



# Optimizing the TFW Program for Canada

**Speaking Notes for Warren Everson**

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Please Check Against Delivery

Thank you, Diana, for inviting me on this panel. I have to say I like the optimism of the title of this panel – Optimizing the TFW Program for Canada.

But it's hard to have a lot of optimism about the program since it's been the focus of such strong attacks. We might want to re-title this panel "Clinging to the TFW Program with our fingernails."

Rex Murphy's *Cross Country Checkup* radio show last Sunday was about the TFW Program. Among the interesting calls was one from Fort St. John, in northeastern B.C. They need and want immigrants. Their challenge is familiar; the service industry and the agriculture sector cannot compete for people with the oil patch.

The town has extremely low unemployment thanks to the energy sector. But ESDC uses unemployment rates by economic region, not by town or city, in deciding on access to low-wage TFWs. Fort St. John is unfortunately one of many communities affected by the broad brush approach of these kinds of changes to the program last June.

We know the government's primary target last June was the low-wage, low-skilled workers. The government's argument was that Canadians should not be losing out to jobs going to temporary foreign workers.

For a good overview of how the changes hurt the West, take a look at *Work Interrupted*, a report by the Canada West Foundation. As they point out, low-wage TFWs are "most prevalent in Western Canada, the Maritimes and the Territories." Two-thirds of the reduction in low-wage TFWs will come from Alberta and B.C. – hence the concern in Fort St. John.

As the report says, "It is not clear whether denying employers access to workers from abroad will help with local unemployment."

It's an open question if it could result in less employment of Canadians "due to businesses shutting down shifts or closing altogether."

These are the challenging questions concerning the low-skill cadre.

For high-skilled, high-wage workers, a separate set of measures were introduced in the June package. We read the June 20th changes and thought Canada was still open to filling high-demand, high-paid occupations with TFWs.

We were wrong.

We were wrong, not because of the policy changes but because we did not anticipate the chill that would permeate the bureaucracy running the program.

Currently, the processing of labour market impact assessments (LMIAs) has ground to a snail's pace, with no service standard in place.

These days, Service Canada officers seem afraid of approving any applications. Unfortunately, there are no recent TFW data publicly available on LMIA approval rates for us to see the full picture. But we get plenty of anecdotal input from our members, and I can tell you that input is increasingly aggressive.

It doesn't serve anyone's interests for employers to face big delays and uncertainty in bringing in people we need. If the government is serious about Canada's global competitiveness, it will make its mind up – yes or no – quickly and then expedite processing for highly-skilled occupations.

We need to take a breath and regain a little perspective. In the frenzy two years ago, CBC announced it had a 24-hour call-in number for people to report the misuse of temporary workers – a commitment of resources they don't make when a murderer escapes from prison!

Foreign workers can be essential for a company's success, but they are not a big group in our economy. In 2013, 84,000 of them entered Canada on the basis of meeting a labour market test. 84,000 is less than one-half of one per cent (0.44%) in a labour force of 19 million. Ottawa approved every one of those applications.

Some people would say, rather than loosening up the TFW Program why not focus on the new Express Entry system? We support this approach at the Canadian Chamber, but a couple of points to remember: The fact is many high-skilled workers are required only on a short-term basis in Canada and don't have an interest in applying for permanent residency. There is a vigorous trade in brains in the developed world, and the people who have those brains are highly mobile.

It's no surprise, however, that many TFWs in Canada are indeed applying for PR. They are applying through Provincial Nominee Programs. Alberta's program has a huge backlog and British Columbia has just frozen its PNP for new applications until July 2, due to a huge number in the queue. So for those who say we should focus on permanent residents and cut back on TFWs, we would say that's happening to the extent the system can handle it.

I saw a guy from Texas give a speech in Montreal a few years ago and he got mixed up in his text. Kinda stumbled over his words. And he ended up with this pearl of wisdom. "The main thing," he said, "is to make sure the main thing remains... the main thing."

Well, the main thing – more important than any other thing – is that the Canadian economy competes effectively. And we all know, have said for years, that the key to competitiveness is a skilled workforce. It is deeply distressing to see government processes acting to block these workers from our economy.

Let me mention some impediments facing our members for the entry of high-skilled workers for short-term visit.

For positions regarding LMIA's:

1. Processing times are more delayed than ever, and, except for one minor exception, there are no service standards.
2. There is no consultation process. There is no opportunity for business to ask the questions on their LMIA's. For a \$1,000 fee per application, no senior management contacts are provided to allow employers to escalate their inquiries.
3. No appeal process is in place for LMIA's.
4. This is out-of-step with the norms of Canadian administrative law. These decisions are sometimes the difference between success and disaster for applicants – surely they should have somebody they can call?

To address these problems, we have recommendations to government to ease the impediments for both LMIA and LMIA-exempt streams:

A. Escalation service

The government could introduce an escalation service for applications that are genuinely urgent and apply greater resources to them. I am thinking of the model the Passport office uses. You need to police this, but the basic idea of allowing people to buy faster service is sound.

B. Appeal process

Second, the government should introduce an appeal process for applicants who have been refused an LMIA. This would be a “show cause” situation in which the applicant can demonstrate why the decision was based on incorrect information or was in some other way flawed.

This just seems reasonable – even murderers in prison can appeal if their application for parole is denied.

C. Compliance framework

Third, the government should consult with stakeholders regarding the compliance framework for the IMP. Currently employers may be unaware of the inspection process for IMP or they may be nervous about their obligations – fearing the knock on the door.

This creates uncertainty, hesitation and even avoidance of using the program.

D. Improved training of Service Canada and CBSA officers and coordination between them

The government needs to improve the training of Service Canada and CBSA officers and the coordination between them. Service Canada and CBSA officers make discretionary decisions every day which affect employers and employees in Canada. CBSA officers have very broad discretion right at the border, and they don't always use it wisely.

I have a real example from my own past. I represented an airline applying for seasonal pilots from Europe. They were refused, but an airline in the Maritimes was approved. Services Canada felt there was a shortage of pilots in Halifax but plenty in Toronto.

I had to visit the department to explain how mobile pilots are – how many of my client’s pilots actually lived in Halifax but flew to Toronto to work. I also pointed out how many pilots live in the Caribbean and fly to Toronto for their 14-day work shift! It’s pretty much impossible to develop a shortage of pilots in a specific region of Canada.

I was also able to point out that pilots certified to fly an Airbus A320 are not interchangeable with those who fly the Boeing 737. There’s a significant re-training required, which costs time as well as money – both hurdles that are hard to get over for a seasonal hire.

My point is not that the officials were uninformed – there’s no way they can understand all the occupations in this bewildering economy. My point is I had someone I could talk to and an opportunity to make my case. We were ultimately successful on this file because we had that opportunity.

E. Last and not least, we need several fixes to improve TFWs’ transition to permanent residency.

As one researcher said of TFWs, “they are considered good enough to work but not good enough to stay.” Many of the new issues with the transition to permanent residency have resulted from the new Express Entry system. Others seem endemic to the system.

Just last week, I read about Ottawa Redblack’s star quarterback Henry Burris, a longtime CFL player who is having difficulty applying for permanent residency.

Presumably, they will send the Redblacks down to the Employment Ontario job centre to find a qualified Canadian to take that job if Mr. Burris is denied.

It’s these kinds of interpretation and process issues that undermine Canada’s reputation as an immigration nation.

If we care about how immigration supports our economic aspirations, we should care about how the TFW program works.

It’s a short-term labour market tool. It should also be a more integrated part of our immigration strategy.

Before too many companies find it too difficult to find workers and too many immigrants start to think Canada is not as interested in them, let’s push the reset button. Let’s simplify the process piece. Let’s make sure process does not overwhelm policy goals. If we do that, then we may be on the road to rethinking this program and building a better immigration strategy.