

April 24, 2018

Hon. Patricia A. Hajdu
Minister Employment, Workforce
Development and Labour
House of Commons
Ottawa, ON K1A 0A6

Hon. Ahmed Hussen
Minister Immigration, Refugee,
and Citizenship Canada
House of Commons
Ottawa, ON K1A 0A6

Hon. Christina Gray
Minister of Labour
107 Legislature Building
10800 - 97 Avenue
Edmonton, AB T5K 2B6

Re: Alberta Agriculture & Agri-Food immigration and labour options to fill proven job vacancies in rural areas

Dear Ministers,

We are the Agriculture Industry Labour Council of Alberta (*AILCA):

- Ag Employ
- Agriculture & Agri-Food Labour Task Force
- Alberta Bee Keepers Association
- Alberta Beef Producers
- Alberta Canola Producers Commission
- Alberta Cattle Feeders' Association
- Alberta Chicken Producers
- Alberta Elk Commission
- Alberta Farm Fresh Producers Association
- Alberta Greenhouse Growers Association
- Alberta Milk
- Alberta Pork Producers
- Alberta Pulse Growers Commission
- Alberta Sugar Beet Growers
- Alberta Turkey Producers
- Bison Producers of Alberta
- Cargill
- Egg Farmers of Alberta
- JBS
- Landscape Alberta
- Mushrooms Canada
- Sunterra Farms

We are writing to express our concerns with respect to both the Provincial Nominee Program (PNP) and the Temporary Foreign Worker Program (TFWP). AILCA appreciates governmental efforts in securing new trade deals, however, detrimental impacts of recent TFWP and Provincial Nominee Program (PNP) changes are making the agriculture and agri-food trade targets set in Budget 2017 unachievable. Current orders are increasingly difficult, and expansion is out of reach for many producers and processors.

There continues to be a vast disconnect between industry needs and the federal government's approach to addressing economic demands in the Labour Market Impact Assessment (LMIA) process, as well as the disconnect between the TFWP and requirements imposed on the PNPs. Alberta producers and processors are encountering the following issues outlined in this letter.

PROVINCIAL NOMINEE PROGRAM

The Federal Government is imposing new requirements on the provinces related to education, income and language, to name a few, that will severely hinder and limit our abilities to **transition Temporary Foreign Workers (TFWs) to permanent resident status**, perpetuating a long-standing labour shortage in Canada's agriculture industry.

Issues with the Proposed PNP Requirements

1. **Income Thresholds**

The Federal Government requires provinces to implement minimum income thresholds. While the ability to become economically established is critical to a new immigrant's success in Canada, the proposed thresholds are excessive and well above the Low Income Cut-Off (LICO) thresholds set for federal-level applications. Further, the thresholds do not take into account the uniqueness of employment in agriculture, where many employees (both Canadians and TFWs alike) receive subsidized housing and other benefits that contribute to their bottom-line. Neither has a cost of living analysis been done for rural Canada where the living expenses,

particularly housing, is significantly less costly than urban centres. They also do not take into account the fact that the employer's LMIA, and TFW's work permit, were approved based on an assessment that determined they were earning a fair wage for their occupation and region.

We would like to see the income threshold removed in situations where a TFW has a permanent job offer. The provinces have documented the success of their programs in retaining a provincial nominee post-permanent residency. In our sectors, we have witnessed that those who have transitioned to permanent resident status remain gainfully employed, often with the same employer, well after having received permanent residence. Removing the income threshold would not only be appropriate, given the documented success of nominees with job offers thus far, but it would also be in keeping with federal programs, such as the Canadian Experience Class, which do not include a need to prove financial sustainability where a job offer exists. It is discriminatory that a provincial nominee would be treated so disparately compared to a federal applicant.

2. *Education*

Until now, PNPs were able to implement their own education requirements. Changes being imposed by the Federal Government will require that all nominees have the equivalent of High School education in Canada. Many of our producers employ highly skilled workers with decades of experience in their respective fields, who hold less than a Grade 12 education. Still, others have a High School Diploma from their home country that would equate to a Grade 11 education in Canada. Again, we understand education is a factor that has been proven to impact a new immigrant's ability to establish in Canada. However, many PNP streams are designed to support TFWs who are already here. In these situations, TFWs will have already been working in their respective province for a set period of time and will likely be well-established in their job and communities. Where that is the case, we would suggest the education requirement be based on whether or not the TFW is qualified to work in their occupation.

Employers go through a stringent process with ESDC in order to obtain a Labour Market Impact Assessment (LMIA) to hire their TFW. One aspect of the LMIA application process is proving that the employer is requesting an appropriate level of education for the job, based on the National Occupation Classification (NOC) system. It is incredibly unfair that an employer would have those education requirements approved on a national level, only to face incongruent requirements under the PNP. We suggest the Federal Government follow the same system federally and provincially. Where an LMIA was used to obtain a work permit, the PNP should be permitted to require that the TFW meet the education requirements set out in that LMIA. Where a TFW holds a non-LMIA based work permit, the PNP would in turn require that the TFW meet the education requirements set out in the NOC. Such a system would ensure TFWs have the appropriate level of education for their specific occupation, and would be consistent with federal frameworks for obtaining work permits and applying for permanent residence (as is the case under the Canadian Experience Class and Federal Skilled Worker Program; neither of which have minimum education requirements).

3. *Language Skills*

It is unfair and prejudicial to institute language requirements for a TFW, who is already working and living in the province, that are higher than the requirements to apply for Canadian citizenship. The proposed Canadian Language Benchmark (CLB) requirement of 5 in all language areas is excessive. To qualify for Canadian citizenship, an applicant must only obtain a CLB 4 in the Listening and Speaking components. The government evidently believes a person who can obtain a CLB 4, without any literacy skills being assessed, is capable of integration into Canadian society. Yet, under the proposed requirements for the PNPs, a TFW is not.

Provincial & Federal Frameworks Must Align

The PNPs have consistently provided solutions and pathways to permanent residency that were responsive to the specific economic needs of the provinces, where the federal programs were not. We would suggest this is the whole purpose of having a PNP in the first place.

The changes the Federal Government is imposing on the PNPs will remove their ability to be responsive to regional needs. In all areas — **income, education, language** — the provincial framework is not aligning with the federal framework and is far more excessive in its demands. The Federal Government is forcing changes on the PNPs that will far surpass the requirements employers and TFWs had to face in the first place to obtain LMIA and work permits. When the time comes to apply for permanent residence, many of our TFWs will be left without any options; not federally, and most definitely not provincially. The requirements far exceed those set for federal programs, such as the Canadian Experience Class. It is hard to imagine that many skilled TFWs in the agriculture industry would be able to access the PNPs in the future. We are seriously concerned with the Federal Government's approach to the PNPs as they are effectively removing the provinces' ability to be flexible and responsive to their respective economic needs.

TEMPORARY FOREIGN WORKER PROGRAM

The Canadian Agricultural Human Resource Council (CAHRC) reports that the labour shortage in the agriculture industry has doubled to 59,000 workers in the past ten years, with clear expectations that it will double again in ten years to 114,000 workers. On-farm job vacancies are exceptionally high (7%, whereas the national average is 1.8%) and these vacancies are costing the farming industry \$1.5B each year. CAHRC's 2017 research reports that rural meat processing plants' job vacancy rates are approaching 10%, and seafood plants are reporting a 20 to 30% labour shortage.

Agriculture and agri-food applications should be prioritized and officially recognized as unique by policy and operations due to the rural location of the work when the majority of the population is in urban centres; the handling of live plants and animals; a high degree of seasonality; and difficult physical labour related requirements.

Yet, despite the fact that we continue to experience an acute and chronic labour shortage, and despite repeated appeals to the federal government for improvements to be made to the TFWP, circumstances are not improving; they are getting worse. Following, we will highlight some of the key administrative issues with the TFWP, as they relate to the Labour Market Impact Assessment (LMIA) and Work Permit application processes.

Service Delivery Practices

1. *Insufficient Communication Leading to LMIA Refusals*

We continue to see arbitrary decision making on the part of ESDC/Service Canada officers, who reference rules and regulations that either do not exist or have never been made public. Further, we continue to see applications refused due to unannounced and sudden changes in forms, program requirements and wage rates. We believe the government has a duty to publish operational manuals and guidelines directly on the website, and that the government must establish a public communications plan. The problems we are experiencing could easily be avoided through the issuance of notices to users, and updated program delivery instructions (similar to what IRCC currently does on its website).

2. *Service Delivery Timelines for LMIA are Increasing*

We are experiencing processing delays across all LMIA application streams, including the SAWP, Agricultural Stream, and Low/High Wage streams. We see incredible discrepancies, with processing of applications taking anywhere from one to three plus months, with no consistency. The government must standardize and benchmark LMIA service delivery with clear service standards.

3. *Work Permits in Mexico not Processed in Time for Arrival on Canadian farms (SAWP)*

SAWP TFWs must apply at the Visa Office in Mexico prior to travelling to Canada, and face processing delays that have resulted in many TFWs not arriving in time to start the season. A formal review by IRCC must be conducted to ensure this does not happen next season, with actionable recommendations that include improving processing times for LMIA and work permits, and for benchmarks to be set, prioritizing all agricultural applications in both departments.

Program Framework

1. *TFWP Cap*

There is a proven, severe labour shortage in the agriculture and agri-foods sectors. However, many employers are subject to a 10% or 20% cap on the number of TFWs they may hire. The established cap should not be a blanket requirement for all low-wage positions; it should be re-evaluated regularly and adjusted based on industry needs. We believe that by doing so, the government will determine that an exemption to the cap across all agriculture and agri-foods sectors is warranted, as is currently the case with primary agriculture based applications.

2. *Housing*

ESDC officers have been implementing excessive housing requirements based on unpublished, and in many cases non-existent, program rules. For example, requiring an employer to have all the rooms of a hotel, where TFWs may stay while travelling for work, inspected. Further, not all sectors are alike; many producers require year-round TFWs who are often accompanied by spouses and children, yet ESDC's housing requirements are designed around the needs of seasonal labour.

3. *Agriculture Stream vs. Low/High Wage Streams for Farms and Feedlots*

Previously, an employer in the primary agriculture industry could choose between the Agriculture Stream or the Low/High Wage Streams. However, this was changed to state that, if the employer's crop/commodity fell under the National Commodity List, they had to apply under the Agriculture Stream (removing the ability to choose based on operational needs). This has created a myriad of issues for farms. We strongly believe the ability to choose between the two streams must be restored, or that the National Commodity List should be done away with completely and that differentiation between the programs should instead be made on the basis of the definition of Primary Agriculture alone.

4. *National Commodity List and Multiple Commodities*

A TFW can only work in one commodity, and it must fall under the National Commodity List, when accessing the Agriculture Stream. Otherwise, an employer must apply for an LMIA under the Low/High Wage Stream. For example, a mixed farming operation may require a farmhand to work in the barley field and in the cow-calf barn. However, while bovine is on the National Commodity List, barley is not. As the two commodities require separate LMIA processes, the employer could only obtain an LMIA to support the TFW working in the field or in the cow-calf barn, not in both. This could also lead to compliance issues with Service Canada if inspectors do not understand the fundamental job activities of a feedlot worker include feeding cattle barley and working with the barley with activities such as mixing nutrients and silage. Again, this issue could easily be resolved by allowing an employer to choose between the Low/High Wage Stream and Agriculture Stream, or by doing away with the National Commodity List altogether and allowing the definition of Primary Agriculture to be the indicator as to which stream is to be used. Other countries such as Australia recognize "mixed farming" within their agriculture labour programming rather than commodity specific bureaucracy.

Audits & Inspections

1. *Applications on Hold*

We continue to see LMIA applications being held due to audits. Often times these audits can drag on for weeks, if not months. Meanwhile, producers do not have access to desperately needed TFWs, or have TFWs in Canada who are unable to extend work permits. We believe this issue can be easily addressed by setting clear timelines and benchmarks for audits and allowing all applications to proceed regardless of whether an audit is being undertaken.

2. *Process and Authority of Inspections*

Unannounced inspections have already begun, although public information will not be available on the ESDC website until May. The decision to allow unannounced inspections was made without any consultation with

industry, and the processes that guide those inspections have not been made available to the public. We have serious concerns regarding ESDC's authority, as it relates to inspection of farm businesses located in homes and private residences. Further, we are concerned that biosecurity protocols have not been addressed in the training of Inspectors.

CONCLUSION

We would like to recognize the Minister of Agriculture and Agri-Food, Hon. Lawrence MacAulay for his attention to these issues and encourage his continued efforts to push for changes that will benefit the agriculture sector. We would also like to acknowledge Parliamentary Secretary for Employment and Social Development Canada, Rodger Cuzner for his efforts to help make these issues a high priority. We need more leadership from within the Federal Departments that control these issues by both Employment and Social Development Canada and Immigration, Refugees and Citizenship Canada, as well as the provincial government.

The aforementioned issues scratch the surface of the host of concerns we have pertaining to the Provincial Nominee Program and Temporary Foreign Worker Program. To thoroughly address both the issues, and our proposed solutions, a much more detailed discussion needs to take place. However, we hope that after reviewing the information provided thus far, you will agree there is a serious and immediate need for action on the part of IRCC, ESDC and Service Canada. We would welcome the opportunity to engage in consultations with your respective departments, to discuss the issues and proposed solutions at depth. The Agriculture Industry Labour Council of Alberta, the Agriculture and Agri-Food Canada Value Chain Roundtables, and the Labour Task Force have all made very good recommendations that would rectify the issues so we can move forward with strategic solutions. We continue to respectfully ask for meaningful, ongoing collaboration on these issues, asking that Provincial and Federal governments work through these issues with producers and processors, which will be needed to successfully grow Alberta and Canada's Agriculture and Agri-Food sector.

Agriculture Industry Labour Council of Alberta Issues Summary

Agriculture and Agri-Food industry need an interactive forum for good policy on labour and immigration in order to fill proven job vacancies to boost exports to \$75 billion, which is the target set in Budget 2017. Collaboration, leadership, and prioritization of agriculture and agri-food issues is needed as it contributes over 6% to Canada's GDP; this is more economic contribution than other sectors where solutions have been found, such as IT and the film industry, which have all paperwork processed in 20 days, and have access to LMIA exemptions. AILCA recommends that these issues, many of which are administrative, be prioritized and addressed immediately:

1. Issues with new requirements for the Provincial Nominee Program
 - Income thresholds
 - Education
 - Language skills
2. Provincial and Federal Frameworks must align
3. Temporary Foreign Worker Program
 - Service Delivery Practices
 - Insufficient communication leading to LMIA refusals
 - Service delivery timelines for LMIAs are increasing
 - Work permits in Mexico not processed in time for arrival on Canadian farms
 - TFWP Cap

- Primary Agriculture housing issues
- Agriculture Stream vs. Low/High Wage Streams for farms and feedlots
- National Commodity List and Multiple Commodities
- Audits and Inspections
 - Applications on hold
 - Process and authority of inspections

Sincerely,



Joel Beatson
 Chair, Agriculture Industry Labour Council of Alberta
 CEO, Landscape Alberta

**AILCA was formed in 2012 to create a forum for producers, associations and corporations to address and solve labour and employment issues in the Agriculture and Agri-Food sector. This coalition shares information, hosts labour summits and engages with government officials in the interests of advancing agriculture and growing our industry in Alberta and across Canada.*

Cc:

Rt. Hon. Justin Trudeau
 Prime Minister

Hon. Lawrence MacAulay,
 Agriculture and Agri-Food Canada Minister

Rodger Cuzner
 Parliamentary Secretary Employment and Social Development Canada

Luc Berthold, CPC MP
 Agriculture and Agri-Food Critic

John Barlow, MP
 Agriculture and Agri-Food Critic (Associate)

Michelle Rempel, MP
 Immigration, Refugees and Citizenship Canada Critic

Steven Blaney, MP
 Employment, Workforce Development and Labour Critic

Honourable Oneil Carlier
 Minister – Alberta Agriculture and Forestry

Honourable Deron Bilious
 Alberta Economic Development Minister

PMO:

Tyler Meredith, Policy Advisor
 Maxime Dea, Policy Advisor
 Mike McNair, Issues Management Director

IRCC Minister's office:

Ali Salam, Chief of Staff

Kyle Nicholson, Policy Advisor

IRCC:

Fraser Valentine, Director General

Natasha Kim, Director General

Martha Justus, Sr. Economist

David Cashaback, Director of Temporary Resident Policy and Program

ESDC Minister's office:

Matthew Mitsche, Chief of Staff

Hersi Hujaleh, Sr. Policy Advisor

TFWP Directorate:

Elisha Ram, Associate Assistant Deputy Minister, Skills and Employment

Philippe Massé, Director General, Temporary Foreign Workers

Steve Pageau, Public Environment and Stakeholder Relations

Steven West, Director, Program Implementation Division

Donna Blois, Director, ESDC Access to Information and Privacy

Service Canada:

Leslie MacLean, Sr Assoc DM ESCD Op Officer

Katie Alexander, Executive Director Operations

Andrea Knight, Director, Service Canada Integrity Operations

AAFC Minister's Office:

Mary Jean McFall, Chief of Staff

Dan Lussier, Policy Advisor

Alison Porter, Policy Director

AAFC Dept:

Chris Forbes, Deputy Minister

Tom Rosser, Assistant Deputy Minister

Rosser Lloyd, Director General

Paul Spooner, Acting Director

Government Alberta – Ministerial Chiefs

Brad Lafortune

Chief of Staff to Minister of Labour

Tony Clark

Chief of Staff to Minister of Agriculture and Forestry

Heather Mack

Chief of Staff to Minister of Economic Development and Trade