

Stakeholder Consultations on Mandatory Requirements for Employer-Provided Accommodations in the TFW Program

INTRODUCTION

The Government of Canada is seeking feedback on proposed federal accommodations requirements for the Temporary Foreign Worker (TFW) Program, including potential impacts and considerations for transitioning to new requirements.

On July 31, 2020, the Government of Canada announced further investments to safeguard the health and safety of Canadian and temporary foreign workers from COVID-19. As part of these measures, the Government of Canada committed to developing mandatory requirements to improve employer-provided accommodations for the TFW Program, with a focus on ensuring better living conditions for workers who may be vulnerable to exploitation due to their immigration status and other factors. It also committed to consult with provinces and territories (PTs), employers, workers and foreign partner countries on a proposal for these requirements and to work with partners to implement changes.

As part of this consultation process, the Government of Canada will be undertaking a survey of existing housing in the agriculture sector to inform the development of new proposed federal accommodations requirements.

BACKGROUND

Under the TFW Program's existing policy, certain employers participating in the program's Primary Agriculture Stream are required to provide accommodations to workers. Employers must submit inspection reports with their Labour Market Impact Assessment (LMIA) application to demonstrate that dwellings for TFWs have been inspected and comply with applicable standards. The establishment of housing standards and related inspections prior to the arrival of workers is under the responsibility of PTs. In some cases, this responsibility is delegated to municipalities or private inspectors.

The current approach has resulted in a lack of consistency in the types of accommodations, living conditions (e.g. numbers of persons per room) and amenities (e.g. number of showers per person) provided to the workers who may be vulnerable to exploitation due to their immigration status and other factors. Common complaints about housing include overcrowding and lack of privacy, an inadequate number of washrooms and kitchen facilities per worker, lack of adequate heating/cooling and deficiencies in the structure (e.g., leaks, mould, poor plumbing).

The increased attention on employer-provided accommodations through COVID-19 has highlighted several other common deficiencies in the quality of housing and living conditions for workers, including that group accommodations provided on many farms may increase the risk of

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communicable disease transmission, potentially putting the health of TFWs and the community at large at risk.

The intent of new requirements would be to complement existing provincial-territorial housing standards and establish consistent, mandatory requirements for all employers who must provide accommodations to TFWs. The approach would also include measures to strengthen the oversight for pre- and post-arrival inspections of worker accommodations to enable the enforcement of compliance with new requirements. The intent is not to pursue short-term changes for the 2021 season or to address the current pandemic, but to develop a lasting approach to improve living conditions for workers while considering elements that would make accommodations more adaptable to addressing any communicable disease outbreaks in the future. An element of this consultation process will be to determine adequate timelines for implementation of any new minimum requirements.

Objectives of Federal Accommodations Requirements for the TFW Program

To improve living conditions, which will focus on a number of key factors including:

- Reducing the potential for overcrowding and ensuring adequate personal space and privacy;
- Ensuring appropriate ratios of amenities (e.g. the number of bathrooms, kitchen facilities, and laundry facilities) available to workers;
- Ensuring appropriate heating, cooling and air quality to support a healthy and comfortable living environment;
- Enabling access to phone and internet, where available, to enable workers to connect with their families and support organizations, and to access services without the assistance of the employer;
- Considering elements that would make accommodations more adaptable to allow occupants to conform to public health measures to address communicable disease outbreaks in the future; and
- Ensuring that accommodations enable workers to have freedom of movement and reasonably receive guests without restriction, while respecting biosecurity and public health considerations.

Annex A provides details of the proposed accommodation requirements under consideration to achieve the above objectives. These were developed based on existing examples of PT housing standards used in the program and draw from other examples of temporary housing such as work camp accommodations. In some cases, the proposed requirements would be new to the program.

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QUESTIONS TO GUIDE INPUT

Section A outlines questions intended to guide all stakeholders in providing feedback on the proposed accommodation requirements.

Section B outlines questions intended to provide workers 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

The proposed requirements would not significantly alter the current model based on shared accommodations for foreign workers in agriculture. However, as noted above, the COVID-19 pandemic has revealed the risks of shared accommodations and, in particular, the use of bunkbeds that may contribute to overcrowding or poor living conditions and act as an amplifier of disease transmission when individuals live in close quarters. Among the proposed requirements for consideration, the government is particularly interested in receiving comments on approaches to space allocation and sleeping quarters that would address these concerns, while being sensitive to the potential impacts associated with the need to expand current accommodations or engage in new construction.

The discussion questions below may be used to guide input; however, input is not limited to these questions.

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 (e.g. 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?

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- Are there other aspects or alternative approaches that should be considered?

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?

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?

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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 – Questions for Workers

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

The discussion questions below may be used to guide input; however, input is not limited to these questions.

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?

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?

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- 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?

Satisfaction with Your Amenities

- Are you satisfied with the number and condition of kitchen and laundry amenities provided?
 - How many workers should share one fridge, one sink, one stove, one oven, and one microwave? Why?
 - How many workers should share one washing machine and one 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 (one shower, one toilet, and one sink)?

Communications

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

General

- What are the three 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?

PUBLIC COMMENT PERIOD

Interested persons may submit comments concerning the proposal to NC-TFWP-APT-PTET-EPA-GD@hrsdc-rhdcc.gc.ca by **December 22, 2020**.

Please note that this document is available in French, English, Spanish, Tagalog, Thai, and Punjabi.

Thank you for your input.