

# **Recognized Employer Model (Trusted Employer Program)**

## **Guiding Principles**

March 4, 2022

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The Temporary Foreign Worker (TFW) Program, administered jointly by Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC), seeks to address labour and skills shortages while balancing the interest of Canadian workers, employers, and the protection of foreign workers. Since its implementation in 1973, the program has been a key contributor to labour force growth in Canada. While it has grown over time to respond to labour market conditions, employers have expressed long-standing concerns over various aspects of the Program.

In 2021, the Liberal Party of Canada committed to “a Trusted Employer system to streamline application processes for Canadian companies hiring temporary foreign workers to fill labour shortages”. Prime Minister Justin Trudeau reiterated this commitment in Mandate Letters to Minister Qualtrough and Minister Fraser:

“Establish a Trusted Employer system for Canadian companies hiring temporary foreign workers and, as part of improving the Global Talent Stream of the Temporary Foreign Worker Program, simplify permit renewals, uphold the two-week processing time and establish an employer hotline.”

The Commissioner for Employers has received feedback from employer representatives in relation to a proposed Recognized Employer Model (formerly Trusted Employer system) over the course of several meetings and written briefs. The following document outlines the guiding principles that employers request to see in the proposed Recognized Employer Model.

### **Background**

Canada is currently facing a labour shortage. In September 2021, Statistics Canada reported a record 1,014,560 vacancies across the country. Vacancies have been increasing across all regions and in most sectors. Despite temporary setbacks from the Omicron variant between late December 2021 and February 2022, employment has been steadily increasing across Canada and the national unemployment rate (5.9%, December 2021) is returning to pre-pandemic levels (5.7%, February 2021). The Bank of Canada’s Q4 Business Outlook also highlighted intensifying pressures on Canadian employers – with the net balance of firms planning to hire workers hitting a record 77%. These factors, combined with demographic challenges related to Canada’s aging population and declining birth rates, mean employers are increasingly looking to the TFW Program to meet labour demands.

Employers welcome a Recognized Employer Model that creates opportunities to ease administrative requirements for both employers that have demonstrated a high standard of Program compliance and for ESDC/Service Canada.

Employers note that most companies using the TFW Program have been doing so responsibly, demonstrating that they are continuing to invest in Canada’s domestic labour market and hiring TFWs only when vacancies cannot be filled by Canadian workers. The vast majority of those utilizing the TFW Program have demonstrated a high standard of compliance and labour market development in the decade previous, and in many sectors, employers are repeat users of the Program.

An outcome of this process must be to focus integrity/inspection resources on high-risk employers and areas of concern, rather than driving sector-wide reactions that unduly expend departmental resources. This model should not be approached as a panacea to broader processing concerns. Systemic improvements to the TFW Program must remain the priority objective.

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NOTE: The questions noted below originate from a presentation provided to employer associations by ESDC officials in December 2021.

**QUESTION 1: What kind of investments in the labour market and in worker protections should the Government look for in assessing employers for access to the REM (i.e. improved accommodations, higher wages, paid training for Canadians, etc.)?**

To become a Recognized Employer, an employer must demonstrate that they:

1. Are compliant with all employment and labour standards, have no convictions, criminal charges or serious administrative monetary penalties (AMPs)
2. Are in good standing with all payroll and tax remittances
3. Have had no violations of labour laws in the decade previous
4. Have completed (to be developed) ESDC/Service Canada accredited training on TFW management with respect to program compliance, human resources, and other employer best practices.

Additional feedback from employers on proposed criteria:

- A Recognized Employer Model must include a commitment to review the program at regular and ongoing ad-hoc intervals
- Integrity measures should be put in place to ensure employer compliance with the REM criteria
- [ESDC 2021] “The REM will expect employers to be exemplary with respect to activities and employment practices in support of: – worker protections (increasing awareness of labour standards, improved accommodations and supporting access to migrant support organizations); and, developing the labour market (upskilling Canadians, increased wages, reduced barriers to employment for underrepresented groups)”
  - Employers do not support the proposal to hold Recognized Employers to a higher standard with respect to activities and employment practices, above the current threshold required to participate in the TFW Program
  - Employers note that they will always seek to hire Canadians first. The TFW Program is a program of last resort and one that has become increasingly important for the Canadian labour force in recent years. Increasing the responsibility of Recognized Employers beyond a reasonable threshold will create undue barriers to entry and additional administrative challenges within the Program

**QUESTION 2: What are meaningful benefits that could be made available to employers under the REM process (i.e. faster processing, fewer interactions, simpler forms, etc.)?**

Once certified under the Recognized Employer Model, an employer should be entitled to the following benefits:

Improved Service Delivery

1. **An online application process.** Employers recommend ESDC implement an online application process for Recognized Employers. A user-friendly online application should prioritize automated processing and prompt decisions for applications. To streamline the application process, employers recommend online applications automatically reflect the employers' regional unemployment rate and job vacancy rate.
2. **A shorter application.** Employers note that a shorter application form in general would be of interest. A shorter form would include pre-filled sections for return employers using information shared with ESDC/Service Canada in the previous year. Pre-filled forms would reduce the need for multiple communications between the employer and officials at ESDC/Service Canada, thereby streamlining the application process.
3. **Dedicated support services.** Employers welcome the commitment to establish a responsive employer hotline outlined in the Mandate Letters Minister Qualtrough and Minister Fraser. In addition to the hotline, employers recommend ESDC establish an employer liaison group to support organizations with application forms, ensure prompt response to questions regarding the application process, and provide status updates on pending applications.

Expanded Eligibility

Employers note the need for expanded eligibility in several aspects of the TFW Program. Recommendations related to eligibility also include adjusting current process requirements and providing exemptions for Recognized Employers from certain application criteria.

4. **Allow for a single application process.** Under the Recognized Employer Model, allow employers applying for multiple sites to do so under a single application with their employer name, rather than applying per site.
5. **Allow for a concurrent application process.** Under the Recognized Employer Model, allow employers to apply for TFWs without including names of individuals initially. This adjustment would accelerate the application process by making it possible for employers to recruit TFWs while the department processes LMIAs.
6. **Expand access for businesses looking to participate in the TFW Program.** As a temporary measure to address immediate labour shortages caused by the pandemic, employers recommend opening the TFW Program to all types of jobs (National Occupational Code, NOC) and sectors, regardless of the prevailing regional unemployment rate. To ensure that small businesses are able to qualify for the Recognized Employer Model, employers recommend the removal of a minimum threshold for number of employees.
7. **Ensure the cap on the percentage of temporary foreign workers a business can employ at a given time, be set at a minimum of 20% for Recognized Employers.** Cap exemptions for employers under the Agricultural Stream will remain under this model.

## Streamlined Labour Market Impact Assessment (LMIA)

Employers identified a number of concerns with the LMIA process that affect all aspects of the program including fees, processing of applications, and timelines.

- 8. Review and Adjust Fee Structure.** Following program changes in 2013, ESDC introduced an application fee of \$275 for each Temporary Foreign Worker requested by an employer. In 2014, to cover the increased costs of delivering the TFW Program, the LMIA fee was raised from \$275 to \$1,000 for each Temporary Foreign Worker. Application fees are particularly prohibitive for small business owners seeking to use the TFW program. Employers request that ESDC review and reform the fee structure for LMIAs under a Recognized Employer Model. A comprehensive review should prioritize efforts to balance the costs to deliver the TFW Program and affordability for employers looking to hire TFWs in the midst of widespread labour shortages. Employers provided a menu of recommendations to be considered for reforms, including:

  - Eliminate the application fee for Recognized Employers
  - Temporarily waive the application fee for small business owners
  - Develop a sliding scale to assess fees based on size of business and NOC level
  - Develop a tiered fee structure for high-wage and low-wage positions
- 9. Expedite Processing of LMIA Applications.** Employers note that the LMIA application is both lengthy and difficult to understand, recommending a streamlined approach for applications under the Recognized Employer Model. Efforts should be made to reduce the amount of time it takes employers to complete each step in the process. Establish a two-week standard processing time for LMIAs, in line with Global Talent Stream expedited processing for high-skilled workers.
- 10. Allow LMIA Exemptions.** Employers recommend that ESDC waive the LMIA requirement for Recognized Employers operating within EI regions with an unemployment rate below the national average (and/or a job vacancy rate above a prescribed threshold).
- 11. Increase duration of LMIAs from a maximum period of two years to a maximum period of five years.** As work permits are dependent on a positive LMIA, adjust work permit durations to align with a five-year LMIA term. An extended timeline will reduce the financial burden on Recognized Employers by allowing them to spread costs over a longer period of time, provide further stability to their workforce, and deepen their relationships with TFWs.
- 12. Align the five-year LMIA period to accommodate seasonal positions.** Under this model, Recognized Employers should be exempt from reapplying each season for seasonal employees within a five year LMIA.
- 13. Amend the specific advertising requirements for LMIAs, allowing Recognized Employers from the same sector to advertise jointly rather than as individual organizations.**
- 14. Allow employer commitments to create opportunities for Canadians in lieu of recruitment efforts, similar to what is offered through the Global Talent Stream Category B Program.** Some employers are already heavily invested in developing the Canadian labour market and would readily choose this option rather than recruit in a labour market that they know is facing significant labour shortages.
- 15. Provide an exemption for Recognized Employers from the Transition Plan requirements.**

### Improved Government Co-ordination

- 16. Increase co-ordination across all relevant government departments.** In order to prevent duplication of information and increase expediency, employers recommend that measures be put in place to increase coordination between ESDC/Service Canada and IRCC officials. Employers recommend increased coordination and faster processing times with respect to work permits and all related requirements. This includes aligning a 2-week processing time for LMIA's (ESDC) with a subsequent 2-week processing time for work permits (IRCC). Expedited processing times would follow the model currently available to employers and TFWs in the Global Talent Stream.
- 17. Work with relevant jurisdictions to link the temporary foreign worker program to provincial nominee programs and a pathway to permanent residency.**
- 18. Increase efforts to harmonize the Foreign Credential Recognition Program, administered by ESDC.** Continue to play a targeted leadership and coordination role to advance the recognition of foreign credentials across Canada, by supporting and influencing multilateral collaboration among provinces and territories, regulatory bodies, national associations, and other stakeholders.

### Improved Labour Mobility

- 19. Increase flexibility for TFWs to work throughout the workplace.** Allow contract modifications for TFWs if both parties consent, to assign workers to different positions based on workplace needs without the need to apply. Modifications should include allowing an alteration of agreed-upon wages or change duties, while adhering to federal and provincial wage and labour standards.
- 20. Allow employers with multiple approved sites to transfer TFWs between sites as required.**
- 21. Create a sector-specific TFW labour pool for Recognized Employers,** where semi-skilled or skilled TFWs who have been terminated without cause can register with an open work permit; creating a 'pool' from which other Recognized Employers within that sector can recruit.

### **QUESTION 3: We need a way to vet employers. Is there a role for industry to perform here?**

Employers welcome an opportunity to administer various aspects of a Recognized Employer Model. Recommendations include:

- **Explore the feasibility of sector associations and councils to support the Recognized Employer Model.**
- **Explore the potential to pilot a Recognized Employer Model program, administered through sector associations, provided they receive the financial support to build capacity quickly and effectively.** This will allow third parties to assist smaller businesses in navigating the application requirements and relevant processes. Additionally, some sectors have unique operating conditions and credentials that require verification for TFW applications. Sector associations have the necessary technical expertise and experience to support smaller businesses in meeting industry specific criterion.