



WHAT WE HEARD: CONSULTATIONS ON ACCOMMODATIONS FOR TEMPORARY FOREIGN WORKERS

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List of abbreviations

ESDC

Employment and Social Development Canada

LMIA

Labour Market Impact Assessment

TFW

Temporary Foreign Worker

IRPR

Immigration and Refugee Protection Regulations

PT

Provincial or territorial

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Message from the Minister

Every year, about 50,000 temporary foreign workers (TFWs) travel to approximately 5,000 farms across Canada to support our agriculture and agri-food industry by filling positions where Canadians and permanent residents are not available. Many of these workers sacrifice months of time with their own families and friends back home to support our agricultural employers. Whether in fields, vineyards or greenhouses, these workers play a vital role in supporting our food security and other industries critical to the Canadian economy.

While TFWs are entitled to the same workplace protections and rights as Canadians and permanent residents under applicable federal, provincial, and territorial legislation, their temporary status can make them more susceptible to potential exploitation and abuse. The Government of Canada has been taking important steps to help address this vulnerability through:

- the introduction of unannounced employer investigations
- improvements to the temporary foreign worker Tip Line
- enhancements to the Job Bank to facilitate the mobility of temporary foreign workers; and
- the implementation of regulatory amendments to help address the impact of the COVID-19 pandemic on migrant workers

Budget 2021 also announced additional funding to support community-based organizations in the provision of programs and services for TFWs, such as on-arrival orientation services and assistance in emergency and at-risk situations.

While we recognize that the vast majority of our agricultural employers deeply care for the well-being of their workers, it is clear from the feedback received that there remain challenges to be addressed within the Primary Agricultural Stream of the Temporary Foreign Worker Program.

As farms are typically located in rural and often remote locations, many agricultural temporary foreign workers rely on their employer to provide accommodations during their work period; in certain cases, this is a program requirement. Concerns have been raised by a number of stakeholders including workers, their supporting organizations, and their source countries that the standards for employer-provided accommodations are not consistent across the country, and can be subject to overcrowding, unsanitary conditions, and other problems. These concerns were exacerbated during the COVID-19 pandemic. Stakeholders have called for stronger requirements under the Temporary Foreign Worker (TFW) Program to ensure that migrant workers have access to adequate and safe employer-provided housing.

Ensuring safe and healthy accommodations and living conditions for temporary foreign workers is a multi-stakeholder challenge, however, with the provinces and territories

generally having exclusive jurisdiction over the development of accommodation-related rules and regulations. In some cases, this responsibility is delegated further to municipalities. The federal government recognizes the most effective way to advance the development of new accommodations requirements for employers participating in the program is through collaboration with the provinces and territories. This is why, building on the 2018 Primary Agriculture Review, the Government of Canada launched additional consultations in Fall 2020 focused on how partners could work together to improve employer-provided accommodations to temporary foreign workers in the agricultural sector.

As is demonstrated in this report, these consultations have highlighted the complexity of this issue due, in part, to the large number of implicated stakeholders and the variability in standards and requirements across Canada. To this end, the Government of Canada will continue to make efforts to develop an approach that recognizes existing provincial, territorial, and municipal standards but also helps to improve accommodations for temporary foreign workers in agriculture.

This is why, as an immediate first step, I have directed officials within the Department of Employment and Social Development Canada (ESDC) to lead the development of proposed program changes focused on addressing the most pressing, and non-negotiable, health and safety concerns related to temporary foreign worker accommodations. Key areas of focus will include the availability of potable water and clean air, overcrowding, and the proximity of living quarters to hazardous material. The proposed program changes are expected to be communicated in 2022 to allow partners to be consulted and better prepare for implementation. In moving forward to work with our provincial and territorial partners to strengthen the requirements for employer-provided accommodations, the Government of Canada recognizes its responsibility to act given temporary foreign workers' immigration status and unique vulnerability.

These proposed program changes will also build on the proposed amendments to the *Immigration and Refugee Protection Regulations* (IRPR) that were pre-published in the Canada Gazette in 2021, and are expected to be implemented in early 2022. Taken together, the proposed program changes are expected to improve the ability to prevent bad actors from participating in the program, strengthen our ability to effectively conduct inspections and apply penalties for non-compliance, and to directly improve the protection of vulnerable temporary foreign workers.

In closing, this "What We Heard" report outlines the key themes and messages received in response to the consultation on employer-provided accommodations. I would like to thank all who contributed and shared their views.

I am pleased to share this report with you, and look forward to continued collaboration and advancement in this area.

The Honourable Carla Qualtrough
Minister of Employment, Workforce Development and Disability Inclusion

Background

On July 31, 2020, the Government of Canada confirmed its commitment to improve the living conditions of TFWs by announcing its goal to develop stronger requirements for employer-provided accommodations under the TFW Program. It committed to consult with provincial and territorial governments, employers, TFWs and foreign partner countries on a proposal of these requirements, and to work with partners to implement any resulting changes. Consultations on proposed requirements took place between October 27, 2020, and December 22, 2020.

Current accommodation regulations and limitations in the TFW Program

Certain employers who wish to hire TFWs under the program's [Primary Agriculture Stream](#) are required to provide adequate accommodations to those TFWs, while they are employed in Canada. This is outlined in existing TFW Program policy, and is specifically mandated for employers of seasonal agricultural workers under section 209.3(1)(a)(vi) of the IRPR. While there is no obligation for TFWs to stay in employer-provided accommodations, they can face many practical barriers to finding affordable alternatives that are within reasonable proximity to their place of work.

Setting accommodation standards is the responsibility of provincial and territorial governments under the Constitution. As part of their application to the Primary Agriculture Stream, these employers are required to submit a housing inspection report to demonstrate that an inspector authorized at the provincial, territorial or municipal level, inspected the accommodation arrangement for TFWs at least 8 months prior to their application, and found it compliant with all applicable provincial, territorial or municipal legislation.

If the report indicates that this inspector found the accommodation non-compliant with applicable provincial, territorial or municipal legislation, the Government of Canada will not approve the employer's application. As a result, the employer will not be permitted to hire TFWs under the Primary Agriculture Stream.

Employers who are approved to use the Primary Agriculture Stream, can be monitored by the Government of Canada for up to 6 years after a TFW begins work under their employment. These inspections, which include unannounced on-site inspections, verify that employers are meeting requirements in the IRPR and specific requirements under the TFW Program.

The Government of Canada generally does not have the authority to inspect accommodations against provincial, territorial and municipal laws or regulations. However, it can notify the provincial or territorial government in the event that potential concerns are identified during an inspection.

An exception to this was granted under the *Quarantine Act* during the COVID-19 pandemic. The federal government was given limited authority to introduce and inspect quarantine-related accommodation requirements during TFWs' quarantine period. This was permitted on a public health interest rationale. Requirements included the following:

- Accommodations must provide enough space for workers to keep 2 meters apart from each other at all times
- If insufficient space is available in existing accommodations, the employer may need to find alternate housing (for example, a hotel)
- The employer should ensure that all surfaces are cleaned and disinfected regularly
- The employer must provide the necessary cleaning materials and replace them when needed
- The employer should post written notices and best practices to prevent the spread of COVID-19 in bathroom, kitchens and common areas
- Isolation spaces must be available to workers who show signs of symptoms. These accommodations must include a private bedroom and private bathroom

Employers are subject to inspections on these grounds, and those who do not comply with requirements could be subject to penalties of up to \$1 million and a ban from hiring foreign workers, depending on the seriousness of the situation and number of workers affected.

Proposed approach: Requirements under the TFW Program

The federal government's current oversight of TFW accommodations is consistent with the established roles and responsibilities of each level of government. However, ESDC has acknowledged the need to strengthen its role in this area to ensure that TFWs are not subject to unsafe and unsuitable accommodations during their employment in Canada.

ESDC recognizes that TFWs who work in Canada's agricultural sector face particular vulnerabilities as participants in the Canadian labour market. These vulnerabilities are attributable to multiple factors including their temporary status, language barriers and limited accommodation options in rural/remote areas.

Feedback from the Fall 2020 consultations made it clear that provincial and territorial jurisdiction should be respected in the area of housing and accommodations standards. It is also clear that an approach to employer-provided accommodations for TFWs requires a nationally consistent framework that addresses a clear list of baseline requirements. This would ensure that accommodations are meeting, at minimum, acceptable jurisdictional standards prior to approving an employer's application to bring TFWs to Canada.

To this end, the Government of Canada will propose program changes in 2022 that will require that employers providing accommodations to TFWs, demonstrate compliance with current accommodations and housing standards already in place in their province or territory. Currently, employers are required to submit a housing inspection report as part of their Labour Market Impact Assessment (LMIA) application. However, these reports do not consistently provide the level of detail that is required to ensure that essential aspects of the accommodation are meeting required standards. The implementation timeframe will give any impacted stakeholders sufficient time to comment, adjust and prepare to meet new requirements.

The intent of proposed program changes will be to grant the Government of Canada the authority to require that employers provide consistent and explicit proof to the federal government that confirms compliance with provincial, territorial or municipal standards. This proof will be required as part of the employer's application to the TFW Program, and employers will be expected to ensure that accommodations remain compliant throughout the season.

The Government of Canada will largely defer to existing provincial, territorial and municipal accommodation standards to inform the development of these program changes. However, the Government of Canada will also work with partners on developing requirements that are not present in their current accommodation standards, but are necessary to protect TFWs from unsafe accommodations as per the feedback received during consultations. Key areas of focus will include the availability of potable water and clean air, overcrowding, and the proximity of living quarters to hazardous material.

Moving forward, the Government of Canada will continue to seek opportunities to engage, collaborate, and assist all levels of government to ensure continued collective action and to ensure effective implementation of resulting changes.

Methodology

The Government of Canada announced the launch of public consultations on October 27, 2020. The announcement included a **call-out for written feedback on a list of proposed requirements drafted by the Government of Canada**. These proposed requirements served to prompt discourse and aid the Government in identifying and addressing the most immediate accommodation concerns. They were available on the [Consulting with Canadians](#) website, with a summary of the issue and questions to guide feedback.

Two versions of this package were developed. One for the general public and available in 6 languages, and the other for provincial and territorial governments. See [Annex A](#) for the list of proposed requirements, and [Annex B](#) for the list of key questions. The deadline for feedback was December 22, 2020.

Ten targeted teleconferences were held in November 2020 with key stakeholder groups whose input is vital to ensuring the effectiveness of new requirements. The purpose of these calls was to introduce the consultation package, answer questions, and gather initial feedback. Stakeholder groups included:

- provincial/territorial governments
- municipalities
- migrant worker support organizations
- employers
- public health units
- labour groups and unions
- national housing experts
- foreign governments participating in the Primary Agriculture Stream

To complement these consultations, the Government of Canada also launched a **TFW Housing Survey** on November 2, 2020. This survey was shared with employers participating in the Primary Agriculture Stream. It aimed to collect data on the types of accommodations currently provided to TFWs. Data from this survey will streamline development of proposed program changes, identify potential implications for stakeholders, and inform implementation plans. The deadline for submissions was December 9, 2020. See details in [Annex C](#).

Who we heard from

Key Stakeholders Groups

- Municipalities
- Fire Chiefs and Associations
- Public Health Units
- Migrant Worker Support Organizations
- Employers
- Industry Associations
- Unions
- Labour Groups
- Academia
- Foreign Governments

Provincial Governments

- British Columbia
- Alberta
- Ontario
- Québec
- Nova Scotia
- Newfoundland and Labrador
- New Brunswick
- Prince Edward Island
- Manitoba
- Saskatchewan

Contributed to the discussion

- 148 written submissions
- 10 targeted teleconferences
- TFW survey to inform next steps

Outreach

- The views of 675 migrant workers represented in submissions made by migrant worker support organizations
- Consultation materials were available in 6 languages
- Information on this consultation was publicly available on the [Consulting with Canadians website](#).

What we heard: Stakeholder consultations

Approximately 150 submissions were received from a range of stakeholders representing provincial/territorial governments, municipalities, fire chiefs and associations, public health units, migrant worker support organizations, employers, industry associations, unions, labour groups, academia and foreign governments. Of particular importance, the views of over 675 migrant workers were represented in submissions made by migrant worker support organizations.

A summary of feedback is organized below according to the main accommodation themes and concerns that the consultation aimed to address. It is important to note that feedback from stakeholders was wide-ranging and broad-based, with divergent perspectives on a number of key issues. This report aims to provide a balanced reflection of the ideas and perspectives raised. In doing so, it is important to note that not every comment received can be reflected in this document. In addition, the feedback received represents a sample of the views of each stakeholder group, and should not be taken as representative of each group as a whole.

Theme 1: Privacy and overcrowding

A key objective of consultations was to identify and address concerns regarding insufficient personal space, limited bathroom, kitchen and laundry amenities, and the use of bunkbeds. These factors can often lead to overcrowding, a lack of privacy and created serious risks to workers' mental and physical well-being.

Space allocation requirements

During stakeholder consultations in the Fall of 2020, the Government of Canada sought feedback on a proposal that would require a minimum distance of 2 meters between beds in each bedroom. This measure was proposed to make accommodations more adaptable to address communicable disease outbreaks in the future. It would extend the existing COVID-19 regulation introduced by the Government of Canada beyond the 2020 and 2021 seasons. In addition, the Government proposed that accommodations allow for 7.44 square meters (80 square feet) of total usable and unobstructed floor area per person in common living spaces.

While the majority of stakeholder groups agreed that explicit requirements on personal space are necessary, they did not believe that proposed requirements went far enough to address issues of privacy and overcrowding. Stakeholders from public health units, municipalities, migrant worker support organizations, unions and labour groups suggested the following:

- increase the amount of floor area allotted per person to 120 to 160 square feet

- use cubic unit measurements instead of square unit measurements to address airflow needs
- define and configure spaces for privacy and specific use. This includes explicit requirements on the number of doors required in each room, the construction of floor-to-ceiling wall separations, adequate storage space, windows and lighting
- include requirements on the provision of outdoor recreational space and/or multiple indoor common spaces, depending on total occupancy, to avoid overcrowding; and
- configure spaces like sleeping quarters and washrooms using a more inclusive lens, to account for the needs of women and non-binary individuals. This includes the explicit provision of women only and gender neutral washrooms

At the same time, it was also acknowledged that employers could potentially incur significant costs to meet proposed requirements. Submissions made by employers, industry organizations and provincial/territorial government officials raised serious concerns about the practicality of requiring employers to meet new spacing requirements without assistance. They noted that:

- employers would have to make significant upgrades to existing accommodations in an effort to meet proposed requirements
- securing the appropriate building permits, land, funds, materials and personnel to retrofit and/or build new accommodations to meet proposed requirements would be an expensive and time-consuming process, which may in some cases be limited by restrictions in certain regions; and
- investing in significant upgrades would not be economically feasible for some agricultural industries who only hired workers for a short period of 6 to 8 weeks in a season

Ratios for bedrooms, fixtures and appliances

To further address issues of overcrowding in employer-provided accommodations, the Government outlined a series of proposed ratios that set maximum bedroom occupancy at 4 persons per bedroom, and various minimum requirements on the provision of essential fixtures and appliances within worker accommodations (for example, toilets, showers, sinks, ovens, refrigerators, microwaves, washers, dryers).

In response, the majority of employers and a few provincial/territorial government officials stated that ratio requirements for bedrooms were unnecessary because space allocation requirements were enough to determine the maximum number of persons per bedroom, while also allowing employers to work within the spaces they already have. However, other stakeholders, including provincial/territorial health officials, public health units, migrant worker support organization, and academia agreed that explicit ratios

were necessary to limit overcrowding and mitigate public health risks. They also suggested:

- smaller ratios ranging between 1 to 4 persons per bedroom would ensure privacy. In addition fully retrofitted “isolation spaces” should be available to allow individual workers to quarantine if showing signs of symptoms thereby mitigating the risk of larger outbreaks; and
- ratios should be consistent across bedrooms, bathrooms and kitchens so that workers can live in small cohorts and limit disease transmission across larger groups of workers

Other stakeholder groups including employers, industry organizations and a few provincial/territorial officials preferred slightly larger ratios, such as 6 persons per bedroom, and reiterated concerns regarding the significant resource and financial costs that smaller ratios would impose on employers.

These stakeholders also suggested that more consideration be given to other types of accommodations provided by employers like trailers or single-family dwellings. They indicated that the proposed spacing and ratio requirements were largely skewed towards addressing challenges associated with bunkhouses.

Bunkbeds

Consultations also aimed to seek input on the use of bunkbeds, which were noted as major contributors to overcrowding, and a lack of personal space and privacy. They were also identified as potential amplifiers of disease transmission when workers lived in close quarters.

Feedback showed that the majority of stakeholders supported the prohibition of bunkbeds in employer-provided accommodations to support the mental and physical health of workers and reduce the risk of overcrowding. However, they advised conducting further analysis to identify ways to mitigate the impact that this prohibition would have on employers.

Submissions from employers indicated that the strict elimination of bunkbeds would significantly decrease capacity in existing buildings and as a result, businesses would have to downsize their workforce and/or make large investments for new builds.

To mitigate the impact on employers, provincial/territorial government officials and public health units recommended phasing-in the elimination of bunkbeds. In the meantime, they suggested the following alternative approaches that were consistent with public health measures introduced during the pandemic, but also increased quality of life:

- employers who provide bunkbeds must ensure that only 1 bunk is occupied at a time; and, to decrease the risk of disease transmission
- if there is more than 1 bunkbed in a room, bunkbeds can be spaced 2 meters apart and arranged head-to-toe or toe-to-toe, or could be arranged in a L-shape, with the head of the beds positioned at the extreme ends; and
- employers could use temporary barriers between beds that met specified requirements, to prevent disease transmission and provide some privacy

Public health units also clarified that while the elimination of bunkbeds would reduce disease transmission, it would not eliminate transmission completely, particularly in enclosed spaces.

Theme 2: Health and safety of workers

A key objective of consultations was to determine what was needed to ensure that accommodations supported a healthy and comfortable living environment. This included addressing serious concerns raised by workers regarding poor air and water quality, unmaintained accommodations, and the proximity of hazardous materials near or in living quarters.

Water and air quality

According to the Primary Agriculture Stream's existing accommodations policy, employers should provide workers with adequate accommodations as defined by the Canadian Mortgage and Housing Corporation and in accordance with applicable provincial, territorial and municipal authorities.

In its drafted proposals, the Government of Canada maintained that it would continue to uphold this policy and require that accommodations meet existing provincial and territorial building Codes, fire Codes, and health and safety legislations.

However, to address specific concerns previously raised about water and air quality in some employer-provided accommodations, the Government outlined the following additional requirements to prompt further discussion:

- sinks provided in washroom facilities must have hot (>43°C) and cold running water
- accommodations must maintain a temperature between 20°C to 25°C
- accommodations must have proper, functional heating and air conditioning equipment to maintain this specified temperature range, as well as humidity control; and

- all washrooms must be within worker accommodations and have separate ventilation with an exhaust fan

With respect to water, feedback from municipalities, migrant worker support organizations, unions, labour groups, public health units, and some provincial/territorial government officials advised that minimum program requirements should include explicit language on the quality and quantity of water provided in accommodations including:

- requirements on the provision of potable and hot water in all kitchen and washroom sinks, and showers
- a tank size requirement for hot water (for example, 20 gallons per occupant using the tank)
- a requirement that sewage system capacity be a determinant of occupancy rate
- a requirement that accommodations unable to connect to municipal sewers must be connected to a functioning septic system that is sized accordingly and meets local standards; and
- require that accommodations unable to connect to a municipal drinking water service must be sampled and tested at least once per month

The impacts of these requirements on employers were also acknowledged in submissions. In particular, it was noted that employers would have to incur significant financial costs to upgrade septic facilities, especially in rural areas. Additionally, environmental factors, like septic allowances or municipal building codes could potentially pose an obstacle to an employer's ability to comply.

With respect to air quality, the majority of stakeholders supported the Government's proposed requirement on the provision of adequate heating and cooling equipment but suggested the following additional requirements:

- require the provision of proper ventilation (for example, windows and/or mechanical ventilation) in all living spaces. Public health units emphasized this would prevent the spread of airborne pathogens and support Infection, Prevention and Control objectives
- ensure that heating and cooling equipment can be controlled by TFWs and not solely by the employer
- specify humidity control at 40% to 60%
- prohibit space heaters as they are a fire hazard
- require that mechanical ventilation equipment is in working condition; and,
- ensure living spaces are smoke-free

Some provincial/territorial government officials and the majority of employers and industry associations raised concerns about the requirement to provide air conditioning. In particular, they noted that:

- air conditioning is not necessary in all regions of Canada to maintain a reasonable temperature
- considerations need to be made for different types of accommodations. For example, single-family dwellings tend to stay cooler in the summer and do not need air conditioning
- cooling and heating is not necessary in accommodations that are only used to house workers on a seasonal basis
- some existing accommodations cannot accommodate air conditioning, so the Government should consider fans as an acceptable alternative; and
- financial costs for water, hydro, gas could be mitigated if employers charged workers a small fee

Cleaning, sanitation, and maintenance

Although the Government of Canada mandates compliance with provincial and territorial building codes, and suggested the additional provision of furniture, mattresses, showers and laundry facilities that were in clean and good condition, stakeholders believed these measures would not go far enough to address concerns about the poor condition of accommodations.

Multiple stakeholders including municipalities, public health units, and migrant worker support organizations highlighted the lack of proposed requirements addressing the maintenance of accommodations. They suggested the following additions:

- an explicit requirement that ensures accommodations are cleaned, maintained and in sanitary condition (for example, mold, insect, mice and pest-free)
- employers must provide enough cleaning and sanitation products that last the duration of workers' stay
- interior walls, floors, ceiling and furniture must be made of material that is free from defects, impervious and can be easily cleaned and maintained
- appliances should be no more than 10 years old, to ensure they are in working order; and
- employers must establish clean living space protocols. New workers, staff and contractors must be educated on procedures via training sessions and/or appropriate signage

Although employers agreed that the major upkeep of accommodations was their responsibility, they suggested that after the initial set up, workers should be required to pay a small weekly fee for the maintenance of their accommodations. This fee could be used to employ a full-time worker who would ensure regular cleanliness, maintenance and disinfection of living quarters.

Proximity to waste and hazardous materials

The majority of stakeholders believed that proposed requirements for employer-provided accommodations did not effectively address recurring health and safety issues arising from the location of living quarters near waste and hazardous materials.

Proposed requirements mandated employer compliance with provincial and territorial building codes, fire codes, and health and safety legislation, and required that facilities used to clean personal protective equipment (for example, spray masks, rain gear, gloves) be separated from laundry machines and living areas.

Representatives from public health units, migrant worker support organizations, provincial/territorial government officials, municipalities, unions and labour groups recommended the following additions:

- specify minimum indoor and outdoor distance from hazardous and harmful chemicals and materials
- define 'hazardous materials' (for example, fertilizers, pesticides, boilers, industrial fans, heaters)
- require that employers provide separate indoor storage for work clothes and boots, to prevent contamination in living and sleeping quarters
- prescribe the location and number of garbage receptacles required indoors and outdoors; and
- require that employers ensure that garbage is collected weekly at a minimum

Theme 3: Mobility and accessibility to resources

The Government of Canada recognizes the significance of supporting each workers' autonomy over their movement. It also noted concerns of social isolation and the importance of ensuring that accommodations facilitated workers' connection to their families back home, and supports or services in Canada. Therefore, a key objective of consultations was to identify ways to ensure that accommodations enabled TFWs to have freedom of movement and reasonably receive guests without restriction, and enabling access to phone and internet services so TFWs could connect with their families, support organizations and other services.

Visitor access to accommodations

The Government sought feedback on a proposal to make accommodations “accessible to the public”.

Although stakeholders generally supported the inclusion of this requirement in principle, they identified the following areas for further consideration:

- employers, provincial/territorial government officials and public health units, noted that making accommodations accessible to the public would create bio-security risks that could be too high to manage.
- since accommodations are private property, mandating public access overlooks employers’ liability concerns
- municipalities, provincial/territorial government officials and public health units requested further analysis on how this requirement could be properly enforced and monitored
- migrant worker support organizations advised complementing this requirement with an explicit prohibition on employer control over visitor access, with special protections provided when TFWs invite legal support, medical service providers and community groups
- requirements should explicitly mandate an entrance/exit that allows easy access to public access areas
- amend wording to clarify that buildings are not to be open to the public at large, but only to the friends and families of workers; and
- include requirements that address accessibility needs for disabled or injured workers, visitors, staff, inspectors

Wi-fi and phone service

To further support workers’ ability to access resources and improve mental health, the Government of Canada sought feedback on a proposal to require “access to phone service and free internet will be provided where available”.

The inclusion of the new requirement was widely supported by stakeholders who noted that communication technologies are a basic necessity. These stakeholders, including migrant worker support organizations, municipalities, provincial/territorial government officials, and public health units suggested the following enhancements to this requirement:

- amend the current wording that employers only need to provide phone and internet services “where available”. This could lead to some arbitrarily deciding to make phone service and internet unavailable

- add language to ensure that workers can access the phone and/or internet without the assistance of employers, and can use both without fear of surveillance, monitoring or interference; and
- specify the amount of data and/or internet speed required

Some of these stakeholders, along with employers, also raised concerns regarding employers' ability to provide these services free of charge:

- in rural and remote areas, internet cannot be guaranteed or can only be accessed at very high cost. This will result in significant costs for employers if they are expected to provide it free of charge
- costs could be mitigated if workers were charged a portion of expenses for variable and/or non-essential services, or if funding was provided
- employers noted that workers generally had their own mobile phones, so the provision of landlines would not be necessary; and
- they also stated that workers should be responsible for acquiring their own cell and/or data plan; only the provision of wireless internet was necessary

Access to transportation

As part of the Government's consultation, stakeholders were asked to identify other approaches to further enhance a workers' freedom of movement and accessibility to resources.

In response, multiple stakeholder groups including migrant workers support organizations, provincial/territorial government officials, public health units, academia, unions and labour groups stressed the need for workers' access to transportation that is not regulated by employers, to access healthcare, remittances, and community support. They suggested the following:

- mandating that TFW accommodations be located close to public transportation access, where available
- explicit requirements for employers to provide regularly scheduled trips to and from nearby communities, shuttle buses and/or bikes where appropriate; and
- in cases of medical emergency, workers must be able to access independent, third-party transportation to medical care

Theme 4: Inspections and enforcement

In addition to seeking input to develop stronger federal requirements, the Government of Canada also sought input to develop measures that strengthened oversight mechanisms for pre- and post-arrival inspections of employer-provided accommodations.

Provinces/territories, municipalities and public health units on pre-arrival inspections

As mentioned previously, employers wishing to access the Primary Agriculture Stream must submit a housing inspection report with their application to the Stream that indicates that an official authorized at the provincial/territorial or municipal level, has inspected accommodation(s) for TFWs at least 8 months prior to their application, and found them compliant with applicable provincial, territorial or municipal legislation.

Since these pre-arrival inspections are conducted under the authority of provinces and territories, it is imperative that the Government of Canada coordinates with these governments to ensure the effective pre-arrival oversight and compliance with new minimum requirements. To this end, the Government sought feedback on whether a list of authorized provincial/territorial inspectors could be created, who must be used by employers to conduct TFW Program housing inspections. The following feedback was received from provinces/territories:

- there are various compliance and enforcement regimes, which vary from jurisdiction to jurisdiction within a province/territory. Whether it is feasible to create a list of authorized inspectors employed and/or managed by provincial governments will need to be further discussed
- proposed federal requirements are not aligned with current provincial/territorial regulations on accommodation requirements. Provincial/territorial and local inspectors cannot enforce new federal requirements without the proper provincial/territorial regulatory authority
- provinces/territories will require information sharing agreements and memoranda of understanding to support the coordination of inspections
- provinces/territories require clear delineation and/or regulatory oversight over the division of roles and responsibilities regarding inspections. Once clarified, appropriate training is required; and
- provincial/territorial and local resource constraints must be considered, especially in rural/remote areas

To mitigate costs, provinces/territories suggested a number of options, including:

- outsourcing inspections to private agencies
- allowing employers to self-document and submit evidence via geo-dated photo documentation
- include regional inspectors on the list, not just provincial/territorial inspectors
- to reduce the burden, adjust timelines for pre-arrival inspections from 8 months prior to an employer's application to the TFW Program to 12 months; or
- have the federal government take responsibility for inspecting requirements that are above current provincial/territorial regulations

The following feedback was received from municipalities and public health units:

- municipalities disagreed with the use of private inspectors for the purposes of LMIA approvals
- some fire chiefs and public health units suggested mandating pre-arrival inspections and sign-offs by each municipal agency responsible for their respective area (for example, fire, building, septic). Some public health units did not think they should be the sole approval agency and fire chiefs/associations stated that public health officials did not have the technical expertise or authority to adequately inspect and enforce fire regulations. Fire chiefs also suggested sharing the location of TFW accommodations with fire departments to allow for education, inspection and advanced planning in the event of an emergency; however
- submissions also suggested that some municipalities were understaffed and would be unable to process requests in a timely manner.

Generally, all stakeholders were open to having further discussions on the topic of inspections and believed that this consultation process could provide an opportunity to properly coordinate and align inspections by all 3 levels of government.

Post-arrival inspections

The Government of Canada can launch inspections up to 6 years from the first day of a TFW's employment if there is reason to suspect TFW Program non-compliance, previous non-compliance, or by random selection. When an employer fails to meet program requirements or does not cooperate during an inspection, a range of consequences can be imposed, such as administrative monetary penalties, and bans from using the TFW Program.

Stakeholders including migrant worker support organizations, academia, unions and labour groups, noted that cases of non-compliance could go undetected by the Government of Canada because many TFWs were reluctant to make complaints against their employer for fear that their employer may terminate their work contract, thus losing present and likely future employment in Canada. To mitigate this concern, these stakeholders suggested the following:

- pre-arrival accommodation inspection should be done a maximum of 3 to 8 weeks before TFWs arrive, as opposed to the current requirement of 8 months prior to an employer's application to the TFW Program. This will ensure that accommodations reflect TFWs' living conditions better, and also give enough time to correct infractions
- in addition to the pre-arrival inspections, accommodations should be inspected at least once or twice each season. These inspections should be unannounced and conducted once all TFWs have moved in
- inspections should include confidential interviews with TFWs
- penalties must be severe enough to deter non-compliance, and compensation must be awarded to TFWs in cases of substandard accommodations
- an anonymous complaints portal should be developed to receive, triage and translate workers' complaints, or third-party complaints (for example, migrant worker support organizations); and
- effective anti-reprisal protections should be put in place

While a few employers perceived additional inspections as a sign of a lack of trust, the majority supported strengthening the consistency and quality of inspections, and suggested the following:

- more unannounced inspections when TFWs are present. Alternatively, inspections could include phone calls with TFWs
- employers who are non-compliant should be denied access to work permit programs until infractions are corrected
- more frequent inspections must be given to employers found non-compliant, while less frequent inspections should be given to compliant employers; and
- employers across Canada should be held accountable under the same standards

Key areas of convergence

Although feedback from these initial consultations underscored the varying interests and perspectives of TFW Program stakeholders on the adequacy and practicality of proposed federal minimum requirements, an analysis of this feedback also reveals multiple areas of convergence among all stakeholders.

1) Further consideration for provincial/territorial and local jurisdiction is required:

- Inconsistencies between proposed requirements and existing provincial/territorial and local requirements must be reconciled to ensure successful application, implementation and enforcement by provinces/territories and employers. Additionally, federal requirements should not prevent other jurisdictions from amending requirements as needed to respond to local needs or priorities

2) Requirements must recognize different styles of accommodations and rural settings:

- Accommodation types (for example, single-family houses, apartments, or dorms with bunkbeds) and locations (for example, rural or remote locations) vary widely across Canada; therefore, federal requirements must acknowledge these differences when developing far-reaching standards

3) Ratios must be consistent and evidence-based:

- Stakeholders require more insight on the rationale used to determine proposed ratios on the occupancy and use of sleeping quarters, living spaces, washrooms, and kitchen and laundry facilities. Additionally, a consistent approach to ratios is preferred, as it will support successful adoption, implementation and enforcement by various jurisdictions and employers

4) Requirements should largely be the same for seasonal and year-round workers:

- Apart from requirements to 'winterize' accommodations, federal minimum requirements should be the same for all workers

5) The Government must address financial implications of new requirements:

- The implementation and enforcement of new requirements will require increased costs for many stakeholders, including employers, provincial/territorial governments and municipalities. The Government will have to consider ways to mitigate the cost implications of new requirements on stakeholders

6) Improve the inspections regime:

- Nearly all stakeholders stressed the importance of improving the current inspections regime across all level of governments by clarifying the roles/responsibilities of the different federal/provincial and territorial/municipal enforcement authorities, providing more training to inspectors, and increasing unannounced on-site inspections

Conclusion

The Government of Canada would like to thank everyone who contributed to the 2020 Consultations on Federal Minimum Requirements for Employer-Provided Accommodations.

The information collected through these consultations has provided valuable insights to advance the work on this important issue. In addition to the steps already taken, moving forward, the Government of Canada will closely review and consider the ideas and experiences shared through this process in developing proposed TFW Program changes that will focus on addressing the most immediate health and safety concerns voiced during these consultations. These proposed program changes are expected to be announced in 2022 to allow partners to be consulted and better prepare for implementation.

The Government of Canada will continue to seek opportunities to further engage with stakeholders as we work to establish a comprehensive and achievable framework that ensures a lasting approach to improving living conditions for TFWs in Canada.

Annex A: Proposed federal minimum requirements for the TFW Program

Proposed federal requirements for the TFW Program refers to elements that ESDC proposed to consider as minimum program requirements for all employers who are required to provide accommodations. These requirements are based on:

- existing examples of provincial or territorial housing standards used in the program from the largest provinces – Ontario, Quebec and British Columbia
- Schedule F – an optional housing inspection form used by the TFW Program in cases where a housing inspection report form is not available in a province/territory/municipality; and
- other examples of temporary housing such as work camp accommodations.

In some cases, proposed requirements would be new to the program as they are not currently provided for in existing requirements.

Important note: In several cases, the proposed requirements provide specific and detailed metrics for consideration, including for example minimum square footage and amenities in common areas and sleeping quarters; specific ratios for amenities and resources for workers; and a specific temperature range to be maintained in the accommodations. This is meant to support informed input on the adequacy of the proposed requirements in meeting overall desired outcomes and assessment of potential impacts. As a result, these should not be interpreted as final, but for discussion purposes only.

Building structure

- Accommodations must be sound as per PT building codes, fire codes and health and safety legislation, for example:
 - no leaks, electrical issues, mold, or pest infestations
 - proper safety equipment (such as, smoke alarms, fire extinguishers)
 - proper and adequate structural features (windows, separate spaces, doors)
 - any hazardous materials must not be kept close to living quarters
 - required egress, emergency exits and lighting
- The building must be accessible to the public

Common living spaces

- Housing must allow for a temperature range of 20°C to 25.5°C (68°F to 78°F) can be maintained in all areas and at all times
- Housing must have proper, functional heating and A/C equipment to maintain specified temperature range and humidity control, for example central or room AC; central heating, space heaters (depending on the time of year the accommodations are inhabited)
- Sufficient furniture should be provided dependent on the number of workers housed in the accommodations
- Furniture should be of sound construction and in good condition
- A maximum occupancy rate of 7.44 sq. m (80 sq. ft) of total usable, and unobstructed floor area per person for common living spaces

Sleeping quarters

- Each bedroom should have a maximum of 4 workers per room with a minimum distance of 2.0 m (approx. 78 inches) maintained between all beds
- Each bedroom should be supplied with:
 - A desk
 - A waste basket
 - A padded chair
 - At least 4 coat hooks on interior walls
- Each room should be fully enclosed with a door and a mortise-type lock and the occupant(s) shall be supplied with 1 key per occupant at no cost
- All beds must consist of a proper bed base/frame at least 20 cm (7.87 inches) off the floor, a clean pillow, a clean, supportive mattress of sound construction with a minimum width of 38" (95.6 cm), a minimum length of 75" (190.5 cm), and a minimum height of 25" (63.5 cm)
- Each worker should be supplied with:
 - A linens package in clean and good condition (no holes) upon arrival, which includes a minimum of 2 pillowcases, 2 sheet sets and at least 1 blanket per bed
 - An adequate, enclosed, storage space/compartments within a reasonable distance from the bed, which may take the form of 1 locker OR 1 shelf OR a small dresser (2 to 4 feet in size)
- Review approach to bunkbeds, including alternative designs/approaches that would meet public health objectives and improved living conditions
- Males and females cannot share a bedroom (unless they are spouses)
- Workers should be provided their own individual bed and are not required to share a bed with anyone other than a spouse
- Spouses should be provided with a double/queen size mattress

Washroom facilities

- All washrooms must be within worker accommodations
- Washrooms to be separated from sleeping rooms by full partitions and lockable doors and to have separate ventilation with exhaust fan
- 1 toilet for every 5 workers
- 1 shower, with opaque privacy barriers and in good working condition and sanitary, must be accessible for every 4 workers. Each shower should be accompanied with an adjacent dressing cubicle with curtains, a hinged seat on the wall or a bench seat and 2 double clothes hooks
- 1 sink furnished with a mirror above for every 4 workers with hot (>43°C) and cold running water
- Urinals shall be furnished at the ratio of 1 per 15 persons

Eating facilities

- 1 dining set with table and chairs in good condition for every 10 workers
- 1 microwave for every 10 workers
- 1 oven and stove (with minimum of 4 functional burners) available for every 6 workers
- 1 refrigerator (able to keep foods at 4°C or lower), with sufficient space for food storage, must be provided for every 6 workers
- Adequate cabinets and shelves for cooking equipment and food storage

Laundry facilities

- Worker accommodations must contain free laundry facilities for the workers
- 1 full-sized washer and dryer in good working order for every 10 workers.
- Additional drying facilities (for example, clotheslines) must be in laundry area and not in the bedrooms
- Facilities used to clean personal protective equipment (such as, spray masks, rain gear, gloves) must be separate from laundry machines and living areas

Amenities

- Access to phone service and free internet will be provided where available

Annex B: Consultation questions that guided input

Section A outlines questions provided in the consultations package that were used to guide stakeholders in providing feedback on the proposed accommodation requirements.

Section B outlines the additional questions provided to provincial and territorial governments to guide their input in providing feedback on potential approaches to improve oversight of TFW accommodations both before and after TFWs arrive.

Section C outlines questions intended to provide TFWs the opportunity to provide feedback on their needs and expectations regarding employer-provided accommodations based on their lived experiences

Section A: Questions for all stakeholders

1. Adequacy of proposed requirements

- Do the proposed federal accommodation requirements cover the right elements to ensure improved living conditions for TFWs? Are they specific enough to allow for proper implementation and assessment?
- Do the proposed requirements meet the objective of ensuring adequate personal space and privacy and eliminating the risk of overcrowding? In particular, are the proposed ratios of workers to sleeping quarters and essential amenities adequate?
- Should there be different requirements for workers who work in year-round jobs (for example, greenhouses, mushroom production) vs. seasonal jobs?
- What are possible approaches to better ensuring that workers have adequate freedom to come and go and are able to receive guests?
- Are there other aspects or alternative approaches that should be considered?

2. Public health considerations

- Would the proposed requirements assist in mitigating public health risks associated with pandemics and/or communicable diseases? What adjustments should be considered?

- Are there additional requirements that should be considered to make living quarters more adaptable to pandemics and/or communicable diseases in the future?

3. Impacts of new requirements

The government recognizes that adapting accommodations to meet new requirements for the program could require changes to existing structures or the building of new structures, and time to make changes.

- What would be the impacts for employers in terms of investments to adapt to proposed new standards? How could these impacts be mitigated?
- What would be the implications of moving away from the use of bunkbeds? Are there alternative designs or approaches to bunkbeds that would meet public health objectives and improved living conditions?
- What other factors would affect the ability to implement new requirements?
- Are there implications from the perspective of PTs, including impacts on laws and regulations that would affect implementation?
- What could be the anticipated timelines for implementing new requirements such as these?
- There are differing approaches to the amount charged to workers for accommodations under the program. In some cases, accommodations are provided free of charge, while in other cases workers are charged a weekly amount.
 - To what extent should employers vs. workers be responsible for paying the cost of accommodations? What factors should be considered and why?

4. Inspections

The TFW Program will be engaging with PTs on potential approaches to improve oversight of TFW accommodations both before and after workers arrive. Potential measures include developing a list of authorized inspectors that employers must use to conduct accommodations inspections; and requiring that housing inspection reports include new elements of proof, such as photographs and geo-location information, to support subsequent integrity inspections.

- Would such measures serve to strengthen the consistency and quality of the accommodations inspections process for the TFW Program?
- More generally, what other aspects or alternative approaches should be considered to ensure compliance with new requirements both before and after workers arrive?

Section B: Additional questions for provincial and territorial governments

5. Pre-arrival inspections

- What opportunities are available to develop a list of authorized provincial/territorial inspectors, which must be used by employers to conduct TFW Program housing inspections?
- What would be the implications for PTs in establishing this system?
- Are there other measures or approaches that should be considered to strengthen the accommodation inspection process?

6. Post-arrival inspections

- To what extent do PTs currently have authorities to inspect worker accommodations and impose sanctions?
- How could federal accommodations requirements be integrated into current PT inspection approaches?
- Are there opportunities for greater collaboration on inspections or other compliance issues with the TFW Program?

Section C: Questions for workers

The purpose of the questions in this section was to gain an understanding of workers' lived experiences so that accommodation requirements meet the basic needs of workers.

1. About your current accommodations

- How many people live in the accommodation?
- With how many people do you share a bedroom?

- Do you sleep in a bunkbed?

2. Satisfaction with your accommodations

- Are you satisfied with the overall condition of your accommodations (structure, heating and cooling)? Why or why not?
- Are you satisfied with your common living space? Why or why not?
 - Are you satisfied with the furniture based on the number of workers housed in the accommodations? Why or why not?
 - Are you satisfied with the quality and construction of the furniture? Why or why not?
- Are you satisfied with your sleeping quarters? Why or why not?
 - With how many people, at most, would you want to share a bedroom?
 - If applicable, do you have concerns with sleeping in a bunkbed?

3. Satisfaction with your amenities

- Are you satisfied with the number and condition of kitchen and laundry amenities provided?
 - How many workers should share 1 fridge, 1 sink, 1 stove, 1 oven, and 1 microwave? Why?
 - How many workers should share 1 washing machine and 1 dryer? Why?
- Are you satisfied with the number and condition of bathroom amenities provided (toilets, sinks, showers)? Why or why not?
 - How many workers should share a bathroom (1 shower, 1 toilet, and 1 sink)?

4. Communications

- Do you have sufficient access to internet and phone service?

5. General

- What are the 3 things that are most important to you when it comes to accommodations and that you would like to see improved?
- Do you have additional comments you wish to share about your accommodation or any other issue?

Annex C: Details on the TFW Housing Survey

In Fall 2020, the Government of Canada conducted a voluntary housing survey to understand the variety of accommodation arrangements currently used to support TFWs employed in Canada's agricultural sector. Surveys were sent to 4,285 TFW program participants with 1,075 participants returning completed surveys. These completed surveys represented 2,414 dwellings currently provided to TFWs in Canada.

It is important to note that survey results offer only a snapshot of the variety of accommodations currently provided by employers, and should not be taken as a comprehensive representation of all TFW accommodations in Canada. The survey relies on self-reported data and as a result cannot be verified.

The following represents a summary of the TFW Housing Survey results. Survey results will inform the development of proposed program changes, identify implications for stakeholders, and inform implementation plans.

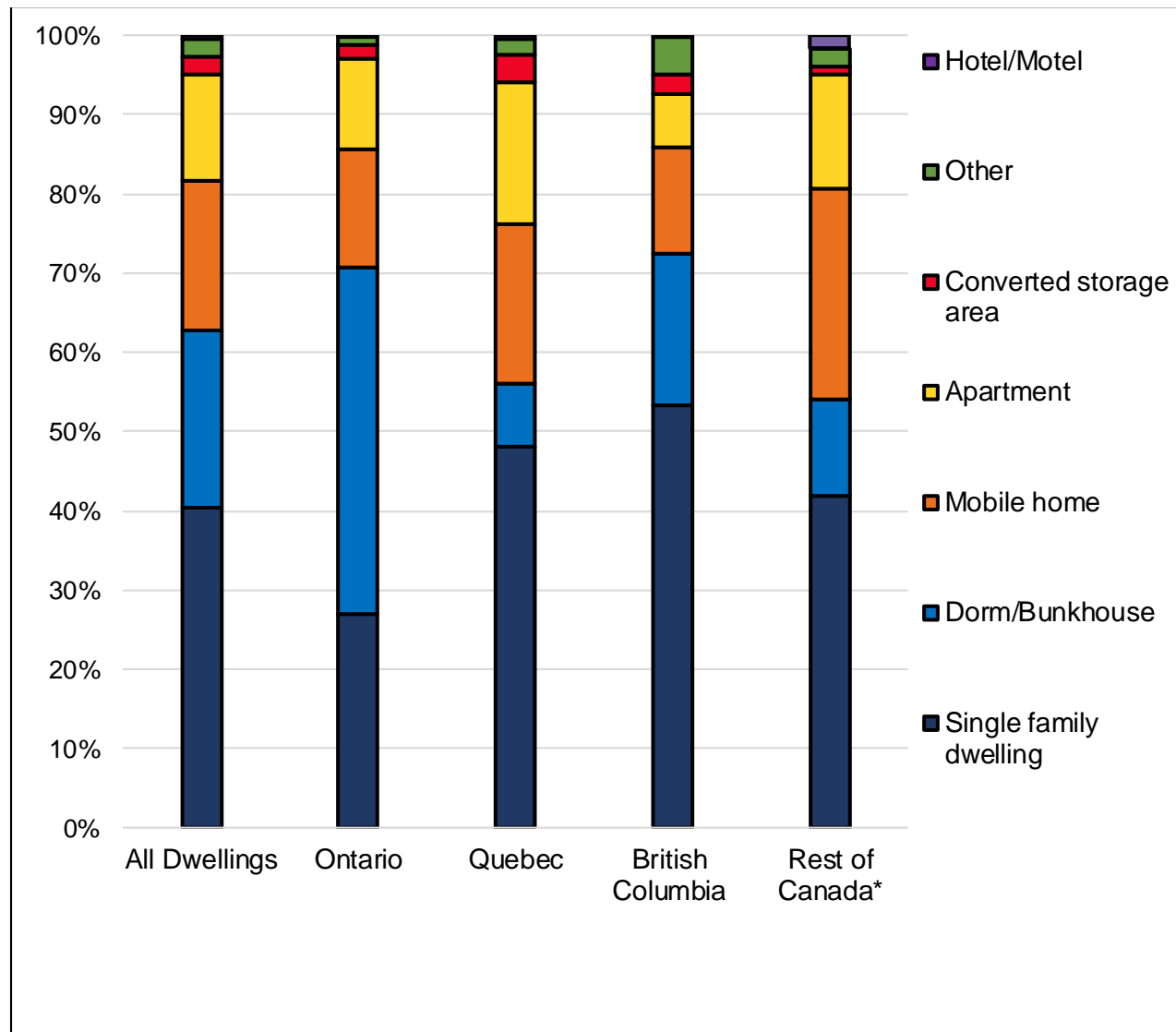
Survey participants

- The 3 major users of the Primary Agriculture Stream - Quebec, Ontario, and British Columbia - represented the largest survey respondent groups, 38%, 31% and 14%, respectively. Compared to operator data, Quebec is overrepresented in the sample while British Columbia and Saskatchewan are slightly underrepresented
- Respondents often used a combination of sub-streams under the Primary Agriculture Stream. These sub-streams include the Seasonal Agricultural Worker Program (SAWP), Agricultural Stream, Low-Wage/High-Wage Stream for work in the primary agriculture sector

Dwelling types

- Half of respondents claimed to provide 1 dwelling (53%) and only a few claimed over 4 dwellings
- Most reported dwellings were classified as single-family dwellings (40%), followed by dorm/bunkhouses (23%), and mobile homes (19%)
- Single-family dwellings were the most popular dwelling type reported in most regions, with the exception of Ontario where they were the second most common dwelling type
- Dorm/bunkhouse style dwellings were more common in Ontario than in any other region, accounting for 44% of the described dwellings. In Quebec, dorm/bunkhouses represented only 8% of dwellings

Figure 1. Distribution of Dwelling Type by Region.



Note: *Rest of Canada excludes Ontario, Quebec and British Columbia. 6 reported dwellings did not indicate dwelling type, n=2408.

- 83% of reported dwellings house TFWs who work in greenhouse, nursery and floriculture production, fruit and tree nut, vegetable and melon, and livestock farms. Across all farm types, dorm/bunkhouses represented 23% of all dwellings. Dorm/bunkhouses represented 28% of dwellings in greenhouse, nursery and floriculture production and vegetable and melon farming. 26% of fruit and tree nut dwellings were classified as dorm/bunkhouses. A higher percentage of livestock TFW dwellings were single-family homes than in other sectors (58%)

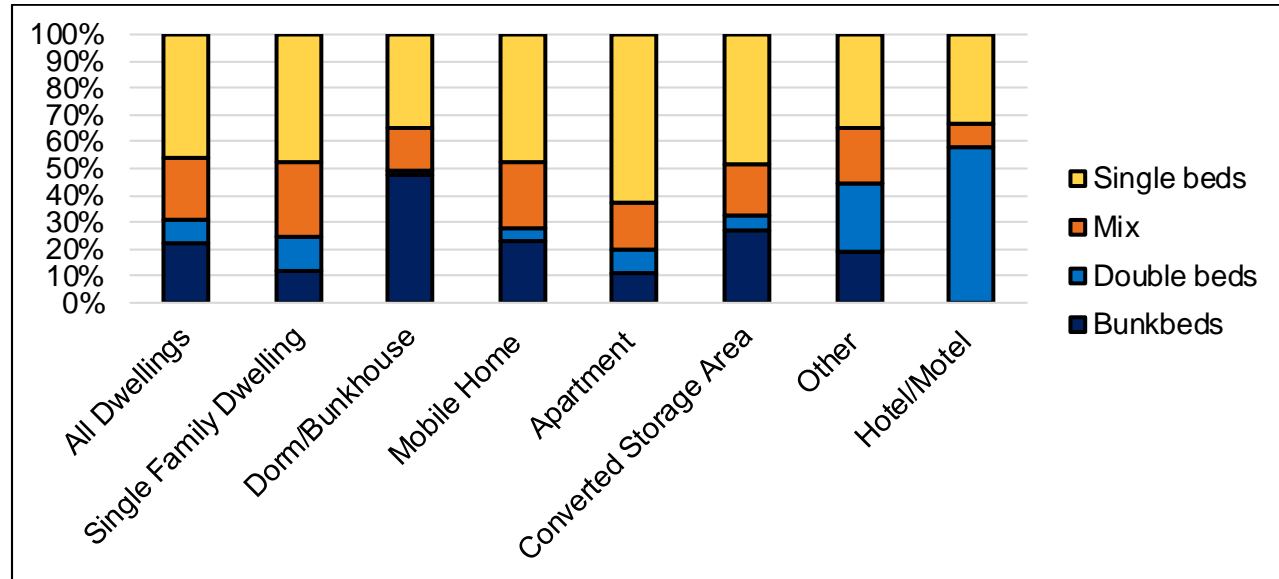
Personal space in reported dwellings

- The average reported common area space was 126 square feet per person. Single-family dwellings and apartments tended to have a higher average common area space per person. The average reported bedroom area space was 87 square feet per person. Dorms/bunkhouses and mobile homes had the lowest bedroom area space per person
- 98% of dwellings had bathrooms inside the dwelling, with 55% providing 1 toilet for 5 or fewer workers in their dwellings. Converted storage areas and dorm/bunkhouses had the highest ratio of workers to a bathroom and amenities

Bed types provided in reported dwellings

- Single beds were the most common bed type overall, while bunkbeds were prevalent within dorm/bunkhouses. Single beds represented 46% of all bed types, similar to the percentage of single beds in single-family dwellings, mobile homes, and converted storage areas. Nearly half of the beds in dorm/bunkhouses were classified as bunkbeds, the highest proportion across all dwelling types

Figure 2. Distribution of Bed Type, by Dwelling Type. N=2,374

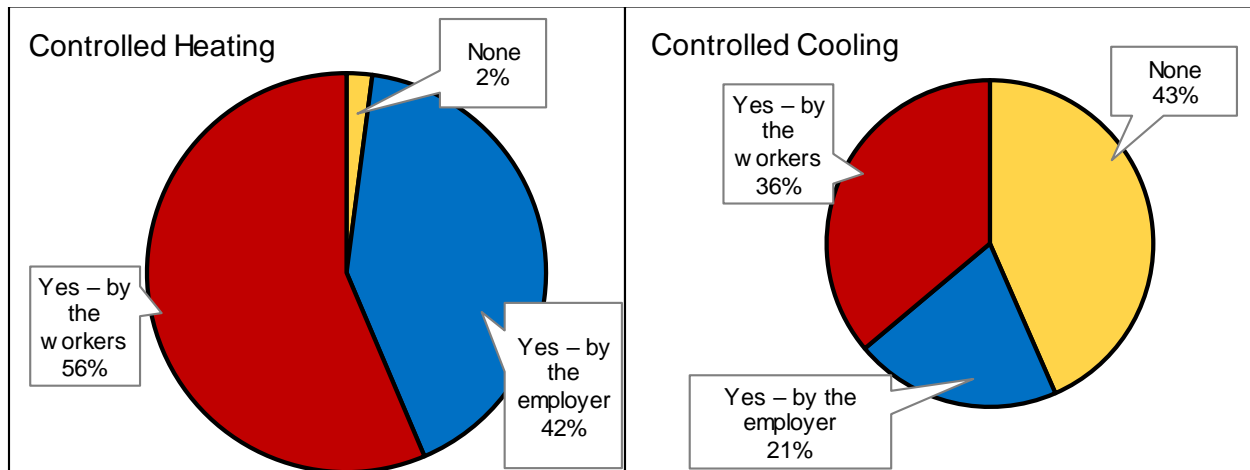


Note: 127 dwellings which did not provide answers for bed type and/or dwelling type, n=2,374.

Heating and cooling provisions in dwellings

- Most dwellings were equipped for year-round occupancy; 98% offered controllable heating but over half provide controllable cooling

Figure 3. Availability of controlled heating and cooling in reported dwellings



Note: Controlled Heating, n=2,364 and 50 blank. Controlled Cooling, n=2,332 and 82 blank.