
To: BC Employers accessing temporary foreign workers through SAWP **Date:** 14-November -2016

From: BCAC

Topic: Program Housing Update

BACKGROUND

- In the summer of 2017, the Government of Mexico conducted a number of mid-season site visits to BC employers. The visits revealed alleged major housing deficiencies. In some situations Mexican workers were immediately removed by the Government of Mexico, and these cases were referred to the Integrity Services Branch for immediate action.
- In the fall of 2017, the Government of Mexico raised concerns with both the Government of Canada and the Government of BC regarding a number of employers in British Columbia (BC), where the housing provided to temporary foreign workers was found to be below the acceptable standard.
- As a result, both Canada and BC have initiated work to improve the situation. BCAC is cooperating with and supporting the efforts of both levels of government.

WORK UNDERWAY

- Canada, through the Temporary Foreign Worker (TFW) Program has committed to conducting a national housing study as part of the Primary Agriculture Review to specifically address concerns about the inadequacy of housing standards and to ensure that qualified housing inspectors are available to assess housing provided to temporary foreign workers. This study is expected to be completed early 2018 and we will be working very closely with Provinces/Territories throughout the entire process to ensure that jurisdictions are respected.
- BC has committed to reviewing applicable legislation and regulations to ensure that there are appropriate and effective regulations in place to ensure safe housing for TFW and that provincial legislation/regulations are clear for both employers and employees. Ministry of Agriculture is leading this work and is being supported by the Ministries of Labour and Health.
- Both of these reviews will be conducted during 2018 and may lead to further changes in future years.

IMMEDIATE CHANGES - Effective December 1, 2017

A. LMIA Application Process (BC based employers)

All Labour Market Impact Assessments (LMIAs) **must** include a housing inspection form that:

1. is completed no more than eight (8) months prior to the submission date for the initial LMIA application for that season,
 2. indicates the maximum number of workers permitted per approved accommodation,
 3. uses the BCAC approved housing inspection form, and
 4. is completed by a BCAC sanctioned inspector.
- Failure to meet the above requirements for the housing inspection report without justification will result in the LMIA application being considered incomplete and the system file closed.

- Employers will be required to **retain a copy of all housing inspection reports for six (6) years**, in the event of a compliance inspection.
- If the initial LMIA is granted, the corresponding housing inspection may be used for subsequent LMIA's within that calendar season.

B. LMIA Assessment Process

- Service Canada officers will review submitted housing reports **more thoroughly** than in previous years to determine its rating, completeness, and whether any housing deficiencies have been identified.
- If the TFW housing **passes** the inspection:
 1. The LMIA application process may proceed to determine whether the employer may receive a positive LMIA.
 2. The maximum number of TFWs per approved accommodation will be indicated with the decision.
- If the TFW housing inspection report indicates **follow-up conditions**:
 1. **Processing will be suspended** for any and all LMIA applications submitted by that employer until such time as Service Canada receives proof from the employer that the conditions(s) identified in the housing inspection report have been corrected (substantiated with invoices and/or receipts and/or photos).

***Note:** For employers in BC, any elements of the BCAC approved housing inspection form that receives a "No" response constitutes a condition, and must be addressed before the LMIA application can continue.*
 2. If the attestation and supporting documentation are not received, in a timely manner, this **could result in the cancellation** of the LMIA application.
 3. The Department may initiate an employer inspection at a later date to verify that concerns identified on the original housing report have been resolved. Failure to meet this verification requirement may result in the employer being found non-compliant with the Program, which may result in the same consequences as a housing inspection with a FAIL decision, in addition to a possible monetary penalty or ban from the Program.

***Note:** To avoid possible delays in processing LMIA's, BCAC recommends that employers who receive a "pass with follow-up conditions" inspection, have a second inspection completed showing that all conditions have been rectified.*
- If the TFW housing **fails** the inspection:
 1. The employer will receive a negative LMIA and will be assessed as "high-risk," which may trigger the following consequences:
 - the suspension of processing for any pending LMIA application;
 - the suspension of any positive LMIA that has already been issued with remaining unused positions; and
 - for employers who have employed a TFW in the last six years, the launch of a compliance inspection as soon as possible.