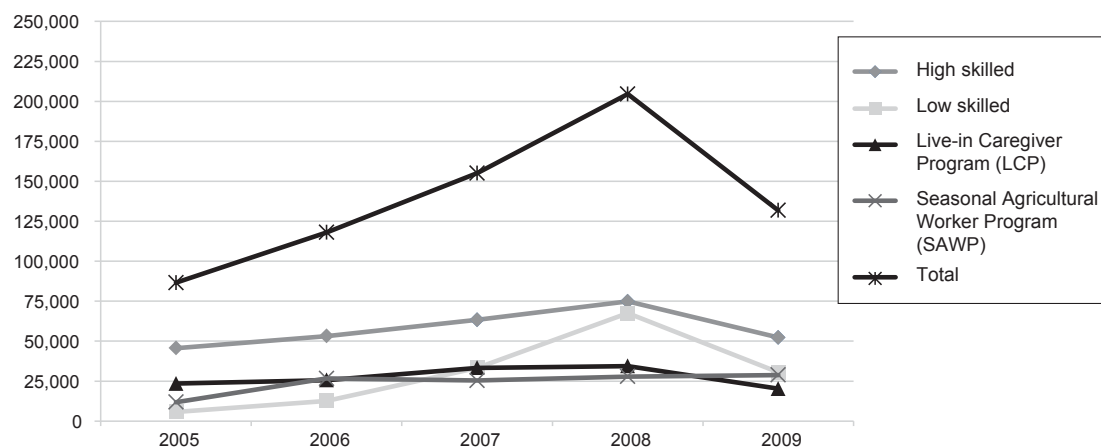
The number of TFW positions confirmed by HRSDC/Service Canada provides some indication of evidence of relative need, reflecting the demand for workers that could not be met through employer efforts to recruit Canadians or permanent residents. Administrative data shows that the demand for the TFWs is very much dependent upon local labour market conditions. More specifically, the data indicates that:

- **Demand is strongest during periods of low employment rates.** The number of confirmed TFW positions increased from 86,554 in 2005 to 204,572 in 2008 while the number of TFWs with LMOs entering Canada increased from 57,370 in 2005 to 98,466 in 2008. The growth in TFW confirmed positions and TFWs entering Canada is inversely related to the unemployment rate, which decreased from 7.2% in 2005 to a low of 6.1% in 2008. In 2009, the unemployment rate increased to 8.3% while the number of TFW positions with confirmed LMOs decreased by 36% to 131,769 and the number of TFWs with LMOs entering Canada decreased by 17% to 81,736.



- **The low skilled worker is the stream in which demand varies most significantly in response to changes in labour market conditions.** The high skilled worker stream (which was the leading stream each year from 2005 to 2009 in terms of positions confirmed) is driven more by skills shortages than by labour shortages; skills shortages may remain even during periods of higher unemployment. Similarly, positions in the Seasonal Agricultural Worker Program and Live in Caregiver Program streams may remain of lower interest to Canadians and permanent residents even during periods of higher unemployment. Low skilled worker positions accounted for 52% of the increase in the number of TFW positions on positive LMOs between 2005 and 2008. After increasing from 5,631 positions in 2005 to 67,457 in 2008, the number of low skilled worker positions on confirmed LMOs declined to 30,475 with the economic slowdown in 2009. As illustrated in the following chart, the number of high skilled positions and live-in caregivers also declined in 2009 while seasonal agricultural workers remained relatively constant.

**Figure 3: Number of TFW Positions on Positive LMOs by Stream, 2005-2009**



Source: HRSDC Foreign Worker System, 2010

- **Demand also varies regionally depending upon local labour market conditions.** Reflecting Alberta's strong provincial economy, declining unemployment rates (reaching a cyclical low of 3.5% in 2007) and resulting labour shortages, Alberta accounted for 74% of the increased volume of confirmed TFWs positions between 2005 and 2009. As a result, as indicated in the following table, the percentage of the Canadian total of confirmed positions accounted for by Alberta employers increased from 11% in 2005 to 25% in 2009. Ontario continued to be the leading province in use of the TFWP, accounting for 40% of the confirmed TFWs positions from 2005 to 2009.

**Table 8: Leading Provinces in Terms of Number of TFWs Positions with Positive LMOs, 2005 to 2009**

Province	Number of TFWs Positions on Confirmed LMOs						% of TFWs Positions on Confirmed LMOs					
	2005	2006	2007	2008	2009	Total	2005	2006	2007	2008	2009	Total
Ontario	49,992	54,627	64,639	63,087	47,409	<b>279,754</b>	51%	48%	42%	31%	36%	<b>40%</b>
Alberta	10,638	20,049	42,224	73,435	32,240	<b>178,586</b>	11%	17%	27%	36%	25%	<b>25%</b>
BC	17,945	19,572	23,604	38,603	21,512	<b>121,236</b>	18%	17%	15%	19%	16%	<b>17%</b>
Others	19,234	20,631	24,740	28,431	29,403	<b>122,439</b>	20%	18%	16%	14%	23%	<b>17%</b>
<b>Total</b>	<b>97,809</b>	<b>114,879</b>	<b>155,207</b>	<b>203,556</b>	<b>130,564</b>	<b>702,015</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: HRSDC, LMO Annual statistics 2006-2009, and Archived Annual Statistics, 2005-2008

- **Demand for TFWs exists across a range of economic sectors.** Two of the four program streams are sector specific: live-in caregivers are included under North American Industry Classification System 2002, 81 – Other services (except public administration) and SAWs are included under North American Industry Classification System 2002, 11 – Agriculture, Forestry, Fishing and Hunting. These two industries accounted for 42% of the 694,287 positions for which positive LMOs were issued between 2005 and 2009.

**Table 9: Distribution of Positions on Positive LMO by Industry Sector, 2005 to 2009<sup>7</sup>**

NAICS 2002 2 digit code	Description	Number of temporary foreign worker positions on positive labour market opinions
81	Other Services (except Public Administration)	148,477
72	Accommodation and Food Services	83,663
31-33	Manufacturing	57,950
71	Arts, Entertainment and Recreation	54,146
23	Construction	43,987
51	Information and Cultural Industries	30,038
11	Agriculture, Forestry, Fishing and Hunting	147,255
54	Professional, Scientific and Technical Services	19,206
61	Educational Services	17,046
62	Health Care and Social Assistance	16,776
48-49	Transportation and Warehousing	16,460
44-45	Retail Trade	14,531
21	Mining and Oil and Gas Extraction	12,669
56	Administrative and Support, Waste Management and Remediation Services	12,312
41	Wholesale Trade	8,630
22	Utilities	3,689
91	Public Administration	3,106
52	Finance and Insurance	2,023
53	Real Estate, Rental and Leasing	1,518
55	Management of Companies and Enterprises	618
<b>Total</b>		<b>694,287</b>
Source: HRSDC – LMO Annual Statistics 2006-2009 and Archived Annual Statistics 2005-2008 <sup>8</sup>		

Within high-skilled and low-skilled streams, the sectors which received the largest numbers of positive TFWs positions included accommodation and food services (accounting for 12% of the positions with positive LMOs from all four streams), manufacturing (8%) and arts, entertainment and recreation industries (8%), and construction (6%).

- **A comparatively small number of employers account for a high percentage of the positions confirmed under TFWP.** Under either the high-skilled or low-skilled streams, 20% of employers which received confirmed LMOs accounted for 86% of the positions

<sup>7</sup> The numbers for North American Industry Classification System 2002 – code 81 includes other TFWs in addition to live-in caregivers while North American Industry Classification System 11 includes other TFWs in addition to seasonal agriculture workers.

<sup>8</sup> [http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/stats/annual/table4a.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/stats/annual/table4a.shtml)

requested.<sup>9</sup> Amongst those employers which received confirmed LMOs under SAWP, 20% of employers accounted for 71% of the positions requested. Use of the program amongst heavy users tends to be cyclical; for example, in the employer survey, heavy users were much more likely than light users (43% vs. 14%) to indicate that they had reduced the number of LMO positions applied for as a result of the recent economic downturn.

To better understand this segment, the characteristics of the heaviest users (i.e. the top 2.9% of employers, each of whom requested 150 or more TFW positions; these users accounted for 53% of positions requested over the four year period of 2007 to 2010) were compared to the characteristics of the lightest users (i.e. 23% of employers requested only one TFW and, together, accounted for less than 1% of the total number of positions requested) using data from the Foreign Worker System database (FWS). The comparison indicates that heavy users are much more likely than other employers with confirmed high-skilled and low-skilled LMOs to operate in Alberta and in the accommodation & food services sector. Although employer size is missing for many employers in FWS, the available data indicates that heavy users are much more likely than others to have 100 or more employees.

Although the global economic downturn in 2008 somewhat reduced the need for labour, temporary labour shortages continued and are predicted in the literature to persist due to factors such as the decline of fertility rates and an aging workforce, technological changes, global competition and limited desirability of temporary, low-skilled, seasonal, live-in and harvest work amongst Canadian workers. Of the employers surveyed who hired TFWs during the past five years, 76% of employers that hired high-skilled workers, 86% of employers that hired low-skilled workers, and 97% of SAWP employers expect to hire again during the next 12 months.

### **3.1.2 Relevance of the Program in Relation to Economic Immigration Programs**

The TFWP complements Canadian economic immigration programs that address Canadian labour market needs by providing a flexible mechanism for employers to address immediate, short-term labour and skill shortages.

The Government of Canada administers a range of economic immigration programs through which workers migrate to Canada and contribute to Canada's labour market needs and the economy through investments and the establishment of new businesses.<sup>10</sup>

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<sup>9</sup> This analysis is based on subset of data from HRSDC Foreign Worker System which included 23% of all employers participating high skilled occupations, 35% of all employers participating in low skilled occupations, and nearly all employers participating in SAWP stream that requested TFWs between January 1, 2007 and December 31, 2010.

<sup>10</sup> The economic immigration class includes various programs Federal Skilled Worker Program (FSW), Provincial Nominee Program (PNP), Canadian Experience Class, and Business Class for a description of the economic immigration programs and the requirements. <http://www.cic.gc.ca/english/immigrate/index.asp>

While labour and skill shortages are very difficult to define, most literature broadly defines labour and skills shortages as occurring when the demand exceeds the supply of labour.<sup>11</sup> There are two major types of labour shortages: cyclical and structural. Cyclical shortages are usually short-term although they can last for a considerable time.<sup>12</sup> Structural shortages reflect long-term developments occurring in the economy or society, independent of short-term fluctuations. Factors contributing to structural labour shortages in Canada may include demographic changes, technological changes as well as rapid growth of new industries.<sup>13</sup> Seasonal employment is considered to be a structural labour shortage as it commonly follows a regular pattern (weather, holidays, harvest season); however, unlike other structural shortages it experiences rises and drops of employment.<sup>14</sup>

The document and literature review and the administrative data show that the TFWP is better positioned than economic immigration programs to address immediate and short-term needs. For example:

- The TFWP is focused directly on meeting the temporary, short-term labour needs of participating employers.<sup>15</sup> On the other hand, the economic immigration programs focus on selecting immigrants who will be successful in the long-term in the Canadian economy.<sup>16</sup>
- The processing times for WP applications tend to be much shorter under the TFWP than for the economic immigration programs. Timing is particularly important for employers trying to fill immediate needs.<sup>17</sup> The median processing time in 2008 for economic immigration programs ranged from 34 months for Federal Skilled Worker Program to 8 months for Provincial Nominee Program.<sup>18</sup> About 80% of the applications submitted under Canadian Experience Class applications are processed within 15 months.<sup>19</sup> Within the TFWP, processing times tend to be shorter (80% of SAWP applications are generally processed within one to two weeks). In 2009, 80% of high-skilled worker applications had a decision rendered within 10 weeks and 16 weeks for low-skilled workers.<sup>20</sup>

<sup>11</sup> Fang, T. (2009). Workplace Responses to Vacancies and Skill Shortages in Canada. *International Journal of Management*. Vol.30, No.4. Pages: 326-348.

<sup>12</sup> Ibid.

<sup>13</sup> Saunders, R. & Maxwell, J. (2003). *Changing Labour Markets: Key Challenges Facing Canada*. Canadian Policy Research Networks Inc. for Human Resources Development Canada.

<sup>14</sup> Katherine Marshal (1999)l, *Seasonality of Employment*, Statistics Canada.

<sup>15</sup> Impact of the Temporary Foreign Worker (TFW) Program on the Labour Market in Alberta, Teresa Woo-Paw Parliamentary Assistant to the Minister of Employment and Immigration, August 2011.

<sup>16</sup> Evaluation of the Federal Skilled Worker Program, 2010.

<sup>17</sup> House of Commons Standing Committee on Citizenship and Immigration; David Tilson, Chair. (2009). *Temporary Foreign Workers and Non-Status Workers*. 40th Parliament, 2nd Session. Chapter One. Retrieved from: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocumentId=3866154&Mode=1&Parl=40&Ses=2&Language=E>

<sup>18</sup> Evaluation of the Federal Skilled Worker Program, 2010.

<sup>19</sup> [www.cic.gc.ca/english/information/times/perm-ec.asp](http://www.cic.gc.ca/english/information/times/perm-ec.asp)

<sup>20</sup> CIC Processing Times Data, 2011.

- The TFWP can also respond quickly to ease labour market conditions. Apart from the LCP, the TFWP is designed to bring in workers who will leave at the end of the job contract. In contrast, the Provincial Nominee Program and Federal Skilled Worker Program select permanent residents and have no mechanism to shed labour supply when labour markets conditions change.<sup>21</sup>
- The TFWP is better able to address labour needs in regions that may be unpopular destinations for immigrants. Employer representatives noted that many participating employers are located in smaller, more remote or rural areas where the available workforce is small. Unlike TFWs, there are no mobility restrictions on permanent immigrants.<sup>22</sup>

#### The TFWP is used as a pathway to economic immigration programs for some TFW workers.

Foreign workers who entered Canada under the TFWP may be nominated through the Provincial Nominee Program or apply for permanent residency under other immigration programs (e.g., Federal Skilled Worker Program and Canadian Experience Class). While high-skilled and low skilled workers may apply for permanent residency if they meet the requirements under one of the economic immigration programs, under the specific parameters of this program, live-in caregivers have up to four years to gain the two years (or 3,900 hours) of work required to become eligible for permanent resident status.

Since TFWs can return to Canada multiple times under different WPs, and can apply for permanent resident status any time during their employment in Canada, the transition figures for 2005 to 2009 are not directly comparable to the TFWP data over the same period. For example, TFWs obtaining permanent resident status may have entered prior to 2005 and some of those who have been in Canada as TFWs during this period may subsequently transition to permanent resident status. From the data, it is possible to say that, between 2005 and 2009, one former TFW from that respective stream transitioned to permanent resident status for every 2.3 live-in caregivers, 8.4 high-skilled workers, 34.4 low-skilled workers, and 403.1 seasonal agriculture workers issued a WP between 2005 and 2009.

Similarly, it is possible to calculate the percentage of those obtaining permanent resident status under particular programs who were formerly TFWs. From 2005 to 2009, former TFWs accounted for 5.5% of the 728,375 immigrants receiving permanent resident status under economic immigration programs; 0.8% of the 330,895 immigrants receiving permanent resident status under family programs; and 0.9% of the 49,845 immigrants receiving permanent resident status under other immigrant programs (excluding refugees).<sup>23</sup>

<sup>21</sup> Zena, O. (2007). Give Us Your Skilled. *Canadian Business*. Vol. 80, Issue 20. October 15, 2007.

<sup>22</sup> House of Commons Standing Committee on Citizenship and Immigration; David Tilson, Chair.(2009). *Temporary Foreign Workers and Non-Status Workers*. 40th Parliament, 2nd Session. Chapter One. Retrieved from: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3866154&Mode=1&Parl=40&Ses=2&Language=E>

<sup>23</sup> Permanent resident data is obtained from Canada Facts and Figures, Immigrant Overview Permanent and Temporary Residents, 2009, CIC.

There is evidence that the experience gained as a TFW improved the economic outcomes of those who transitioned to permanent resident status, during the first 6 years after landing.

Taxation data from the Longitudinal Immigration Database, which links the tax returns of permanent residents to their landing data, suggests that the experience gained as a TFW can help prepare new immigrants for employment in Canada. As illustrated in the following table, Federal Skilled Workers and Provincial Nominees who previously worked in Canada as a TFW tend to earn much more from employment than those without such experience, particularly in the first few years after landing.

Table 10: Average Reported Employment Earnings of the Federal Skilled Worker Program, Provincial Nominee Program, and Live-in Caregiver Program Users by Years of Experience Working as a TFW							
Program	Experience As a TFW Before Landing	Years Since Landing					
		1	2	3	4	5	6
Federal Skilled Worker Program	None	\$26,381	\$32,395	\$37,299	\$42,121	\$46,088	\$50,108
	Less Than Two Years	\$54,753	\$58,708	\$62,209	\$64,942	\$66,168	\$67,678
	More Than 2 Years	\$67,397	\$71,189	\$74,005	\$75,143	\$69,546	\$69,549
Provincial Nominee Program	None	\$26,273	\$29,929	\$32,788	\$36,671	\$39,574	\$42,084
	Less Than Two Years	\$68,738	\$71,896	\$75,958	\$78,067	\$77,793	\$56,163
	More Than 2 Years	\$76,626	\$82,897	\$89,856	\$86,736	\$86,439	\$75,985
Live in Caregiver Program	None	–	–	–	–	–	–
	Less Than Two Years	\$20,257	\$23,862	\$27,417	\$29,680	\$30,787	\$31,954
	More Than 2 Years	\$23,309	\$26,754	\$29,405	\$31,495	\$33,749	\$35,502
Source: Longitudinal Immigration Database for those Landing Between 2000 and 2005							

Upon becoming a permanent resident, those immigrants who were TFWs tend to have had more experience working in Canada, have a stronger attachment to the workforce, and often are already employed. A period spent as a TFW provides potential immigrants with valuable Canadian work experience needed for integration to the Canadian labour force and society. Research has shown that arriving to Canada as a TFW or an international student has produced better economic outcomes (employment and wages) for those groups compared to all other permanent immigrants who have no pre-Canadian experience.<sup>24</sup>

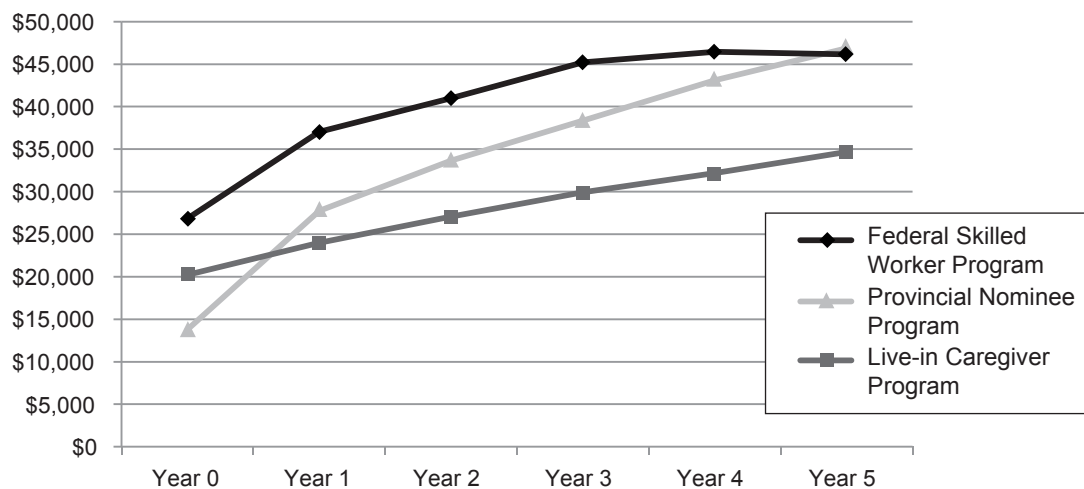
The Longitudinal Immigration Database data also illustrates the transition of live-in caregivers to permanent residence status through the LCP. As a TFW, all live-in caregivers work in private households. However, after they land and become established in Canada, live-in caregivers move into other sectors (particularly healthcare and social assistance, as well as public administration). For example, in the year of landing, 28% of the live-in caregivers reported their sector of employment as private households. This declines steadily to under 5%

<sup>24</sup> Sweetman A. & Warman, C. (2009). *Temporary Foreign Workers and Former International Students as a Source of Permanent Immigration*. CLSRN Working Paper No.5.



by the sixth year after landing. Conversely, the percentage employed in health care and social assistance sector increases from 12% in the year of landing to 26% by the sixth year after landing. As live-in caregivers transition to other sectors, their average employment earnings increase. However, even when adjusted for education, the average employment income of Federal Skilled Workers SWs and Provincial Nominees is significantly higher than the employment earnings of immigrants who landed under the LCP. Those immigrating under the LCP consist primarily of individuals with a non-university diploma or a bachelor's degree (79%) and were classified into low skilled skill group (97%). As indicated below, on average, Federal Skilled Workers and Provincial Nominees who have a bachelor's degree or non-university diploma earn more than live-in caregivers in the year after landing. The gap does not appear to narrow over time.

**Figure 4: Average Employment Earnings Reported by Federal Skilled Worker Program, Provincial Nominee Program and LCP Users with a Bachelor's Degree or Non-University Diploma**



Source: Longitudinal Immigration Database, For Those Landing From 2000 to 2005

Overlap can occur between the short-term focused TFWP and the longer-term focused economic immigration programs to the extent that some employers may rely on the Program to fill longer-term positions.

Some employers are more frequent users of the Program than other employers. Analysis of the HSRDC Foreign Worker System indicates that approximately one in five employers (19%) participating in the Program have received positive LMOs in at least three of the past five years. These employers account for 44% of all TFWs positions confirmed and almost half (46%) of all TFWs entering Canada between 2006 and 2010. Over two-thirds of surveyed employers hiring high-skilled and low-skilled workers indicated that the TFWP enhanced their ability to meet long-term labour requirements. They also reported that over 60% of positions filled by high-skilled and low-skilled TFWs, whose WP expired, continued to exist (suggesting these are ongoing positions); these continuing positions were often filled by the same TFW on a renewed WP. Furthermore, 63% of the low-skilled TFWs and 30% of



the high-skilled TFWs surveyed indicated that they expect to renew their current WP and continue to work for the same employer. The survey of TFWs also shows that at least some TFWs currently employed in Canada fill longer-term positions; most TFWs have received two or more WPs; and apart from SAWs, at least half of workers reported working in their current position for more than 24 months.

Employers that reported participating in the Program for five years or longer noted they use the Program for what seem to be permanent positions because they have few alternatives to address their labour needs. When asked what actions they would have taken to fill the positions if TFWP was not in place, about one-third of employers who hired high-skilled and low-skilled workers said they would have attempted to use an economic immigration program. High-skilled TFWs were more likely than low-skilled TFWs to indicate that they would apply for permanent resident status under an economic immigration program once their current WP expires (57% of high-skilled workers said they will apply for permanent status compared to only 27% of low-skilled workers). To address long-term use of the Program by employers and the possibility of TFWs filling permanent positions, the most common recommendation by key informants was to enhance the efficiency and accessibility of permanent economic immigration programs, particularly with respect to recruiting semi-skilled or low-skilled workers.

### **3.1.3 Alignment with Federal Government and Departmental Priorities**

By facilitating the temporary entry of foreign workers needed to respond to short-term needs, the TFWP is consistent with government-wide priorities to build a strong and competitive Canada.

As a demand-driven program, the TFWP enables employers in Canada to hire foreign nationals on a temporary basis to meet short-term labour needs when Canadians are not available. Overall, the TFWP addresses a variety of economic and immigration policy objectives:<sup>25</sup>

- temporarily filling labour shortages and skills gaps;
- enhancing Canada's economic competitiveness and providing opportunities for Canadians;
- managing impacts of foreign labour on national economy;
- facilitating flow of foreign labour across international borders; and
- complementing the permanent resident immigration platform.

The Program is perceived by most key informants as consistent with the priorities of Government of Canada with respect to economic growth and building a strong and competitive Canada. They noted that the Program supports the labour market and the overall economy; it contributes to the Canada Economic Action Plan by supporting business and helping employers address their short-term labour needs; the high-skilled stream leads

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<sup>25</sup> CIC Annual Report to Parliament on Immigration, 2010, Section 2;  
[http://www.cic.gc.ca/english/resources/publications/annual-report2010/section2.asp#part2\\_2](http://www.cic.gc.ca/english/resources/publications/annual-report2010/section2.asp#part2_2)

to skills transfer and job creation that, in turn, contributes to creating opportunities and a competitive economy; and the TFWP facilitates growth in developing sectors and maintains production in industries that are experiencing shortages and might otherwise experience operational challenges.

The TFWP is also consistent with departmental priorities, specifically, CIC's strategic outcome of supporting migration that significantly benefits Canada's economic, social, and cultural development, and HRSDC's objective of supporting an efficient labour market.

In particular, the objectives of the TFWP are consistent with:

- *"A skilled, adaptable, and inclusive labour force and an efficient labour market"* key strategic outcome outlined in the HRSDC Report on Plans and Priorities for 2010 and 2011.
- *"Migration that significantly benefits Canada's economic, social and cultural development, while protecting the health, safety and security of Canadians"* a key strategic outcome outlined in the CIC Report on Plans and Priorities for 2010 and 2011.

The representatives noted that the Program is consistent with the priorities of:

HRSDC in terms of promoting and protecting the Canadian labour market, facilitating the growth of the economy and the creation of employment opportunities for Canadians and permanent residents, and assisting business and employers in meeting their demands for labour.

- CIC with respect to facilitating the immigration process and entry of foreign nationals to support the Canadian economy and ensure that short-term labour needs are met.
- CBSA in facilitating the movement of foreign nationals, and managing access to Canada while protecting national security and the safety of Canadians.

### **3.1.4 Alignment with Federal Government Roles and Responsibilities**

The Program is aligned with Federal Government roles and responsibilities.

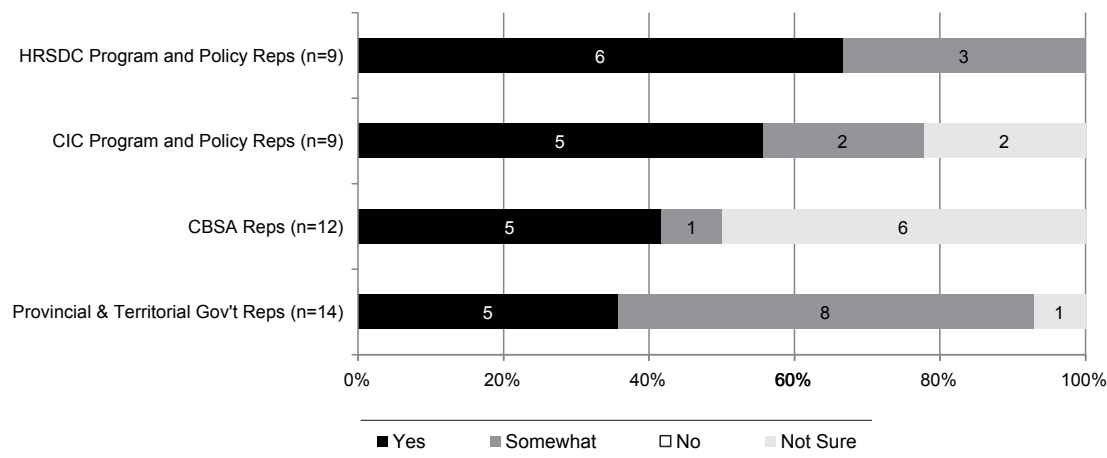
More specifically, the Program is aligned with HRSDC roles and responsibilities with respect to the changing labour market needs and with CIC and CBSA roles and responsibilities with respect to facilitating the arrival of people in a way that maximizes their contribution to the country while protecting the health, safety and security of Canadians. The roles and responsibilities of the administering department are defined under the framework outlined by the *Immigration and Refugee Protection Act*.

As illustrated in Figure 5, most key informants stated that the Program is directly or at least somewhat aligned with the roles and responsibilities of the federal government. The Federal Government is perceived as playing an important role in:

- Ensuring that the economy operates effectively and that businesses can grow and prosper;
- Creating and implementing labour market programs to address labour challenges across the country;

- Protecting the opportunities for Canadians and permanent residents; and
- Developing immigration policies in order to address the labour needs (regardless whether they are short- or long-term).

**Figure 5: Program Alignment with Federal Government Roles and Responsibilities with Respect to Addressing Short-term Labour Needs**



Source: Key informant interviews, 2011

Almost two-thirds of provincial and territorial representatives stated that addressing short-term labour market needs is a shared responsibility between federal and provincial/territorial governments.

Provincial and territorial governments are responsible for establishing and enforcing labour and occupational health and safety standards in their jurisdictions and therefore play a key role in ensuring that TFWs receive the same protection as Canadians. TFWP Annex Agreements, which are the part of immigration agreements developed between CIC and provinces and territories on concurrent responsibilities for immigration, provide a mechanism through which provinces and territories can take a greater role in the management of the TFWP to ensure that it is responsive to economic development priorities and regional labour markets.

The provincial and territorial representatives interviewed noted that provincial/territorial governments should take on a greater role with respect to assessing current and future labour needs of particular regions, sectors and occupations. While they see a role for the federal government in overall management of the Program, provincial/territorial representatives typically believe that their governments are best positioned to assess labour needs for their respective regions, and in particular sectors and occupations.

## 3.2 Performance

### 3.2.1 *Impact on Participating Employers*

Employers from all LMO streams are satisfied with the performance of the TFWs whom they hired.

When asked to rate their level of satisfaction with the workers on a scale of 1 to 5, where 1 is not satisfied at all, and 5 is very satisfied, employers of high-skilled and low-skilled workers provided an average rating of 4.6, employers of SAWs provided an average rating of 4.5, and employers of live-in caregivers provided an average rating of 4.4. Employers of high and low-skilled workers noted that the Program has positively impacted their organizations by supplying hardworking, reliable and knowledgeable workers who helped sustain, grow and expand their operations and address turnover. Employers of SAWs indicated that workers are willing and able to perform the physical labour required in the agriculture industry. Of the live-in caregivers, 73% provide care for the children of their employer, 21% provide care for the elderly, and 13% provide care for individuals with a disability.<sup>26</sup> These employers noted the workers recruited through the Program have enabled them to continue to work, perform shift work or run their business with the confidence that their families will receive care at home.

Although overall satisfaction levels were high, some LCP and SAWP employers noted that issues such as cultural and language barriers or a lack of skills can result in poor performance and, in some cases, workers leaving or being laid off.

The Program has been effective in responding to the short-term labour needs of most participating employers.

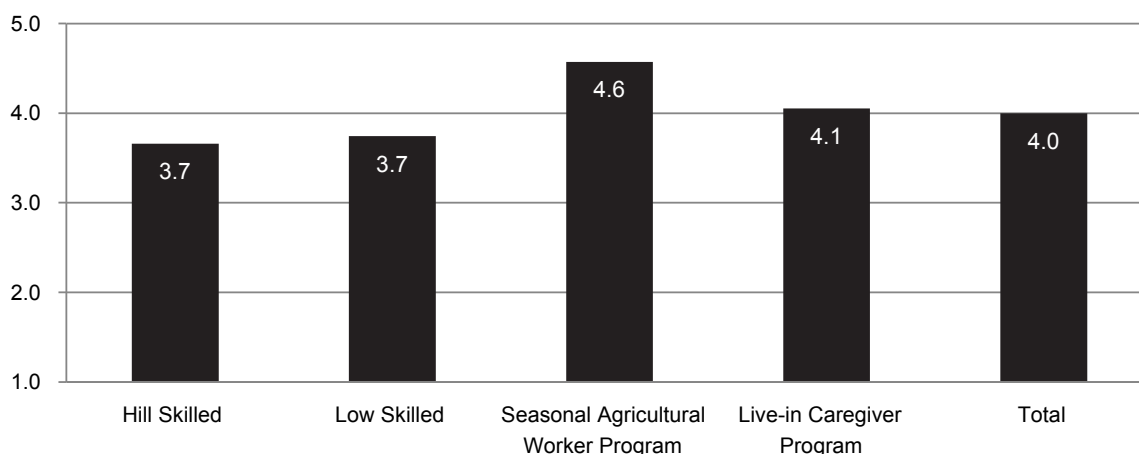
Employers generally perceive the Program as effective in helping them to meet their short-term labour needs resulting from the labour, knowledge, and skills shortages. As indicated in the following chart, the average ratings regarding the effectiveness of the program in meeting short-term labour needs ranged from 3.7 for employers of high-skilled and low-skilled workers to 4.6 for employers of SAWs.

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<sup>26</sup> Multiple responses were possible. Other reasons for hiring live-in caregivers included the ability to improve the employer's work-life balance (13%) and to reduce-costs (5%).

**Figure 6: Average Ratings on Program Effectiveness in Meeting Employers' Short-term Staffing Needs**

Question: On a scale of 1 to 5, where 1 is not at all effective, 3 is somewhat effective, and 5 is very effective, how effective has the Program been in meeting the short-term staffing needs of your organization?



Source: Employer survey, 2011

Key informants also believe that the Program has been successful in responding to the needs of Canadian employers, particularly larger employers in growing industries and employers in regions with low unemployment rates. Ratings regarding the success of the Program in meeting short-term regional, occupational, and sectoral skills and labour demands averaged 4.1 and 4.0 among HRSDC/Service Canada and CIC field staff and policy representatives respectively who noted that the Program responds quickly and effectively where labour shortages are evident. However, it was noted that the success of the Program may vary across regions and sectors. Other stakeholders and provincial representatives provided average ratings of 3.6 and 3.5 respectively noting that while the Program is largely successful in meeting the demands of most employers, it is not sufficiently flexible to respond to employers in all regions and sectors (e.g. the Program is too restrictive and slow to meet the short-term needs of smaller employers).

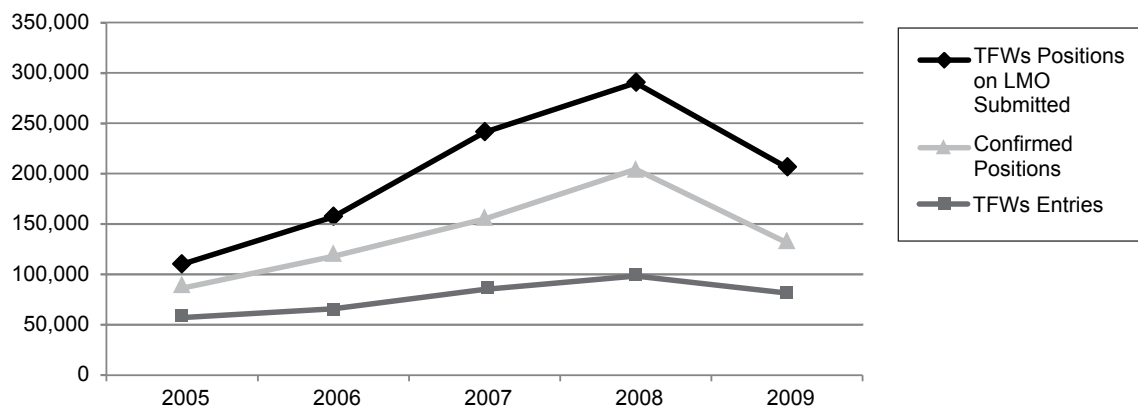
The Program is less responsive to employers when the needs are immediate and when workers are required for longer periods of time. In particular, processing delays can negatively impact the effectiveness of the Program for employers.

Amongst those employers and key informants who perceived the Program as being less effective in meeting the needs of employers, the most common concern is that many positions are never filled by TFWs because of processing delays and other issues. About one-third of employers who hired high and low-skilled workers perceived the process for hiring TFWs as too long and no reliable timelines had been set. While most third party representatives believe that the Program has been successful in meeting short-term labour needs of employers, they also noted that an inability to hire workers quickly can be detrimental to a business and hinder their competitiveness. Those representing LCP employers noted that long processing

times caused some employers to withdraw their applications. According to key informants, delays may be a more significant issue for small employers, particularly those with less experience with the Program that are not working with third parties. There is the perception that larger employers, which have human resource departments, are able to navigate through the process faster and with more positive results.

Data on the number of LMO applications submitted and confirmed as well as the number of TFWs entering Canada in the years of 2005 to 2009 suggests that, approximately 69% of the positions are confirmed (receive a positive LMO) and 39% are eventually “filled” by a TFW with a WP.

**Figure 7: Number of TFWs on LMO Applications, Positive LMOs, and Number Entering Canada, 2005-2009**



Source: HRSDC Foreign Worker System, 2010; Computer Assisted Immigration Processing System, 2010

The most common reasons given by employers as to why a TFW was not hired for a confirmed position were the length of time required to obtain a positive LMO or WP, failure to obtain a WP for a worker covered under a confirmed LMO, or the decision by the prospective worker not to come to Canada (which, in some cases, is a function of the time which elapsed from application to WP).

Table 11: Reasons for Not Hiring a TFW When an LMO was Confirmed				
Reasons why TFWs were not hired when an LMO was confirmed	High Skilled	Low Skilled	Seasonal Agricultural Worker Program	Live-in Caregiver Program
LMO processing delays	55%	51%	30%	19% <sup>27</sup>
Applicant not successful in obtaining work permit	54%	62%	45%	33%
Work Permit processing delays	43%	37%	23%	—
Applicant decided not to come to Canada	37%	33%	40%	19%
Another person was hired or promoted to fill the position	17%	15%	35%	—
Position was no longer required	15%	11%	25%	4%
Decided not to fill position	11%	14%	35%	2%
Applicant accepted offer from other employer or quit shortly after employment	3%	1%	0%	28%
LMO expired before position could be filled	2%	2%	8%	—
Pending	1%	2%	0%	12%
Applicant was not a proper fit for position	—	—	—	35%
Found another way to meet needs	—	—	—	4%
Other	14%	16%	20%	—
Source: Employer Survey, 2011 (allows for multiple responses)				

Employers noted that processing times can be too long, particularly when the need to fill the position is immediate. At times, TFWs are no longer needed by the time they arrive in Canada (e.g., the position has been filled by someone else, plans have changed or the position is no longer required). While WP applications can be refused for a number of reasons (e.g. security, medical inadmissibility, or applicants failing to meet the requirements for the job), CIC officers interviewed suggested that the most common reasons for refusals are that the job offer is not consistent with prevailing wages given the level of qualifications of the TFW; the job offer is not genuine; or the foreign worker is considered unlikely to return to their home country after the job or WP ends.

Some employers also noted that the maximum duration of a WP constrains the ability of the Program to meet their needs. Approximately 10% of employers who hired high-skilled and low-skilled workers and 20% of those who hired live-in caregivers noted that the Program did not meet their needs because their intent was to hire workers for a longer-term. A review of the LMO data shows that approximately 35% of employers requesting high-skilled workers, 51% of employers requesting low-skilled workers and 67% of employers requesting live-in caregivers required workers for more than 24 months (as per the duration of work indicated by employers on LMO applications). To renew a WP, employers must apply for a new LMO and repeat the entire process. Employers noted that their needs could be better

<sup>27</sup> LCP employers did not necessarily differentiate between LMO and WP processing delays.



met if the application process was streamlined, particularly when renewing an existing position, if timelines were clearly established and met, and if special consideration was given to employers in particular industries and occupations where labour shortages are well-established and needs are immediate.

### **3.2.2 *Impact on Temporary Foreign Workers***

*The employment met the expectation of most TFWs.*

Most TFWs did not report difficulties in accessing information on working in Canada when they were considering applying for a WP (the average ratings ranged from 1.7 amongst live-in caregivers to 2.1 amongst high-skilled workers on a scale of 1 to 5, where 1 is not at all difficult and 5 is very difficult). The high-skilled workers were those most likely to look for information online and use HRSDC and CIC website when considering working in Canada.

When asked how their current job compares to the expectations they had before coming to Canada, most workers (92% of SAWs, 89% of low-skilled workers, 88% of high-skilled workers, and 87% of live-in caregivers) indicated that the job was as expected or better than expected. Those who reported it was better than expected noted that pay, working relationships, working conditions, accommodation, hours, or opportunities for development were better in Canada. Those workers who said their job was somewhat or much worse than expected (6% of SAWs, 7% of lower-skilled workers, 7% of high-skilled workers, and 11% of live-in caregivers) noted that the work is different or involves extra duties, the position involves less responsibility or requires less skill, the work is harder, the working conditions are tougher, the manager is not effective or supportive, the pay is less than expected, or the hours of work are different.

*The Program is viewed by most participating workers as benefiting them and their families.*

The Program provides a very important source of income and financial security to support the workers as well as their families. For example, SAWs noted that participating in the Program has enabled them to provide for their families and improve their quality of life (e.g. provide for their children's education and clothing, build a house, save to buy land, or fund medical treatments). Participating in the Program also creates opportunities to gain knowledge, skills and experience in Canada, further develop their careers, broaden their networks, and work in a position and environment that they enjoy. High-skilled workers surveyed work in a range of industries and make, on average, \$33 per hour; over half of low-skilled workers surveyed worked in food industry and general labour and make an average of \$15 per hour. SAWs and LCP make an average of \$10 per hour.

Being away from their families for extended periods is the most difficult aspect of participating in the Program. As compared to almost half of high-skilled workers (46%), only 11% of low-skilled workers, 3% of SAWs and 1% of live-in caregivers reported that their family had accompanied them to Canada. Live-in caregivers seemed to be the most affected by being away from the family. Some reported that the main reason for their participation in the Program is to provide for their children and support a family.



Most temporary foreign workers experienced no difficulties in accessing information about their rights and responsibilities which were for the most part outlined in a signed contract with employers.

When asked to rate whether they experienced difficulties in learning about their rights, responsibilities and protections while in Canada, average ratings ranged from 1.7 amongst SAWs and low-skilled workers to 1.9 amongst live-in caregivers and 2.1 amongst high-skilled workers (on a scale of 1 to 5, where 1 is not at all difficult and 5 is very difficult). Workers reported typically finding information about rights, responsibilities and protections online (e.g. Government of Canada websites) or through their employers, friends or co-workers. Live-in caregivers were most likely to find out about their rights through friends, relatives and/or recruitment agencies. SAWs were most likely to receive the information from agencies or government departments in their home countries. Of those who commented on the type of information they found difficult to access, about one-fifth of high-skilled workers noted general information about their rights and protections was difficult to access while about 10% of live-in caregivers reported that information on holiday pay and overtime pay was difficult to find.

Specific work conditions such as compensation, job duties, and working hours as well as accommodation and return ticket (where applicable) were outlined in the job contracts signed by 97% all live-in caregivers as well as 90% of low-skilled workers, 83% of SAWs and 77% of high-skilled workers.

Employers generally met the commitments to which they agreed in the contract; however, some workers, particularly live-in caregivers and SAWs, are more vulnerable to non-compliance by employers. Reasons for not taking action included not knowing where to seek help or concerns about the impact of taking action on their job and relationship with the employer.

Of temporary foreign workers who signed the contract, most workers across the program streams and nearly all high-skilled workers reported that the actual work conditions were more or less the same as specified in the contract. However, 15% of SAWs, 10% of live-in caregivers and 6% of low-skilled workers reported that their job did not meet certain conditions specified in the contract. Some live-in caregivers reported that their jobs were better than stipulated in the contract (e.g. wages were increased, additional training was provided). However, the inconsistencies related most commonly to longer work hours, overtime pay and job duties different than specified.

When violations of a contract occurred, about 20% of high-skilled and low-skilled workers and SAWs took corrective action and 41% of live-in caregivers did the same. Most live-in caregivers were able to renegotiate the job conditions; one-third of those taking action said they changed employers. When asked why they did not take action to address issues, the other workers most commonly said they did not know where to go for help or were concerned about the impact that taking action would have on their job and relationship with the employer.

The literature argues that seasonal agricultural workers and live-in caregivers are more vulnerable than other TFWs and may be at greater risk of being underpaid, not paid overtime, working long hours, working in unsafe and unhealthy workplace conditions, and living in poor housing accommodations.<sup>28</sup> Live-in caregivers may be more likely to endure abuse from their employers and tolerate poor working conditions and poor accommodations so as not to lose the opportunity to gain the work experience required to become permanent residents.<sup>29, 30</sup> The House of Commons Standing Committee on Citizenship and Immigration heard about cases of confirmed abuse by recruitment agencies charging individuals to find them jobs in Canada that sometimes do not exist.<sup>31</sup> The survey of TFWs found that about 10% of all workers reported paying third parties, most of whom are recruitment agencies, over \$1,000 for assistance in finding an employer in Canada and preparing applications. Live-in caregivers were most likely to report paying recruitment agencies (an average of \$3,000 and up to \$9,000) for services most commonly referred to as an ‘employment placement fee.’

Some provincial/territorial governments have been proactive in establishing various policies and regulations aimed at protecting TFWs.

Improvements at the national level have been made in the area of monitoring and compliance. The monitoring has evolved from a voluntary-based follow-up of employers in selected occupations (33 occupations were selected for expedited processing) to a more comprehensive approach. Amendments to the *Immigration and Refugee Protection Regulations*, launched on April 1, 2011, provided HRSDC and CIC with the authority to assess the genuineness of job offers and whether the wages, working conditions and occupation provided to the foreign workers are “substantially the same” as those originally offered by the employer and confirmed by the HRSDC/Service Canada LMO and/or CIC Work Permit. The amendments require employers who have hired a TFW in the past two years and applied for a new LMO to demonstrate that they complied with the terms of employment offered to TFWs.

Apart from regulations regarding third parties, some provinces such as Alberta and Manitoba have been proactive in developing provincial structures and regulations intended to ensure that employers comply with provincial legislation and that TFWs are supported and aware of the protections and actions they can legally take. For example, Alberta TFWs Advisory office established a TFW helpline that assists workers to learn about their rights and find solutions for situations involving unfair, unsafe or unhealthy working conditions. In Manitoba, the

<sup>28</sup> Preibisch, K. (2007). Local Produce, Foreign Labour: Labor Mobility Programs and Global Trade Competitiveness in Canada. *Rural Sociology*, Vol. 72, Issue 3. Pages: 418-449. Page: 14.

<sup>29</sup> Kalaw, T. & Gross, D. (2010). *Employment Standards Violations and Live-in Caregivers' Characteristics in British Columbia*. Metropolis British Columbia Centre for Excellence for Research on Immigration and Diversity Working Paper Series, No. 10 – 08. September 2010.

<sup>30</sup> Oxman-Martinez, J., Hanley, J. & Cheung, L. (2004). *Another Look at the Live-In Caregivers Program*, Centre de recherche interuniversitaire de Montréal sur l’immigration, l’intégration et la dynamique urbaine, Montréal. Page: 14.

<sup>31</sup> House of Commons Standing Committee on Citizenship and Immigration; David Tilson, Chair.(2009). *Temporary Foreign Workers and Non-Status Workers*. 40th Parliament, 2nd Session. Chapter Four: Worker Protection. Retrieved from: <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3866154&Mode=1&Parl=40&Ses=2&Language=E>

*Worker Recruitment and Protection Act*, established in 2009, requires employers wanting to recruit foreign workers to register with the Employment Standards Branch, Business Registration Unit. The applicant's past conduct is reviewed to assess whether they have behaved lawfully, honestly and in the public interest while carrying out the business of the licence or registration. Employers are required to submit a Certificate of Registration with their application to receive a confirmed LMO. Once a TFW is hired, employers are required to provide, to the Director of Employment Standards, the foreign worker's name, address and telephone number; the foreign worker's job title; and the location where the foreign worker performs the majority of their job duties. The offence of recruiting a TFW without registering is subject to fines as high as \$25,000 to \$50,000.<sup>32</sup> The provincial registration in protecting the rights of TFWs is considered more effective because the information about the employers and TFWs is available and targeted investigations of employers are possible.

Key informants noted that some provinces have been more successful in ensuring that the rights and protection of TFWs are respected. Key informants also noted that it has not been possible to determine the extent to which employers comply with the requirements of the Program or respect TFW rights because there has been very little monitoring of employers to assess trends in compliance. They believe that the new compliance framework should improve monitoring of employers and provide more insight into the level of employer compliance.

Most employers and third party representatives believe that efforts have been successful in ensuring that the rights and protections of TFWs are respected but added that more consistent monitoring of employers should be implemented and increased support for TFWs provided.

The Program provides an opportunity for many participants to remain in or return to Canada, either through a series of WPs or, in some cases, by transitioning to permanent resident status. There is currently no data available on the number of TFWs who did not leave Canada once their WP expired.

While the percentage of TFWs transitioning to permanent resident status is relatively low, particularly amongst low-skilled workers and SAWs, many workers intend to renew or seek another WP. As indicated in the following table, about two-thirds of high-skilled workers, over a third of live-in caregivers and about a quarter of low-skilled workers intend to remain in Canada after their WP expires by applying for permanent resident status. Although relatively few seasonal agricultural workers transition to permanent resident status, many return year after year to Canada to work on farms as TFWs (about two-thirds of the SAWs surveyed have received five or more WPs with about one-in-four reporting that they received their first WP prior to the year 2000).

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<sup>32</sup> *The Worker Recruitment and Protection Act*, 2008. <http://web2.gov.mb.ca/laws/statutes/2008/c02308e.php>

Table 12: Plans of TFWs upon Expiration of Their Current Work Permit				
Plans after the expiration of the current WP	High Skilled	Low Skilled	Seasonal Agricultural Worker Program	Live-in Caregiver Program
Stay in Canada under another Immigration Program	57%	27%	1%	38%
• Provincial Nominee Program	8%	6%	—	
• Other (Federal Skilled Worker Program, Canadian Experience Class, family)	5%	1%	—	4%
• No program specified	44%	20%	1%	
• Live-in Caregiver Program	—	—	—	34%
Renew the current WP (i.e. same employer and location)	30%	63%	8%	49%
Obtain a different temporary WP (i.e. change employer/location)	2%	2%	1%	10%
Leave Canada/Return home	6%	4%	85%	—
Not Sure/No Response	5%	4%	5%	3%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Source: Temporary Foreign Worker survey, 2011.				

About 10% of high and low-skilled temporary workers noted that one of the greatest challenges they face is uncertainty about their status (e.g. WP restrictions, long waiting time for WP renewals, or difficulties in changing the status or transitioning to permanent resident status). The literature argues that limited opportunities for low-skilled temporary workers and particularly for seasonal agricultural workers to transition to permanent resident status may put some workers at risk to stay beyond the time allowed by their work visa.<sup>33</sup> There is a risk that some TFWs who lose or leave their jobs fear returning to their home countries because this will mean a loss of expected income or the ability to access needed medical care.<sup>34, 35</sup> McLaughlin and Hennebry (2010) argue that some workers may therefore opt to stay in Canada, and fall into deeper forms of precarity without legal status.<sup>36</sup> Canada has no system of exit controls. As a result, there is no official data or reliable estimates available on the number of TFWs who do not leave Canada once their WP expired.

<sup>33</sup> Byl, Y. (2010). Temporary Foreign Workers in Canada: A Disposable Workforce? *Canadian Issues: Temporary Foreign Workers*. Spring 2010. Pages: 96-98. Page 97.

<sup>34</sup> Contenta, S. & Monsebraaten, L. (2009). *Controversial Foreign Worker Program Includes Guelph Mushroom Farm*. Guelph Mercury.com. Retrieved from: <http://news.guelphmercury.com/News/Local/article/555746>

<sup>35</sup> Janet McLaughlin and Jenna Hennebry (2010) Pathways to Precarity: Structural Vulnerabilities and Lived Consequences in the Everyday Lives of Migrant Farmworkers in Canada. International Migration Research Centre, Wilfrid Laurier University.

<sup>36</sup> Ibid.

### **3.2.3 Impacts on the Employment Market for Canadians and Permanent Residents**

Concerns have been raised in the literature and among some informants regarding the potential pressures that TFWP may place downward pressure on prevailing wages and restrict efforts by employers to recruit and train Canadians, particularly in the regions and sectors that rely heavily on the Program for their labour force.

The literature argues that some employers might prefer to hire TFWs instead of drawing on the local labour pool because they perceive TFWs as more skilled and experienced than local workers. TFWs are viewed by many employers as highly-skilled, technically-competent workers who are productive and who have international experience.<sup>37</sup> The third most common reason provided by surveyed employers for not using strategies other than the TFWP to meet the labour needs was that TFWs perform effectively. The key concern is that, by reducing the imbalance between the demand and supply of labour, the TFWP could constrain the wages offered to Canadians and permanent residents.<sup>38</sup> Key informants also raised concerns regarding the increasing long-term reliance of employers on the TFWP. About one-quarter of stakeholders suggested that, due to access to the TFWP, employers may invest less in the training of Canadians, spend less time and effort to find Canadian workers to fill the positions, and pay less than prevailing wages to TFWs.

Analysis of a sample of industries and regions that made extensive use of the TFWP shows that TFWs covered by an LMO constitute a considerable percentage of total employment in the agriculture industry in Ontario (23.7%) and Quebec (12.9%), as well as the accommodation and food services industry in Alberta (13.3%). The average wage paid to TFWs in these industries (as per data contained in HRSDC Foreign Worker System) was compared to the standard range of wages paid to workers in the same occupation (NOC) and province as per data published on the Working in Canada website. While recognizing certain limitations of this analysis (there can be a wide variation in the nature of positions and pay within NOC codes; prevailing wages can vary by region within a province), the data indicates that the average wages paid to TFWs typically falls somewhere between the lower boundary and upper boundary of wages paid for that occupation code according to the HRSDC Labour Market Information for all occupations including those that are filed by heavy users of the Program. A notable exception is in the agriculture sector in Ontario and Quebec where the average wage paid to TFWs appears to be below the range commonly paid for similar positions. It should be noted that this analysis does not include other TFWs who may also be employed in these sectors but did not require an LMO to receive a WP (i.e. open WP, international students).

<sup>37</sup> Canadian Apprenticeship Forum. (2010). *Backgrounder: The Increasing Use of Temporary Foreign Workers: Impacts on Apprenticeship?* Prism Economics and Analysis. Page 7.

<sup>38</sup> Sweetman A. & Warman C. (2010). Canada's Temporary Foreign Worker Programs. *Canadian Issues: Temporary Foreign Workers*. Spring 2010. Pages 19-24.

Of the agricultural employers surveyed, 64% of those located in Ontario and 71% of those located in Quebec reported that they used the TFWP because they were simply unable to recruit workers in Canada. About the same percentage also said that Program is used because TFWs are reliable and hardworking. Only 8% of employers surveyed that can be classified as heavy users (i.e. hired over 100 SAWs) reported that, in the absence of the TFWP, they would have raised wages or increased training for current employees.

The objective of the LMO requirements related to advertising and prevailing wages is to protect employment opportunities for the local labour force. Program data indicates an increasing number of negative LMOs were issued most commonly for reasons such as insufficient efforts to hire Canadians and permanent residents.

Employers must meet minimum advertising requirements and offer compensation that is consistent with the prevailing wages to receive a positive LMO. While most employers meet the requirements, data on issuance of negative LMOs shows that the level of compliance varies over time and streams. The percent of negative LMO decisions issued (i.e. not including those identified as file closed or cancelled after confirmation) increased from 11% of positions applied for across all streams in 2005 to 32% in 2009. The percentage of negative LMOs is the highest among National Occupational Classification C and D applications; over 50% of the low-skilled TFW applications were issued a negative LMO in 2009. In contrast, less than 1% of those that applied for seasonal agriculture worker positions received a negative LMO.

Table 13: Percentage of TFW Positions with Negative LMOs by Stream and by Year, 2005-2009						
Program Stream	2005	2006	2007	2008	2009	Total
High Skilled	12%	8%	10%	12%	23%	13%
Low Skilled	39%	26%	25%	31%	53%	35%
Live-in Caregiver Program	7%	4%	6%	12%	35%	12%
Seasonal Agricultural Worker Program	0%	0%	0%	0%	1%	0%
<b>All Streams</b>	<b>11%</b>	<b>8%</b>	<b>11%</b>	<b>16%</b>	<b>32%</b>	<b>16%</b>
Source: HRSDC Foreign Worker System, 2010						

As indicated below, the most common reason for refusal, across all four streams, was insufficient efforts to hire Canadians. In the same time period, only 27 SAWP employers received a negative LMO, most of which were attributable to insufficient recruitment efforts.



**Table 14: Most Common Reasons for Negative LMOs by Stream and by Year, 2005-2009**

<b>Reasons employers were given for receiving a negative LMO</b>	<b>High Skilled</b>	<b>Low Skilled</b>	<b>Live-in Caregiver Program</b>	<b>All Streams</b>
Insufficient efforts to hire Canadians/permanent residents	29%	19%	22%	23%
Wages not consistent with Canadian standards	16%	12%	5%	13%
Job offer is not genuine	4%	3%	19%	5%
Insufficient efforts to train Canadians/permanent residents	5%	4%	0%	4%
Work conditions not consistent with Canadian standards	4%	3%	3%	3%
Employment is part-time	1%	1%	0%	1%
File incomplete	1%	1%	3%	1%
Did not meet requirements of the Pilot Project for Low Skilled	–	3%	–	2%
Likely to effect the settlement of a labour dispute	0%	0%	0%	0%
Other (not specified)	40%	54%	46%	48%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: HRSDC Foreign Worker System, 2010

Similarly, in the survey, insufficient effort to recruit Canadians and permanent residents was most commonly reported by employers who requested high skilled workers (39%) and employers who requested low skilled workers (31%) as the reason for receiving a negative LMO. In almost half of these situations, the employers did not fill the position or reported reducing business capacity.

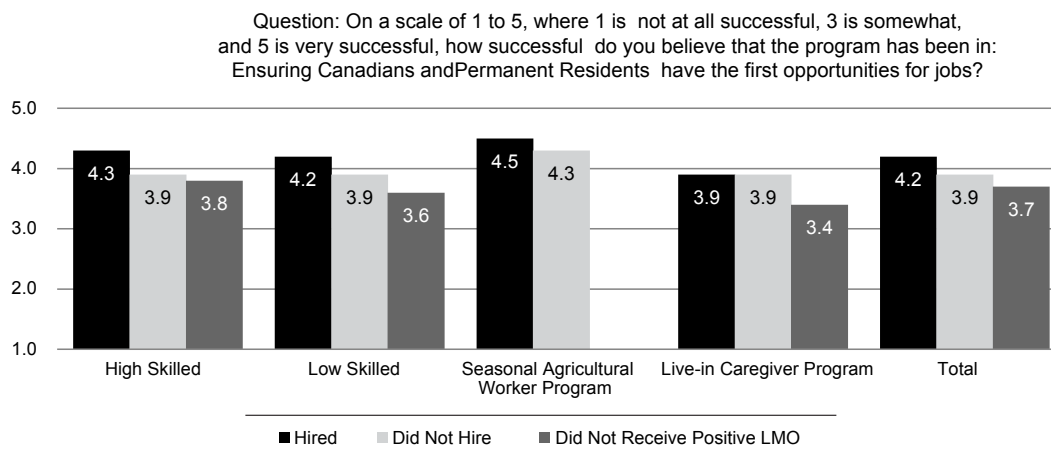
Table 15: Survey of Employers Who Received Negative LMOs			
Reasons	High Skilled	Low Skilled	Live-in Caregiver Program
Number Surveyed	155	146	26
<b>What are the most common reasons given as to why you did not receive a positive LMO?</b>			
Insufficient efforts to hire Canadians or permanent residents	39%	31%	19%
Wages not consistent with Canadian standards	27%	20%	19%
No labour shortage	15%	25%	—
Insufficient information provided for LMO application	7%	8%	19%
Other (including not specified responses)	24%	28%	28%
No response/Don't know	22%	19%	31%
<b>What strategies have you used to fill positions for which a negative LMO was issued?</b>			
Did not fill the position	39%	40%	23%
Increased efforts to hire a Canadian or permanent resident	36%	47%	23%
Reduced business capacity	7%	5%	—
Other (including not specified responses)	22%	20%	54%
No response/Don't know	4%	5%	8%
Source: Employer survey, 2011 (allows for multiple responses)			

While program regulations and LMO requirements, particularly those related to prevailing wages and advertising requirements, are designed to ensure that labour market outcomes of Canadians and permanent residents are protected, there is currently no data to support the level of employers compliance.

Employers view the TFWP as effective in ensuring Canadians and permanent residents have the first opportunities for jobs, most commonly because the strict advertising requirements ensure that employers attempt to hire locally before applying.



**Figure 8: Employers Average Ratings on Program Success in Ensuring Canadians and Permanent Residents Have the First Opportunities for Jobs**



Source: Employer survey, 2011

Some employers, including those that did not receive a positive LMO, reported that Canadians and permanent residents are simply not interested in the positions (e.g., would not work for minimum wage or, in the case of the LCP, are not interested in live-in arrangements). Most third party representatives also noted that Canadians are not interested in the positions for which TFWs are recruited.

Key informants believe that the regulations and LMO requirements have been somewhat successful in ensuring that the labour market outcomes of Canadians and permanent residents are not adversely affected (providing an average rating on a scale of 1 to 5, ranging from 3.2 among HRSDC program and policy representatives to 3.8 among provincial and territorial government representatives). Most key informants are unaware of the extent to which employers comply with the requirements of the Program or respect TFW rights because there has been very little monitoring of employers in the past and therefore reliable data is not available. Under the Employer Compliance Review, 15% of employers that hired high-skilled and low-skilled workers were denied services due to non-compliance. While most employers were compliant, about 40% had at least one corrective measure, of which 30% was related to pre-LMO advertising.

HRSDC/Service Canada staff noted that meeting the minimum requirements does not necessarily mean that the employer has made a sufficient effort to hire Canadians or permanent residents. The decision as to whether employers have made reasonable efforts to recruit locally is made based on information provided in the application which is often, according to HRSDC/Service Canada officers, taken at face value or verified strictly by phoning an employer to confirm the information provided. It is difficult for Service Canada officers to verify the validity and integrity of advertising and recruitment efforts simply by reviewing the accompanying documentation. For example, they cannot verify the number

of resumes an employer may have received in response to the advertisement, whether the candidates who applied had the necessary skills for the positions, or whether the employer put real effort into recruiting locally.

### **3.2.4 Understanding of the Program and Processes**

Most employers who hired a TFW did not find it difficult to complete the application process for an LMO. This can be attributed to various factors such as the assistance received from third parties and others, their past experience in applying, and the usefulness of information provided on government websites and by government staff.

In general, employers who hired a TFW did not find the LMO application process to be difficult. Most SAWP and LCP employers as well as almost 40% of those confirmed to hire high and low-skilled workers noted that they were able to receive help from HRSDC or CIC officials when needed, the information and instructions on the government websites were clear, and the process is straightforward.

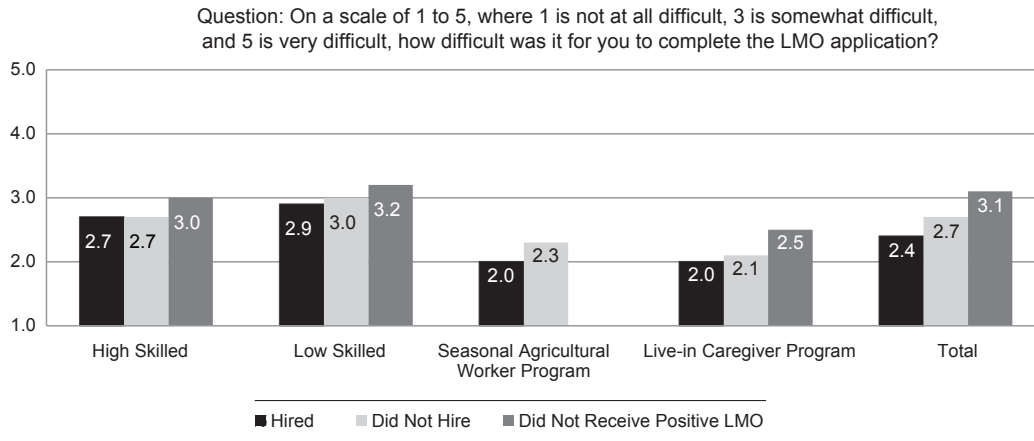
Employers that experienced difficulties attributed it to inconsistencies in the decision criteria across regions and officers, multiple changes to the Program that made it difficult for them to understand the process, inability to receive assistance or have their questions answered by government, or barriers in navigating and understanding the information on the websites. About 20% of employers that did not receive a positive LMO noted that they did not understand why their application was refused.<sup>39</sup> Others noted that the overall process, job classifications, information provided and language used in the application were unclear. In some cases, this lack of understanding contributed to a failure to provide the information required; one of the common reasons for employers receiving a negative LMO under the LCP is that insufficient information was provided in the LMO application.

Employers that did not receive a positive LMO, or did not hire TFWs, were significantly more likely to rate the LMO process more difficult than employers who hired TFWs.

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<sup>39</sup> HRSDC/Service Canada sends a letter to employers with the reason for refusal.

**Figure 9: Average Ratings on Difficulty in Completing the LMO application Process**



Source: Employer survey, 2011

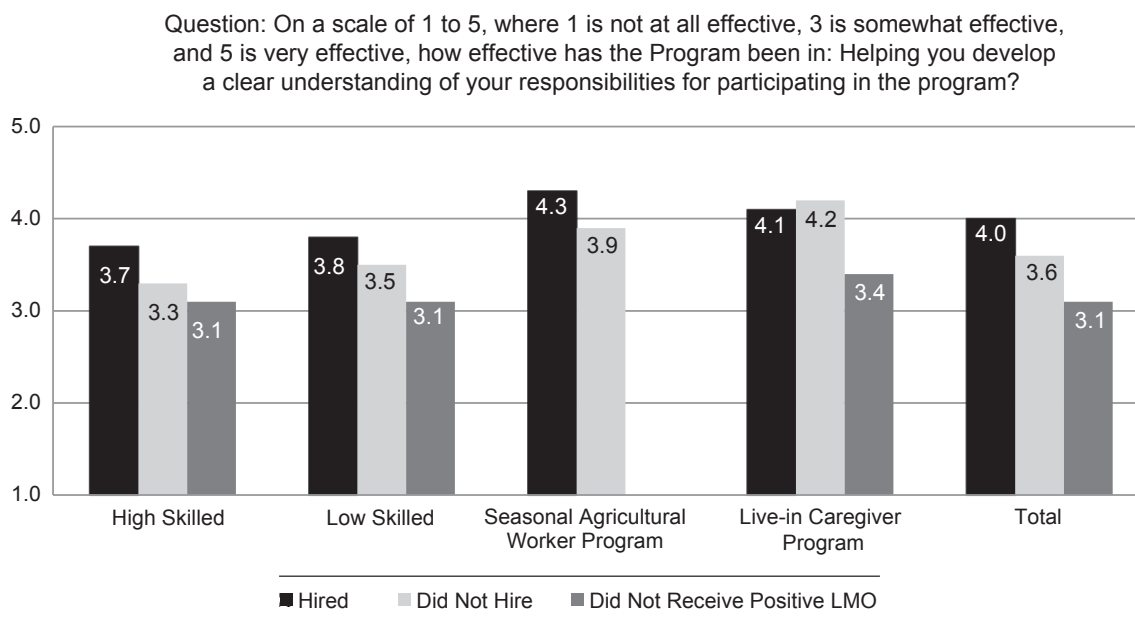
Employers that hired were more likely:

- To use the services of third parties to assist them with LMO application process. Forty-three percent of all employers who hired a TFW used third parties compared to 30% of those who did not hire and 19% of those who did not receive a positive LMO. These third parties assisted in recruiting workers as well as the application process. Rather than from recruitment agencies, employers participating in SAWP tend to receive assistance from an industry association.
- To have more experience with the Program. In particular, SAWP employers reported that their previous experience (SAWP employers have been involved with the Program for an average of 10 years) help them gain a better understanding of the process.
- To perceive the Program as effective in creating a clear understanding of the LMO process (including the application process and decision criteria). Their rating of the Program success in this area, on a scale of 1 to 5, was 3.6 as compared to 3.2 amongst employers who were confirmed but did not hire and 2.4 amongst employers that did not receive a positive LMO.

As shown in Figure 10 below, SAWP employers were most likely to rate the Program as effective in helping them develop a clear understanding of their responsibilities for participating in the Program.<sup>40</sup>

<sup>40</sup> ANOVA test was used to run test of significance,  $F(3,1828) = 23.639$ ,  $p = 0.000$  and  $F(3,1828) = 23.639$ ,  $p = 0.000$ .

**Figure 10: Average Ratings of Program Effectiveness in Helping Employers Develop a Clear Understanding of Their Responsibilities**



Source: Employer survey, 2011

Key informants rated the Program as somewhat successful in helping employers understand the Program and its requirements. The most effective assistance is considered to be the direct line to HRSDC/Service Canada regional offices through which employers can receive advice and guidance. The challenge, particularly for smaller and first-time employers, is to understand the technical language used on the websites or closely follow instructions on the application form. The most common LMO application errors include incomplete information, failure to use real job descriptions or job title that does not match the job description, failure to meet prevailing wage, and missing documentation.

**Most TFWs did not find the WP application process difficult to complete, often because they received assistance from employers, third parties, or others in preparing the application.**

When asked to rate the level of difficulty in completing the WP application process on a scale of 1 to 5, where 1 is not at all difficult and 5 very difficult, the average rating ranged from 1.7 amongst low-skilled workers to 1.8 for all other groups. Contributing to the ease of completion is that 61% of high-skilled, 64% of low-skilled, 55% of SAWs and live-in caregivers reported receiving help in filling out the WP application. High and low-skilled TFWs were most likely to receive help from employers. The applications for SAWs are often prepared by government agencies in their home country. Live-in caregivers are most likely to get assistance from third party agencies such as recruitment agencies and lawyers.

Table 16: Source of Assistance in Preparing the Work Permit Application				
Source of Assistance	High Skilled (n=236)	Low Skilled (n=244)	Seasonal Agricultural Worker Program (n=209)	Live-in Caregiver Program (n=207)
Employer	71%	67%	4%	21%
Recruitment agency	2%	15%	6%	58%
Friend in home country	0%	0%	3%	2%
Friend in Canada	3%	8%	0%	11%
Family member in home country	0%	0%	1%	1%
Lawyer	2%	3%	0%	15%
Immigration consultant	16%	4%	0%	1%
Immigrant serving organization	10%	6%	2%	1%
Canadian government representative	0%	1%	6%	1%
Foreign governments	3%	2%	47%	1%
Canadian industry association	0%	0%	22%	0%
Other	0%	0%	7%	0%
Source: Temporary Foreign Worker Survey, 2011 (allows for multiple responses)				

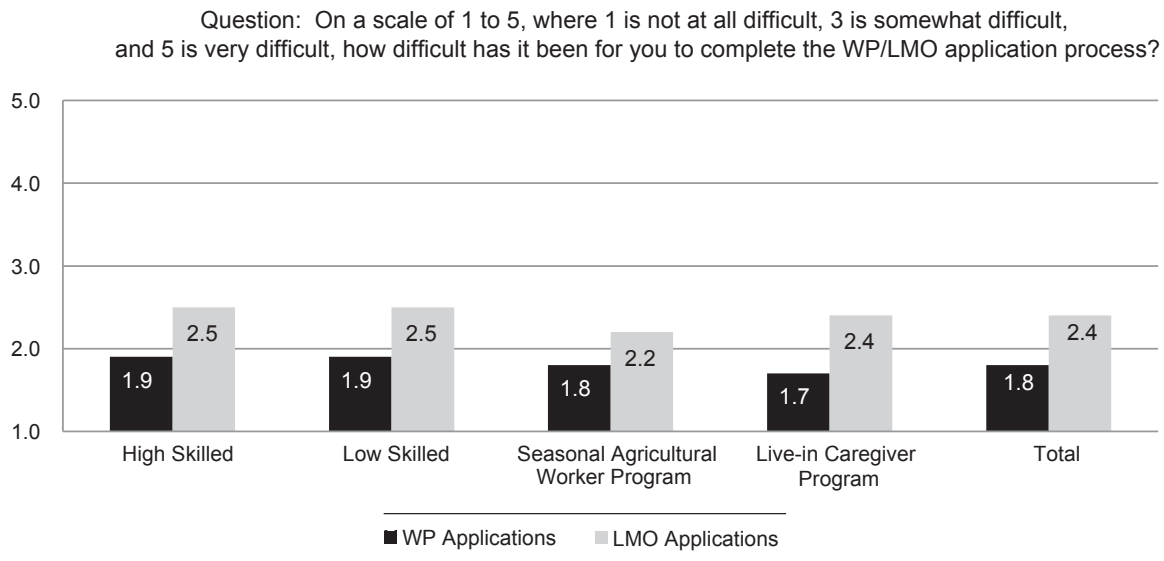
While most workers across the four streams noted that the application form is easy to complete and the process is straightforward, about 10% of TFWs noted that application requirements (the need for extensive background information) increased processing times and made the process somewhat complex and confusing.

Key informants rated the Program as somewhat successful in helping TFWs understand the Program and its requirements. The most common errors made on WP applications include missing supporting documents or information particularly with respect to work experience and education, and failure to include an LMO in support of the WP applications. CIC representatives noted that it is the employer's responsibility to ensure that workers understand the process.

Third party representatives play a role in assisting in the preparation of LMO and WP applications and educating employers and TFWs on the process, including any recent changes.

As previously noted employers and TFWs often use the services of third parties to assist them with preparing applications and to provide them with information about the Program. The survey of third party representatives found that, on average, the third party representatives find the LMO application process to be more difficult to complete than the WP application process. The average ratings on difficulties in completing WP and LMO applications are provided in the following chart.

**Figure 11: Third Parties Average Ratings on Difficulty in Completing The Work Permit and LMO Application Processes**



Source: Third party representative survey, 2011

When asked to rate the effectiveness of the Program in helping them develop a clear understanding of the LMO process, on a scale of 1 to 5 where 1 is not at all successful and 5 is very successful, third party representatives provided an average rating of 3.3. While most third party representatives noted that information available on HRSDC and CIC websites is useful and the process is straightforward, frequent changes to the requirements and inconsistency in assessments can make the process long, less predictable and more difficult for some representatives.

The WP application process is perceived as simple and straightforward. A few representatives noted that the process can be more difficult in the countries for which an entry visa is required.

At least one-third of third party representatives suggested that communication between third parties and government officials is perceived as inadequate. They also had difficulties reaching HRSDC/Service Canada officers to ask questions or inquire about the application status. Third parties feel that they provide valuable services to employers in helping them recruit workers and complete the process. However, some feel they are often portrayed negatively and are not treated as legitimate representatives by government officials, and are often excluded in the correspondence between HRSDC/Service Canada and employers.

Regional outreach efforts are somewhat successful in engaging other stakeholders and informing them about program objectives, directives, priorities and processes.

Most regions deliver a range of direct outreach activities including presentations, discussions and meetings related to program policy, regulatory changes, and application processing. While these activities are typically targeted at employers, their representatives and associations, the activities often also involve various stakeholders such as provincial and federal partners, third parties, program stakeholders and community groups. When asked to rate the success of the Program in engaging stakeholders through consultation, communication and partnerships, on a scale of 1 to 5 where 1 is not successful at all and 5 is very successful, HRSDC and CIC policy and program representatives provided an average rating of 3.9, while provincial and territorial governments and stakeholders provided average ratings of 2.9 and 2.6 respectively.

Most provincial and territorial representatives reported interacting regularly with CIC and HRSDC regional offices. They tend to be less satisfied in their engagement and consultations at the national level, although most had participated in provincial working groups, steering committees, roundtable discussions or conference calls. The provincial and territorial representatives who are less satisfied with the level of engagement felt that their input had not been solicited or adequately considered when decisions were made. Several provincial representatives noted that some decisions that may affect provinces differently are made in national headquarters without prior consultations with provincial and territorial partners.

The provincial and territorial partners and other stakeholders suggested that program directions and priorities are not well understood by some stakeholders, employers and the general public because there is a lack of clarity about the intentions of changes and a lack of information publicly available regarding any research or consultations that led to policy changes and definitions of program priorities. The complexity of program policies and design (e.g. number of streams, frequent changes to the administration process) and a lack of understanding of the roles of HRSDC and CIC related to decision-making add to the challenges in creating a clear understanding of the program among various groups including employers. For example, a few stakeholders noted that employers sometimes do not understand why a WP may be refused by CIC when a positive LMO was issued.

### **3.2.5 *Facilitating the Timely Entry of Temporary Foreign Workers***

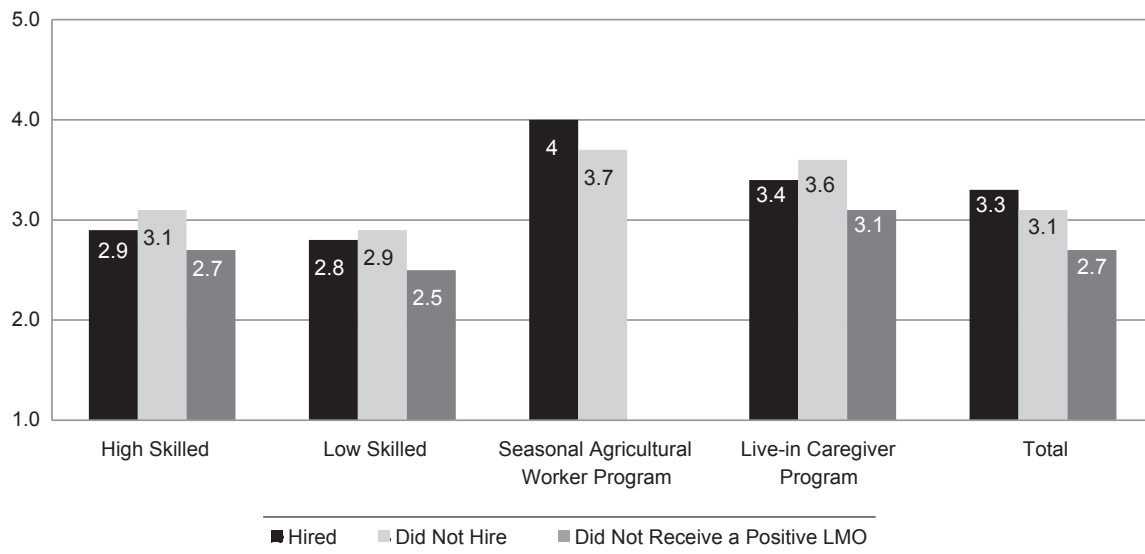
The perceived timeliness and effectiveness of the LMO process varies by stream. Employers that requested high and low-skilled workers were those most likely to perceive the LMO process as long and not responsive to their needs.

Timeliness is a subjective measure. Different employers may receive the same speed of service and yet have markedly different opinions regarding the timeliness of that service. As illustrated in the chart below, employers that hired SAWs are significantly more likely to rate the processing of LMO applications as timely compared to other employers.



**Figure 12: Average Ratings on Program Effectiveness in Processing LMO Applications in a Timely and Effective Manner**

Question: On a scale of 1 to 5, where 1 is not at all effective, 3 is somewhat effective, and 5 is very effective, how effective has the Program been in: Processing LMO applications in a timely and effective manner?



Source: Employer survey, 2011

Some factors that may contribute to the high ratings provided by SAW employers are that they tend to be very experienced in working with the Program (and therefore be very familiar with the process including the length of the process), have predictable needs (often hiring similar number of workers on a seasonal basis, year after year) which means that they can apply well ahead of when the workers will be needed, and have high success rates (99% of the positions are confirmed).

Employers that requested high and low-skilled workers were those most likely to perceive processing times as too long and unresponsive to their needs. Their needs tend to be less predictable (therefore there is often more of an urgency to fill positions when the need is identified), the applications are more likely to focus on the renewal of LMOs and WPs (some view the renewal process as unnecessarily repetitive), and the level of uncertainty regarding approval is higher (which means that it would be riskier to begin implementation of operational plans that are conditional on gaining approval). Some employers also commented on what they perceive to be frequent changes to guidelines or criteria (which impact on the predictability of the process and the time required to prepare applications), unpredictability or inconsistency in the review of applications and time required, the repetitiveness of the process, and a lack of responsiveness from HRSDC/Service Canada representatives.

Over one-half of the LCP employers surveyed indicated that the combined processing times for LMOs and WPs are too long. Third party representatives involved in all streams rated the LMO process as not timely, providing an average rating of 2.1 on a scale of 1 to 5, where 1 is



not at all effective and 5 is very effective in achieving timely processing. Employers in Alberta and Saskatchewan were significantly less likely to rate processing as timely when compared to employers in Ontario.<sup>41</sup>

Key informants differed in their perceptions of program effectiveness in processing LMOs on a timely basis. The average ratings ranged from 4.2 among HRSDC program and policy representatives to 3.9 among HRSDC field staff, 3.4 among provincial and territorial representatives and 2.6 among other stakeholder representatives on a scale of 1 to 5, where 1 is not at all and 5 is very effective.

#### Processing times can vary by stream and sector as well as the volume of applications received.

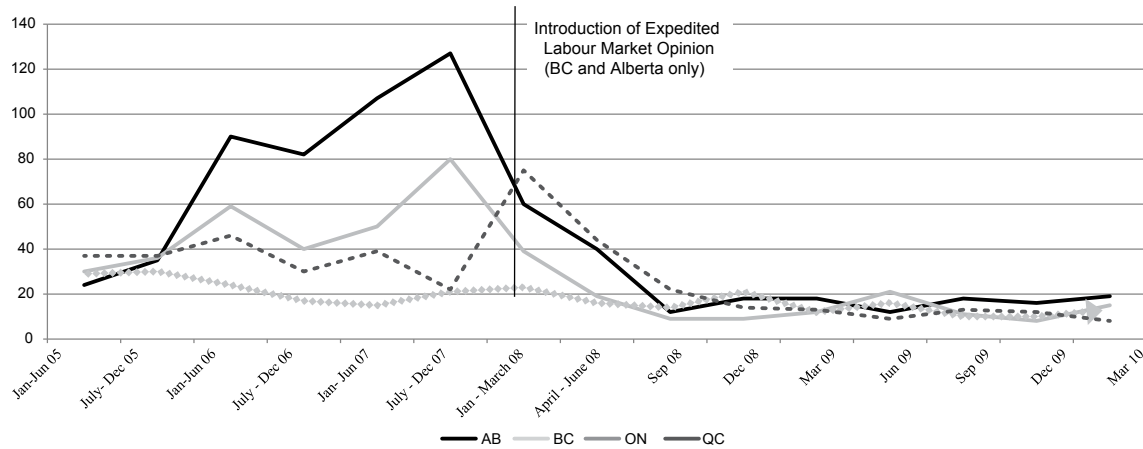
According to HRSDC/Service Canada staff, the time needed to process a particular application can depend upon the program stream (low-skilled worker applications take more time as there are more requirements to be verified), the sector or the industry (familiarity of the sector to the officer who is processing application as well as the sensitivity of the sector to fluctuations in the labour market), and the volume of applications.

Increased demand for the TFWs in 2007 and 2008 extended average processing times, particularly in Alberta and BC where the demand was the strongest. Processing LMO times for Alberta increased from 24 business days in the first half of 2005 to 127 days by the end of 2007, and processing times for British Columbia increased from 30 days in 2005 to 80 days in 2007. The introduction of Expedited Labour Market Opinion Pilot program in Alberta and British Columbia, under which employers consented to participate in the compliance review in return for expedited application processing (processing time for Expedited Labour Market Opinion averaged about 5 business days), helped to clear the backlogs. Under the Pilot, processing times for regular LMO applications declined from over 50 calendar days in the first quarter of 2008 to below 30 days by July 2008. In total, 17,547 Expedited Labour Market Opinion applications were processed during the term of the Pilot.

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<sup>41</sup> ANOVA  $F(12,1834)=15.055$ ,  $p=.000$ ; Alberta ( $\mu=2.89$ ,  $std=1.33$ ); Saskatchewan ( $\mu=2.95$ ,  $std=1.44$ ); Ontario ( $\mu=3.76$ ,  $std=1.27$ )

**Figure 13: LMO Applications Speed of Service Over Time (in Business Days)**



Source: HRSDC Speed of Service Data, 2010

Several other measures have been implemented to reduce LMO processing delays such as development of the occupational list under pressure, development of annex agreements, and extending duration of employment. The Group of Employers Pilot, launched in January 2010, enables employers operating in the same industry sector to band together; the Group of Employers, once recognized by HRSDC and CIC, is allowed to collectively hire TFWs in high-skilled positions (i.e. High Skilled) for a common project or initiative. LMOs and WPs are issued in the name of the Group of Employers, with employer members allowed to transfer TFWs amongst themselves within pre-approved worksites and in identical occupations, without having to request new LMOs or new WPs.

Processing times for WPs vary widely across the Canadian visa offices and the program streams, depending largely on the volume of applications. In 2010, the processing time for 80% of applications under the Live-in Caregiver Program was 16 months or less. As illustrated in the following table, WP processing times for other program streams are significantly lower. The processing times can also vary across visa offices ranging from within a week to over a year.

Table 17: Processing Times for Work Permits				
Overseas Work Permits Processing Time (80% of the applications reached pass or fail decisions within the timeframe)				
Program Stream	Calendar Year			
	2007	2008	2009	2010
Live-in Caregiver Program (months) <sup>42</sup>	17	12	14	16
Low Skill Pilot Project (weeks)	16	13	16	11
Seasonal Agricultural Workers Program (weeks)	2	2	1	2
High Skilled Workers (weeks)	8	10	10	6
Source: Computer Assisted Immigration Processing System, Jan 1 - Dec 23, 2010				

Average ratings provided by key informants with respect to effectiveness of the Program in assessing WP applications in a timely and effective manner ranged from 3.9 among CIC program and policy representatives to 3.6 for CIC field staff and 2.8 among other stakeholders (on a scale of 1 to 5, where 1 is not at all and 5 is very effective). Stakeholders who expressed concerns about the processing of WPs noted that processing times for some of the major source countries are too long and unpredictable.

According to CIC field staff, apart from WPs under LCP, most WPs are assessed within 15 minutes to 45 minutes. This process involves verifying the genuineness of a job offer and whether the TFW meets the job requirements, all functions that can add significantly to the processing time. The volume of applications can create a backlog and extend the time from application to decision. Case specific issues can also impact on processing times such as the past compliance record of the employer, size of the employer, and concerns about the legitimacy of the job offer. While only a few low-skilled and high-skilled workers reported that processing times for WP applications were too long, about 20% of live-in caregivers said the same.

**Regional differences in the assessment of prevailing wages and the extent to which verification of minimum advertising requirements are conducted may affect timeliness and consistency in decision making.**

The minimum advertising requirements and prevailing wages are considered by HRSDC/Service Canada staff to be the most difficult aspects of LMO assessment process. HRSDC and CIC have developed a number of tools, procedures and manuals to support assessment of the LMO and WP applications. To increase consistency in decision making, HRSDC has developed two operational directives and processes that are followed by all regions instructing HRSDC/Service Canada officers to compare the wages proposed by the employer, as reported in the application, to the wages paid to Canadians and permanent residents in the same occupation and geographical area. As a source of comparable data, the officer may use information provided on the Labour Market Information or Working in Canada

<sup>42</sup> Processing time for the Live-in Caregiver Program are provided in months.

websites or other reliable labour market information sources. The national directives and procedures outline the process to be used in assessing advertising requirements. Nevertheless, inconsistencies in the assessment of the advertising and prevailing wage requirements may occur because:

- HRSDC/Service Canada officers reserve the right to require additional recruitment efforts if they believe that these efforts may result in hiring of a qualified Canadian citizen or permanent resident. Verification processes may also vary depending on region, occupation, and whether a particular office is experiencing a backlog of applications.
- Difficulties experienced in accessing prevailing wage data for comparable positions in the regions. Prevailing wage is the second most common reason an LMO application is refused (after insufficient efforts to recruit Canadians and permanent residents), accounting for about 13% of all refused applications. WP applications may also be refused if the CIC officers determine, after reviewing job duties and workers credentials and experience, that the wage offered by employers is inconsistent with Canadian standards.

In addition, key informants noted that the perceived inconsistency in decision-making can arise from complicated program directives which have numerous exceptions. Because decisions are based on many factors that may vary from one case to another (job requirements in terms of required level of education and language proficiency, occupation, and regional labour market assessment), it can be challenging to determine the level of consistency in decision-making.

About one-third of employers confirmed that for high-skilled and low-skilled positions, inconsistencies in the decision-making made it particularly difficult for them to develop a good understanding of the process. Leading employers and employer association representatives interviewed as part of the case study noted some differences in how the advertising requirements were assessed across offices and regions. The differences most commonly relate to what advertising media is considered appropriate to use when recruiting local workers (e.g. company website, job bank, local paper) and what information is required to demonstrate that sufficient effort to recruit was made (e.g. on one application, an employer was asked to submit all resumes received in response to a posting and the reasons why no one had met the requirements).

### 3.2.6 Program Systems, Tools and Initiatives

New regulatory changes are intended to address concerns related to the respective roles and responsibilities of administering departments, particularly related to assessing genuineness of the job offer. The regulatory changes and the compliance framework intended to strengthen program integrity are perceived as a significant step towards more evidence-based policies and directives.

The roles and responsibilities of the three administering departments are defined under the framework outlined by *Immigration and Refugee Protection Act*. The regulatory changes, implemented in April 2011, are intended to strengthen the integrity of the Program by introducing a more rigorous assessment of the genuineness of the job offer; a two year ineligibility period for employers that fail to meet their commitments to workers with respect to wages, working conditions and occupations; and a limit on the length of time a TFW requiring an LMO may work in Canada.

CIC also issued Operational Bulletin 275-B to provide operational instructions and guidance to CIC and CBSA officers in interpreting and implementing the regulatory amendments to the TFWP. The Bulletin also describes the role of all three departments related to the new amendments in processing LMOs and WPs. HRSDC staff follows the same assessment criteria as laid out by CIC in this Operation Bulletin.

The regulatory changes and the compliance framework are perceived as a significant step forward to develop more evidence-based policies and directives. These changes were based on various internal reviews and extensive consultations with stakeholders across the country. The amendments to regulations and the compliance framework were implemented in 2011 and do not fall within the scope of the evaluation. The extent to which the changes achieve desired outcomes will need to be reviewed once enough time has elapsed since the implementation.

Prior to the implementation of these changes, departmental representatives were asked to rate the success of the Program in terms of developing and implementing effective evidence-based policies and directives. HRSDC and CIC field staff provided average ratings of 2.6 and 3.6 respectively while CBSA policy representatives provided an average rating of 3.5 on a scale of 1 to 5 where 1 is not at all and 5 is very successful. HRSDC and CIC program and policy representatives provided an average rating of 3.3. Most representatives noted that, in the past few years, the Program has made progress in developing policies and procedures that are based on research and extensive consultations. Various internal reviews and research studies have informed changes to the Program. The Expedited Labour Market Opinion Pilot Project and the compliance framework were mentioned as examples of effective and evidence-based policy directives. The implementation of the Expedited Labour Market Opinion was generally viewed as an important program procedure that facilitated effective and timely assessment of LMO applications when the volumes of applications increased. Regulatory changes to the *Immigration and Refugee Protection Regulations* and other non-regulatory changes have been implemented in response to increasing evidence emphasizing the need to strengthen TFW protection. However, almost one-third of HRSDC and CIC representatives noted that policies and procedures have not been evidence-based; the Program has not been

evaluated before and little formal research or policy response has been implemented on key aspects such as the effectiveness of the LMO process, prevailing wages, integrity, and the impact of the Program on the economy.

Effective systems and tools have been developed to support program delivery and collect information needed for tracking and reporting purposes within each department. However, improvements to systems and data collection are necessary to capture additional information required as per new regulations and to effectively share that information across departments.

The Program relies on three major database systems to track the information on employers, positions and TFWs as well as to generate case processing information and reports. HRSDC collects service delivery performance information through the HRSDC Foreign Worker System (FWS). A primary objective of the FWS is to collect information to support HRSDC/Service Canada regional officers in processing LMO applications across Canada. The FWS also serves as a data collection tool to generate program statistics and compliance reviews. Data on employers and LMOs is captured in the system. Some information on requirements for TFWs is also collected (e.g., education and language requirements) where specified by employers, in the LMO applications.

CIC operates two databases, the Global Case Management System which recently replaced the Computer Assisted Immigration Processing System in the Canadian offices abroad, and the Field Operations Support System. Global Case Management System collects information on the processing of applications abroad, while the Field Operations Support System collects information on applications submitted in Canada and contains landing information on immigrants or foreign nationals arriving in Canada. Both systems are used for case processing information as well as for producing reports such as CIC Facts and Figures, other internal documents, and other information published on the CIC website. The annual CIC Facts and Figures reports on the number of TFWs entering and residing in Canada by gender, status, country of origin, region (province or territory and urban area), and occupational skill level.

The data subset obtained from HRSDC's Foreign Worker System and CIC's Field Operations Support System for the purpose of surveying employers and TFWs provided an opportunity to make observations regarding the quality of the data. For example, in FWS, employer key contact information is often missing (e.g., no phone numbers or email addresses were available for 50% of LCP employers who did not receive a positive LMO). Size of employer data (i.e. number of employees) was missing for over 80% of the cases in the FWS subset. Where third parties were involved in completing an LMO, the key contact information of at least two-thirds of the employers in high-skilled, low-skilled and LCP streams was that of the third party representative rather than the employer.

Some information on TFWs from the Field Operations Support System and the Computer Assisted Immigration Processing System was unavailable or difficult to extract from the systems. The Canadian contact information in the Field Operations Support System for



TFWs is often information of the employer or third party. The reasons for the refusal of a WP application are provided only in the notes. As a result, it is not possible to determine what percentage of refusals was attributable to concerns regarding the genuineness of job offer.

The results of the employer survey combined with a review of the employer data subset extracted from FWS data also highlighted some areas that needed improvement. For the purposes of the survey, FWS data were used to segment employers into three groups: those employers that had hired TFWs; those that had received confirmed LMO but had not hired; and those that did not receive a confirmed LMO from 2007 to 2010. The survey found instances where the categorization was wrong (e.g. employers had, in fact, hired a TFW under one or more of the four streams). This is attributable to some employers having multiple employer IDs in the system (e.g. the employer hired on applications entered under one ID but not another) and difficulties in linking the data on TFWs arrivals from the Field Operations Support System to employer data in FWS. Furthermore, at the time of evaluation, the SAWP data could not be matched using the two databases. Federal government key informants also indicated that the HRSDC and CIC database systems are not sufficiently compatible to generate ongoing reports that can provide a complete picture of the Program.

According to CIC, HRSDC and CBSA representatives, their respective departments have been at least somewhat successful in developing and implementing the tools and systems needed to facilitate successful program delivery. HRSDC and CIC have developed operational manuals, directives, policies, and operational bulletins that document, respectively, the processes and procedures involved in reviewing LMOs and WP applications. For example, CIC has developed manuals and directives that provide definitions, departmental policies and procedures for all types of applications for foreign workers including accompanying family members. The manuals are updated regularly to reflect any policy changes. Staff also highlighted the importance of in-house training. When asked how successful the Program has been in developing and implementing the tools and systems needed to facilitate successful program delivery (on a scale of 1 to 5, where 1 is not at all successful and 5 is very successful), HRSDC and CIC field staff provided average ratings of 2.9 and 3.5 respectively while CBSA policy representatives provided an average rating of 3.6. HRSDC and CIC program and policy representatives provided an average rating of 3.7.

However, they noted that continued improvements to the system will be necessary, particularly in capturing additional information as per the new regulations, as well as in accessing and linking administrative data across the CIC and HRSDC systems. Reports of negative genuineness and “substantially the same” assessments will be shared manually between HRSDC and CIC officers through national headquarters until the capacity to capture such information in the Global Case Management System is developed. Similarly, FWS will need improvements to capture records on assessment of genuineness of the job offer and past compliance. Some HRSDC field staff also noted that the systems and tools currently available are not adequate to assess complex cases and that information on labour market and wages is not always available or up-to-date.

Limited communication and coordination of activities across departments can result in lack of understanding of assessment processes and procedures and in the development of collaborative response to identified issues.

Department representatives rated the Program as somewhat successful in coordinating planning and implementation of the Program across departments. Average ratings on the success of the program in sharing needed information and coordinating planning and implementation of the TFWP across the departments ranged from 3.2 amongst HRSDC, CIC and CBSA program and policy representatives to 2.7 for HRSDC and CIC field staff, on a scale of 1 to 5, where 1 is not at all successful and 5 is very successful.

Some specific challenges were identified:

- The structure of Program is complex, involving multiple government departments with differing priorities and target groups;
- Certain functions associated with program delivery are very complex (such as ensuring integrity of the process, protection of TFWs and the potential impact of the TFW on the labour market, and program monitoring) and may require involvement and coordination of activities across all three departments and provinces;
- There are difficulties in sharing administrative data, particularly between HRSDC and CIC; and
- The response to inquiries from staff to national headquarters and across the departments can take a long time.

CIC officers regularly assess integrity of employers and the job offers for the positions that are LMO exempt. They are instructed to do so for LMO applications if they have reasonable grounds to consider that some elements of the job offer and work conditions are not being met or whether after assessing the applicant job conditions outlined in the LMO continue to be met. In doing so, the CIC officers may unnecessarily replicate some of the same steps undertaken by HRSDC/Service Canada when, for example, assessing the genuineness of the job offer.

Several factors may contribute to this. First, apart from the LMO recommendation, there is no sharing of information between the officer reviewing the LMO application and the officer reviewing the WP application. For example, the CIC representative cannot access any notes prepared during the LMO review regarding the steps taken or the issues discovered or verified. Second, CIC officers are not very familiar with the process followed in issuing an LMO. When asked whether the LMO considers all relevant factors for assessing labour market impact, most CIC officers noted that they are only somewhat aware of the process, the factors that are considered, or how decisions are made. Third, some CIC representatives have reservations about the reliability of the LMOs. In particular, CIC officers expressed the opinion that it is too easy for employers to obtain a positive LMO as too much weight is placed on information provided by the employer in assessing the adequacy of their recruitment activities and genuineness of the job offer. As a result, it is not unusual for the CIC officer, in effect, to override the LMO recommendation.



### 3.2.7 Efficiency and Economy

The estimated Program costs incurred by HRSDC totalled \$35.5 million in 2009-10, which is equal to \$342 per LMO application processed.

The estimated Program costs reported by HRSDC increased from \$27.1 million in 2007-08 to \$31.8 million in 2008-09 and \$35.5 million in 2009-10. HRSDC incurred costs related to staffing, operations and maintenance, administration and management, outreach, federal/provincial relations, monitoring and compliance, and special initiatives. A breakdown of the cost by function (e.g. processing of applications or monitoring) is not available as financial data is not currently tracked in a way that would allow for such cost analysis. Currently, employers do not pay a fee for processing LMO applications to help offset costs associated with delivering the Program.

Under the Treasury Board Policy on Evaluation, efficiency is defined as the relationship between the resources used and outputs produced.<sup>43</sup> According to the logic model, with respect to service delivery, the primary outputs are the number of LMOs issued (positive or negative) and the number of WP applications processed (by CIC and CBSA). HRSDC's role is to process employers' applications for foreign workers and issue a Labour Market Opinion. As shown in Table 19, the cost of the Program to HRSDC per LMO application processed varied from \$213 in 2007-08 to \$342 in 2009-10. As one LMO application may be submitted by an employer for any number of TFW positions, the cost per position reviewed varied from \$107 in 2007-08 to \$176 in 2009-10.

Table 18: Program Cost to HRSDC per LMO application processed and per position on LMO application processed <sup>44</sup>			
	2007-08	2008-09	2009-10
<b>HRSDC</b>			
Costs incurred by HRSDC	\$27.1M	\$31.8M	\$35.5M
Number of LMO applications processed	127,135	138,834	103,721
<b>Cost per LMO application processed</b>	<b>\$213</b>	<b>\$229</b>	<b>\$342</b>
Number of positions on LMO applications processed <sup>45</sup>	252,875	273,455	201,534
<b>Cost per position reviewed</b>	<b>\$107</b>	<b>\$116</b>	<b>\$176</b>
Source: HRSDC Foreign Worker System. Data extracted on Sept 18, 2012 (SSR)			

<sup>43</sup> That is, the extent to which resources are used such that a greater level of output is produced with the same level of input or, a lower level of input is used to produce the same level of output.

<sup>44</sup> The information appearing in this table may differ from those reported in previous HRSDC releases. These differences reflect adjustments to administrative data files which normally occur over time and reflect refinement in methods of calculation for the purpose of increasing accuracy in the way statistical information is presented.

<sup>45</sup> The decision to issue a work permit rests with Citizenship and Immigration Canada (CIC). Not all positions on positive LMOs result in the issuance of a work permit: on average 50% of positive LMOs obtain a work permit. In addition, there is an average delay of 104 days between the decision date and the date on which the TFW obtains a work permit and/or enters Canada.

Program cost reported for CIC and CBSA totalled \$50.3 million in FY 2009-10. The combined unit cost is roughly equivalent to \$108 per WP application processed.

Whereas HRSDC's TFWP mandate focuses specifically on the LMO streams, CIC and CBSA are responsible for processing and assessing all temporary foreign workers, which includes foreign workers requiring an LMO, those who are LMO-exempt (accounting for roughly 60% of all TFW entries in 2010), and those who are WP-exempt.<sup>46</sup>

CIC and CBSA work jointly and incur costs related to processing work permit applications abroad, in Canada, and at Ports of Entry, making assessments at POE, issuing work permits, staffing, maintenance, and other administrative, operational and management costs. These costs, and those incurred by other government departments for delivery of this program, are captured through a cost management model (CMM) exercise. The CMM is a system that integrates financial and non-financial data, based on business processes. Updating the CMM begins with a review of a department's activities and expenditures over a fiscal year, coordinated through a data-gathering exercise. The model is updated yearly to provide a snapshot of how resources were used to deliver programs and services.<sup>47</sup>

The CMM treats the TFWP as a single program and does not break down costs by LMO and non-LMO groups. Furthermore, CIC and CBSA functions are integrated along a WP processing continuum, with CBSA having authority to act on CIC's behalf regarding issuance of WP applications previously assessed by CIC officers. Some foreign workers who do not require a Temporary Resident Visa (TRV) are also able to apply for a work permit through CBSA, at the POE. Due to the joint nature of the work performed by CIC and CBSA, departmental program costs were not separated in the calculation of unit costs (see Tables 19 and 20, below).

The average unit cost for CIC and CBSA of processing a temporary foreign worker in 2009-10 was roughly \$119, which is a slight increase from 2007-08, when it was \$113. These costs represent an average across all streams within the TFWP (i.e., not just the LMO streams) and do not represent the full Government of Canada cost. Departments such as HRSDC, Public Works and Government Services Canada (PWGSC), and Department of Foreign Affairs and International Trade (DFAIT) also incur costs attributable to the administration of the TFWP. This means that the actual unit costs for the Program as a whole are higher than those shown in Tables 19 and 20.

Furthermore, since an LMO application does not necessarily result in the entry of a TFW, unit costs from Table 18 should not be added to those in Tables 19 and 20.

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<sup>46</sup> Data on number of entries not available as most WP-exempt TFWs are business visitors who are not systematically counted.

<sup>47</sup> A CMM exercise was not done in 2008-09.

**Table 19: CIC and CBSA costs and revenues generated for TFWP Processing: FY 2007-08<sup>48</sup>**

CIC and CBSA costs for TFWP	
CIC	\$32.7M
CBSA	\$9.0M
<b>CIC and CBSA combined costs</b>	<b>\$41.7M</b>
Number of WP applications processed <sup>49</sup>	370,544
Total revenue from TFWP applicants	\$43.7M
<b>Average unit cost for CIC and CBSA per WP application processed</b>	<b>\$113</b>
Source: CIC and CBSA program costs are from CIC's Cost Management Model. A CMM exercise was not undertaken in FY 2008-09. Number of WP applications processed is from CIC's Operations Data. Total revenue from TFWP applications is from CIC Finance.	

**Table 20: CIC and CBSA costs and revenues generated for TFWP Processing: FY 2009-10**

CIC and CBSA costs for TFWP	
CIC	\$42.5M
CBSA	\$7.8M
<b>CIC and CBSA combined costs</b>	<b>\$50.3M</b>
Number of applications processed	421,855
Total revenue from TFWP applicants (\$ millions)	\$42.7M
<b>Unit cost for CIC and CBSA WP application processed</b>	<b>119\$</b>
Source: same as Table 19	

A major factor that impacts on the economy of the Program is that most LMO applications do not eventually result in positions being filled by TFWs.

Over the five-year period from 2005 to 2009, for every 100 LMO positions applied for by employers, 69 positive opinions were issued by HRSDC and only 39 TFWs requiring an LMO either arrived in Canada with a WP or were already in Canada and received a new WP.

This suggests that considerable effort is spent by federal government representatives in reviewing and processing applications which, in the end, do not always result in TFWs entering Canada. This varies by stream as illustrated in the following table.

<sup>48</sup> The information appearing in Tables 19 and 20 may differ from those reported in previous CIC releases. These differences reflect adjustments to administrative data files which normally occur over time and reflect refinement in methods of calculation for the purpose of increasing accuracy in the way statistical information is presented.

<sup>49</sup> The number of WP applications processed accounts for all cases approved and refused overseas and inland, along with cases approved/refused at the POE, which were not previously initiated overseas. Under R299 (2) of the IRPR, a number of categories of individuals are exempted from paying a \$150 processing fee (e.g., IEC participants, refugees, destitute students, etc).

**Table 21: TFW Positions on Positive LMOs and TFWs Entering Canada by Stream, 2005-2009**

<b>Streams</b>	<b>TFW Positions on LMO Applications Received</b>	<b>TFW Positions on Positive LMOs</b>	<b>TFWs Entering</b>	<b>TFW Positions on Positive LMOs as % of TFW Positions on LMO Received</b>	<b>TFWs Entering as % of TFW Positions on LMO Received</b>
High Skilled	397,905	289,220	148,345	73%	37%
Low Skilled	299,183	149,369	73,093	50%	24%
Live-in Caregiver Program	183,750	136,967	53,006	75%	29%
Seasonal Agricultural Worker Program	124,768	120,416	111,652	97%	89%
<b>Total</b>	<b>1,005,606</b>	<b>695,972</b>	<b>388,625</b>	<b>69%</b>	<b>39%</b>

Source: HRSDC Foreign Worker System, 2010; Computer Assisted Immigration Processing System, 2010

The LMOs which are not positive consist of those which were negative (18%) as well as of those where the file was closed (e.g. the employer did not pursue the application or failed to respond to requests for further information, 9%) or where the LMO was cancelled after confirmation (4%).

Employers attributed not filling positions which received confirmed LMOs most commonly to delays in the processing of the LMOs, the applicant being unsuccessful in obtaining a WP, delays in the processing of WPs and the decision of the applicant not to come to Canada. The Computer Assisted Immigration Processing System data indicates that refusal rates on WP applications averaged 21.6% from 2007 to 2010. The refusal rates are significantly higher for the LCP and low-skilled stream than for the high-skilled stream. Very few SAWs are refused a WP. Although data is not available on the reasons why the WP applications were not approved, CIC officers indicated that some of the common reasons for refusing WP applications requiring an LMO are concerns about the genuineness of the job offer, whether the applicant is qualified to fill the position, and whether the wages are consistent with Canadian standards. WP applications can also be refused on security or medical inadmissibility.

Table 22: Number of Final Work Permit Decisions Made Overseas by Stream and by Year					
By Stream	2007	2008	2009	2010	Total
<b>Number of Final Decisions Made<sup>50</sup></b>					
High Skilled	43,088	49,789	40,399	34,267	167,543
Low Skilled	10,377	31,969	25,496	11,266	79,108
Seasonal Agricultural Worker Program	2,205	25,638	24,967	20,123	72,933
Live-in Caregiver Program	19,536	18,936	16,646	12,140	67,258
<b>Total</b>	<b>75,206</b>	<b>126,332</b>	<b>107,508</b>	<b>77,796</b>	<b>386,842</b>
<b>Percentage of Final Decisions Which are Negative</b>					
High Skilled	11.6%	15.5%	16.4%	9.2%	13.4%
Low Skilled	39.1%	38.4%	48.7%	26.2%	40.1%
Seasonal Agricultural Worker Program	0.2%	0.1%	0.2%	0.4%	0.2%
Live-in Caregiver Program	39.2%	40.7%	50.7%	43.8%	43.3%
<b>Total</b>	<b>22.2%</b>	<b>21.9%</b>	<b>25.6%</b>	<b>14.8%</b>	<b>21.6%</b>
Source: CIC International Region					

Possible options to improve efficiency and economy are to introduce a fee for LMO applications, streamline the review process, and strengthen communication and coordination in the delivery of the Program.

Various recommendations or possible strategies for improvement were offered by key informants, employers and their representatives or proposed in the literature or documents. The options to improve efficiency and economy focus on reducing the volume of work (i.e. reducing the number of applications which must be processed for every position which is filled) or reducing the level of effort which is required, on average, to process each application.

Reducing the volume of work could be achieved by reducing the potential for speculative LMO applications. Apart from the time spent preparing applications, there are no direct costs (i.e. fees) associated with submitting an LMO application. This may contribute to speculative applications, where the employer submits an application (or increases the number of positions requested in an application) before the need for the worker(s) is actually confirmed (i.e. in anticipation that a need may develop). Such applications could happen across all streams but are most likely to occur amongst employers of low-skilled workers,

<sup>50</sup> *Final Decisions* refers to the number of applications approved, refused and withdrawn.

where needs tend to be less predictable, the time for approval can be long, and the level of uncertainty regarding approval is higher. Strategies suggested by stakeholders and in the literature to address this issue are to:

- Introduce a non-refundable fee on LMO applications, similar to the WP application fee charged to foreign workers. In the United States, the federal government requires all employers to pay a \$150 fraud detection and prevention fee for every temporary foreign worker requested.<sup>51</sup> The government has also implemented a \$1,000 annual fee on each employee hired under the H1-B ‘Speciality Occupation Visas’; these funds are directed towards programs that encourage training of American students.<sup>52</sup> Quebec has also implemented a fee of \$182 for LMO applications.<sup>53</sup>
- Accelerate the application and decision process, thereby reducing the time that elapses from employer identification of need to arrival of the worker. Possible strategies include providing an option for employers to receive expedited processing for an additional fee. In the United States, employers in certain occupations can receive a premium processing service (i.e. guaranteed 15 calendar day processing time) for a fee of \$1,225 to receive expedited processing.<sup>54</sup>
- Introduce more flexibility to WP regulations (e.g. assigning a sector, region or province specific WP within which TFWs can access jobs without requiring a new LMO and WP), which could reduce the need for subsequent applications, improve the protection of the TFWs while in Canada, and reduce the potential for TFWs to become “undocumented” workers (i.e. reducing a risk of TFWs continuing to work with expired WP while waiting for renewal).

Major factors that affect the effort involved in processing of LMO applications include the level of research that must be conducted by Service Canada officers when assessing labour market shortages, determining prevailing wages and verifying advertising requirements. Implementing employer compliance reviews as part of the new regulations may add to the time required to complete an LMO process. Some factors that may affect the level of effort involved in processing WP applications include the time involved in verifying the genuineness of a job offer, confirming the NOC code, and comparing the requirements of

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<sup>51</sup> US Citizenship and Immigration. 2010 PPT Presentation about H-2A and H-2B Worker Classifications: <http://www.uscis.gov/USCIS/Resources/Resources%20for%20Congress/Congressional%20Reports/H-2A%20and%20H-2B%20Nonimmigrant%20Worker%20Classifications.pdf>

<sup>52</sup> Martin P. 2006. Managing Labour Migration: Temporary Worker Programs for the 21st Century. International Symposium on International Migration and Development by the UN Department of Economic and Social Affairs. [http://www.un.org/esa/population/migration/turin/Symposium\\_Turin\\_files/P07\\_Martin.pdf](http://www.un.org/esa/population/migration/turin/Symposium_Turin_files/P07_Martin.pdf)

<sup>53</sup> <http://www.immigration-quebec.gouv.qc.ca/fr/employeurs/embaucher-temporaire/frais.html#offre>

<sup>54</sup> <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=971b60657dd68210VgnVCM100000082ca60aRCRD&vgnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>

the job against the qualifications of a TFW. Options identified by key informants, employers and their representatives or proposed in the literature and documents to address some of these factors and improve efficiency include:

- Streamlining the process for certain types of applications such as applications from returning employers and employers in sectors (e.g. agriculture) and occupations under pressure.
- Improving communication between CIC and HRSDC to limit the level of duplication in the processing of LMO and WP applications. Key steps could include increasing awareness amongst CIC officers of the process used to issue LMOs, and facilitating the sharing of information between HRSDC and CIC on specific files.
- Improving the tools and processes available to staff to support assessment of labour market shortages and prevailing wages as well as verification of recruitment efforts.
- Increasing the involvement of provincial and territorial governments in certain functions, such as assessment of labour market and identification of occupations under pressure.





## ***4. Recommendations***

The recommendations arising from the evaluation are as follows:

- 1. HRSDC should ensure that the strategies needed to facilitate timely and efficient processing of LMO applications are in place, particularly in regions and at times where the demand for the Program is strong and during implementation of the compliance framework.**

Towards this end, the advantages and disadvantages of various potential strategies should be assessed including improving the tools and processes available to support assessment of prevailing wages and verification of recruitment efforts; simplifying applications or streamlining the process for certain types of applications, such as applications from returning employers, from employers in particular sectors and regions where shortages have been clearly demonstrated, and for occupations under pressure; establishing specialized offices that deal only with applications from particular sectors or industries; and increasing the involvement of provincial and territorial governments in the assessment of the labour market and the identification of occupations under pressure. To enable the Program to better meet urgent needs, consideration should be also given to providing employers a fast track option for their applications.

- 2. HRSDC should introduce non-refundable fees charged to employers for LMO applications.**

Charging fees for LMO applications would offset some of the costs associated with delivering the Program and potentially reduce the number of applications received which do not eventually result in positions being filled. Temporary foreign workers currently pay non-refundable fees for WP applications and other countries (e.g. US) and jurisdictions (Quebec) charge fees to employers related to the hiring of temporary foreign workers.

- 3. HRSDC and CIC should improve communication and coordination of activities between the two departments in order to improve the understanding and effectiveness of the LMO application assessment process.**

The two departments should work together to improve communication between CIC and HRSDC officers, enhance the sharing of information regarding employers across departments, and increase understanding of the procedures used by the two departments to process and verify LMO applications.

**4. HRSDC should implement ongoing monitoring of employers, including following up with a sample of temporary foreign workers.**

Following up with employers and their temporary foreign workers to review the contract and conditions of work can ensure that corrective measures are implemented, where required, to address non-compliance with the terms of the contract. This will require HRSDC and CIC to improve their performance measurement systems, including updating and collecting key contact information for employers and TFWs. Monitoring activities should incorporate avenues for workers to provide a review of the employer and employment conditions. Better collaboration could be developed between federal and provincial governments with respect to supporting and protecting temporary foreign workers and sharing information.

**5. HRSDC and CIC should improve their data collection systems related to contact information for employers and TFWs participating in the Program so that sufficient and complete information is available for monitoring and reporting purposes.**

**In addition, CIC and HRSDC should strengthen the linkages between TFW and employer data, developing database systems that are more compatible and have increased capabilities to match LMO applications data with WP applications data.**

Effective monitoring and follow-up with employers and TFWs will require HRSDC and CIC to improve their data collection systems, particularly with respect to obtaining and updating contact information for employers and TFWs.

Improvements to systems and data collection are necessary to capture additional information required as per new regulations, and to effectively share that information across departments and generate ongoing reports to provide a more complete picture of the Program.

**6. HRSDC should develop a methodology to calculate expenditures by program activity area, particularly for activities related to LMO processing.**

HRSDC, working with the Chief Financial Officer's Branch, should consider developing a methodology for capturing and tracking LMO processing costs, which will allow for better understanding of expenditures and efficiency of the LMO process-related activities.

**7. HRSDC should continue to monitor the impact of the Program on the Canadian labour market within regions and sectors that rely heavily on the Program.**

In light of concerns regarding the heavy, on-going reliance on the Program by some employers, efforts should continue to carefully assess the impact on Canadian workers and prevailing wages in regions and sectors in Canada that rely heavily on foreign workers to meet their labour needs. For example, as part of the employer compliance reviews, employers targeted for reviews could include those that rely heavily on the Program to meet their labour needs. This data source could be complemented by other research, collection and analysis of relevant Labour Market Information data, and collaboration and sharing of information with the provincial governments.

**8. HRSDC and CIC should seek opportunities to strengthen linkages between the Program and the economic immigration programs.**

Consideration could be given to expand pathways open to temporary foreign workers to transition to permanent residence where the long-term labour need is demonstrated and other immigration requirements are met. Data show that permanent residents who have experience as a temporary foreign workers tend to fare better in the labour market than those who have no such experience. Further, the results of the evaluation indicate that many temporary foreign workers make valuable contributions to Canada's economic development. Many have worked for the same employer for extended periods of time under multiple WPs, have been trained and promoted over time, and have developed a good rapport with their employers, managers, and co-workers. Most temporary foreign workers express satisfaction with their jobs and most employers are satisfied with their workers.

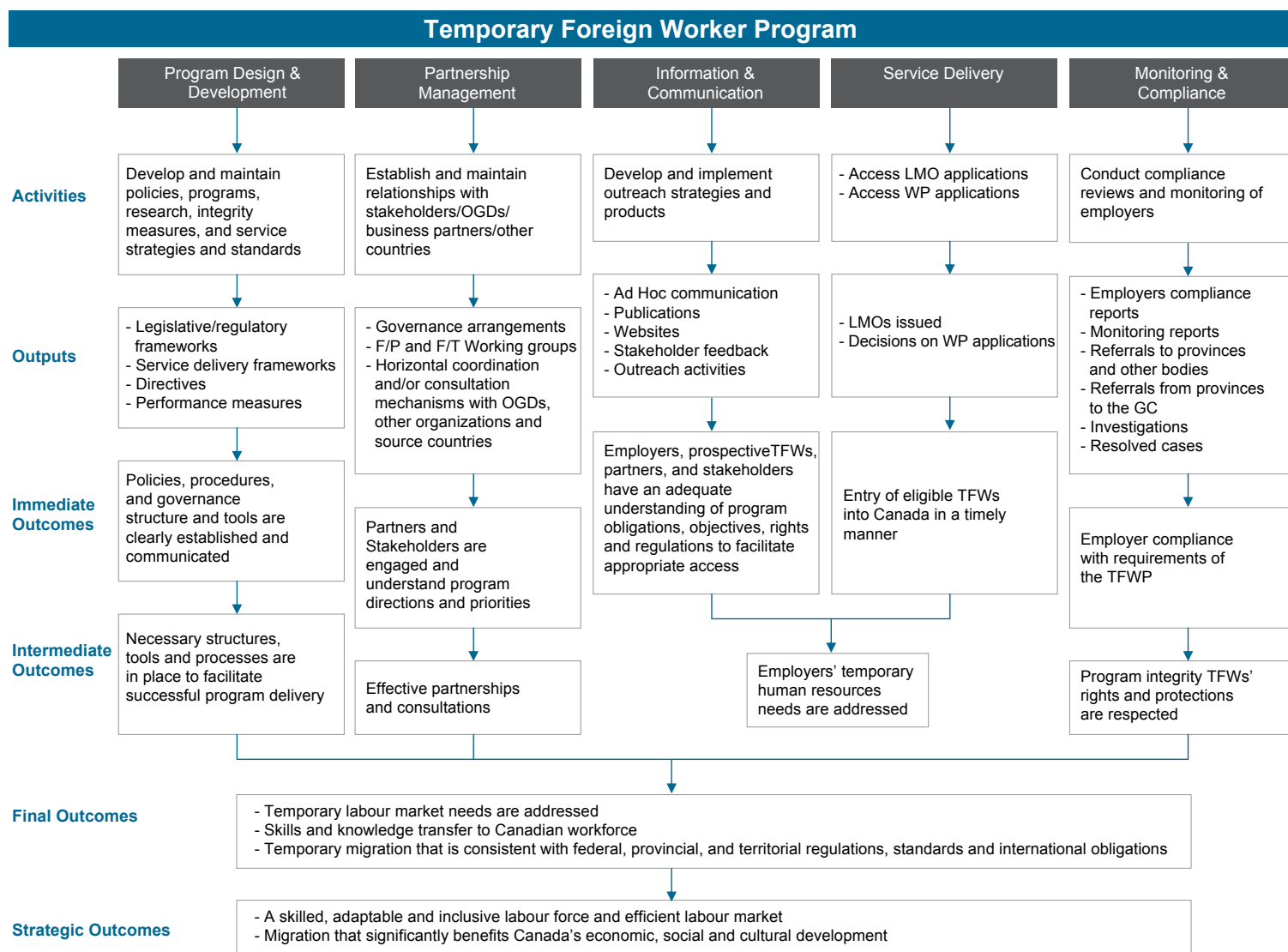


## *Appendix A: Key Stakeholder Roles and Responsibilities*

Stakeholders	Examples of Roles and Responsibilities
Provincial and Territorial Government Representatives	<ul style="list-style-type: none"> <li>• Establish and enforce labour/employment and occupational health and safety standards in their jurisdictions</li> <li>• Play a key role in terms of ensuring that TFWs receive the same protection as Canadians</li> <li>• Set provincial immigration priorities and help to determine the need for temporary workers, as outlined in MOUs with CIC and HRSDC</li> <li>• Communicate and collaborate with HRSDC and CIC over the implementation of the TFWP</li> </ul>
Labour Unions	<ul style="list-style-type: none"> <li>• Provide assistance to TFWs such as tax filing support, assistance on Canadian Pension Plan &amp; Québec Pension Plan applications, Employment Insurance benefits, etc.</li> <li>• Deal with issues related to workers compensation, benefits, and other challenges that migrant workers face while working in Canada</li> </ul>
Sector Councils & Business Associations	<ul style="list-style-type: none"> <li>• Participate in discussions and consultations with HRSDC, CIC, provincial governments, and other stakeholders</li> <li>• Develop and implement research projects, and assist in determining the need for TFWs in certain sectors and industries</li> <li>• Provide legal, administrative and logistics support for businesses hiring TFWs</li> <li>• Advocate with government for changes in TFW related policies and programs on behalf of employers and industries</li> </ul>
Immigrant Consultants, Members of the Canadian Bar Association	<ul style="list-style-type: none"> <li>• Apply for LMOs on the behalf of employers</li> <li>• Assist TFWs with the WP application process in Canada and abroad</li> <li>• Assist TFWs with extending their WP and/or visa</li> </ul>
Recruitment Agencies	<ul style="list-style-type: none"> <li>• Search the overseas labour market to secure qualified personnel</li> <li>• Screen applicants to immigration and clients requirements including document verification and validation, skills testing, interviews, etc.</li> <li>• Review pre-qualified applicants' documentations to ensure employer satisfaction</li> <li>• Apply for LMO and HRSDC approval</li> <li>• Assist in preparing immigration documentation for foreign nationals abroad</li> <li>• Assist in preparing required immigration documents in Canada for TFWs</li> <li>• Coordinate transportation for TFWs to Canada, as well as arrival and settlement assistance</li> </ul>

Stakeholders	Examples of Roles and Responsibilities
Community Agencies	<ul style="list-style-type: none"> <li>• Implement settlement programs to help TFWs integrate into the community</li> <li>• Provide TFWs with assistance and support in various areas such as employee rights and labour standards, housing, pay and benefits, taxes, health care, transportation, communication, and other supports</li> <li>• Provide support to TFWs with transition to permanent residency</li> <li>• Provide language instructions and document translations</li> </ul>
Employers	<ul style="list-style-type: none"> <li>• Identify need for TFWs</li> <li>• Seek authorization/LMOs</li> <li>• Recruit TFWs</li> <li>• Provide settlement/orientation to community and workplace</li> <li>• Employ workers in a manner consistent with the requirements of TFWP, and other federal and provincial legislation</li> </ul>
Temporary Foreign Workers	<ul style="list-style-type: none"> <li>• Apply for a WP and visa, if required</li> <li>• Respect the terms and conditions of the WP and the contract signed with an employer</li> <li>• Leave Canada at the end of their authorized period</li> </ul>

# Appendix B: Logic Model for the Temporary Foreign Worker Program







## *Appendix C: Summary of Evaluation Issues and Indicators*

Evaluation Issues	Indicators
1. Is there a continued need for the Temporary Foreign Worker Program?	<ul style="list-style-type: none"> <li>• Existence of short-term skills and labour shortages among occupations and regions</li> <li>• Number of Expedited Labour Market Opinions and LMOs processed by stream, sector, occupation and region</li> <li>• Number and type of pre-assessed WPs</li> <li>• Proportion of temporary labour shortages filled by TFWs over time</li> <li>• Changes in economic and labour market trends and priorities</li> <li>• Perceptions of program partners and stakeholders with respect to need for the Program and continuing labour shortages</li> <li>• Perceptions of program role relative to other immigration economic programs</li> </ul>
2. Is the Temporary Foreign Worker Program consistent with departmental and government-wide priorities?	<ul style="list-style-type: none"> <li>• Alignment of TFWP with Government of Canada priorities</li> <li>• Alignment of TFWP with departmental priorities</li> <li>• Perceptions of departmental staff regarding alignment between TFWP policies and departmental and government-wide priorities</li> </ul>
3. Does the delivery of the TFWP align with federal government roles and responsibilities with respect to addressing short-term skills and labour needs?	<ul style="list-style-type: none"> <li>• Mandate for the federal government with respect to addressing short-term skills and labour needs</li> <li>• Profiles of the relative roles of various groups involved in program delivery</li> <li>• Comparison of delivery model with federal roles and responsibilities as described in the mandate</li> <li>• Perceptions of departmental staff regarding the extent to which federal government roles and responsibilities are clearly defined with respect to addressing short term skills and labour needs</li> <li>• Perceptions of departmental staff regarding the extent to which the Program is consistent with federal roles and responsibilities</li> <li>• Perceptions of departmental staff, provincial/territorial Government representatives and other stakeholders regarding whether the TFWP represents an appropriate role for the federal government</li> </ul>
4. Are governance structures, roles and responsibilities, and accountabilities clearly established and communicated?	<ul style="list-style-type: none"> <li>• Description of the existing governance structures, assignment of roles and responsibilities, and tracking and reporting systems</li> <li>• Evidence that roles and responsibilities are clearly documented (e.g. terms of reference, service level agreements)</li> <li>• Departmental staff perceptions that roles, responsibilities and accountabilities are clearly defined and communicated within and across departments</li> <li>• Level of duplication of activities/presence of gaps across departments</li> </ul>

Evaluation Issues	Indicators
<p>5. Have Departments developed and implemented the tools, systems and evidence-based policy directives and program procedures needed to facilitate successful program delivery?</p>	<ul style="list-style-type: none"> <li>• Documentation of existing tools, systems, directives and procedures</li> <li>• Research undertaken related to the Program</li> <li>• Evidence of adjustments to directives and procedures informed by research, consultation and recommendations</li> <li>• Evidence of updated operational manuals informed by policy advice and directives</li> <li>• Major policy and regulatory changes within the scope of the evaluation/availability of supporting evidence for changes or non-changes.</li> <li>• Consistency in the utilization of common tools and procedures across field offices</li> <li>• Consistency in decision-making</li> <li>• Presence of quality assurance systems</li> <li>• Evidence enabling tools and systems (such as directives, measurements and reporting frameworks) have been developed and implemented</li> <li>• Departmental and field staff perceptions of adequacy of tools, systems, directives and procedures</li> <li>• Departmental and field staff perceptions on the clarity of guidance and directives in implementing new regulations</li> </ul>
<p>6. Are partnerships and consultations across departments and with stakeholders effective? To what extent are stakeholders engaged in the TFWP and aware of its directions and priorities?</p>	<ul style="list-style-type: none"> <li>• Percentage of working group, steering committee and other formal consultations</li> <li>• Evidence of other meetings, consultations, presentations, MOUs and other formal agreements with departmental partners and stakeholders</li> <li>• Level of department satisfaction regarding the sharing of information and coordination of planning</li> <li>• Evidence of coordinated planning</li> <li>• Evidence of joint/collaborative frameworks and initiatives</li> <li>• Evidence that department staff and stakeholders were consulted and participated in issue identification and resolution</li> <li>• Stakeholder awareness of the Program directions and priorities</li> <li>• Stakeholder satisfaction with level of engagement</li> </ul>
<p>7. Have the TFWP outreach strategies and products provided stakeholders, third party representatives, TFWs, and employers with an adequate understanding of the Program to facilitate appropriate access?</p>	<ul style="list-style-type: none"> <li>• Description of outreach strategies</li> <li>• Description of program communication materials, publications, and websites (contents, access points, accuracy and utilization)</li> <li>• Department staff, stakeholder, employer and TFWs perceptions regarding the availability and clarity of program information</li> <li>• Role of third parties in the application process</li> <li>• Satisfaction of employers, TFWs and third parties with the application process</li> <li>• Completeness and accuracy of information provided to clients (employers and foreign workers)</li> </ul>

Evaluation Issues	Indicators
<p>8. Does the Program delivery facilitate the timely and efficient entry of temporary foreign workers?</p>	<ul style="list-style-type: none"> <li>• Processing Parameters for LMOs and WPs</li> <li>• Trends in LMO, Expedited Labour Market Opinion and WP processing times</li> <li>• Timeliness of LMO issuance relative to established standards, where applicable</li> <li>• Timeliness of pre-assessed WPs relative to established standards, where applicable</li> <li>• Consistency with which LMOs and WPs are processed relative to established procedures</li> <li>• Evidence of barriers to timeliness</li> <li>• Percentage of LMOs not utilized</li> <li>• Comparison of average processing times relative to other worker programs</li> <li>• Perceptions regarding various aspects of the Program facilitating timely and efficiently entry of TFW</li> </ul>
<p>9. Does the Program respond to the needs of Canadian employers?</p>	<ul style="list-style-type: none"> <li>• Perceptions regarding the extent to which the Program responds to employer needs/differences across firm sizes, regions and sectors</li> <li>• Employers satisfaction with their TFWs</li> <li>• Evidence of repeat program use by employers</li> <li>• Reported impact on job creation within the employer workplace</li> <li>• Reported impact on the transfer of new skills and knowledge to the workplace</li> <li>• Actions that would have been taken by employers in the absence of the TFWP</li> <li>• Perceived impact on employment opportunities for Canadians and permanent residents</li> <li>• Perceived changes in impacts over time</li> <li>• WPs issued by sector and region relative to labour market shortages identified</li> </ul>
<p>10. To what extent are employers compliant with the requirements of the TFWP? Are the rights and protections afforded to TFWs respected?</p>	<ul style="list-style-type: none"> <li>• Percentage of confirmed and refused LMOs over time</li> <li>• Number and reasons for revocation of positive LMOs</li> <li>• Perceived degree to which TFWs rights are protected</li> <li>• Perceived employer adherence to the conditions of TFWP</li> </ul>

Evaluation Issues	Indicators
<p>11. Have there been significant unanticipated outcomes associated with the TFWP? What have been the post-WP outcomes of the TFWP?</p>	<ul style="list-style-type: none"> <li>• Extent to which reported outcomes correspond with the intended outcomes</li> <li>• Evidence of unanticipated impacts of the Program on PTGs, other stakeholders, and third party representatives</li> <li>• Impact on TFWs: <ul style="list-style-type: none"> <li>- % of TFWs accompanied by spouse/family</li> <li>- % of TFWs who intend to stay in Canada/apply for permanent status/return on temporary WP</li> <li>- % of TFWs who apply for permanent residence</li> <li>- Success rates of TWs in each of the streams (Low Skilled, High Skilled, SAWs, and Live-in Caregivers) in obtaining permanent status/% of those TFWs who received permanent residence under economic immigration programs, refugee program or family class</li> <li>- Current employment status of TFWs/actions taken by the TFWs if no longer employed (e.g. returned home, obtained alternative job, collected Employment Insurance)</li> <li>- Apparent exit patterns of TFWs</li> <li>- Other personal and economic impacts reported by TFWs</li> </ul> </li> <li>• Post WP status of the positions filled by TFWs <ul style="list-style-type: none"> <li>- % of jobs that no longer exist</li> <li>- % of jobs filled by a different TFW</li> <li>- % of jobs filled by the same TFW on a new WP</li> <li>- % of jobs filled by other Foreign Workers coming in under other programs/which other programs</li> <li>- % of jobs filled by Canadians</li> </ul> </li> <li>• Other impacts reported by employers</li> <li>• Evidence of other unexpected outcomes</li> </ul>
<p>12. Is the Program delivered efficiently and economically? How could the efficiency of the Program be improved?</p>	<ul style="list-style-type: none"> <li>• Perception of key informants, employers, and union representatives regarding the efficiency and economy of the Program delivery</li> <li>• Alternative temporary worker programs/methods to address similar labour market issues in different jurisdictions</li> <li>• Reviews of respondents on ways to enhance efficiency</li> </ul>