

## **The Harper Government's Wage Rip off for Alberta's Oil-sands Construction Workers: The Temporary Foreign Worker Program's Accelerated Labour Market Opinion (ALMO) Process and Wage Depression**

### ***Old TFW Process***

Under the previous Labour Market Opinion (LMO) process, employers had to pay temporary foreign workers (TFWs) the prevailing wage in the region. This offered little advantage to employers who wanted to undercut wages by replacing Canadian workers with TFWs.

### ***New TFW Process***

Changes to the Temporary Foreign Worker Program allow employers to suppress wages by up to 15 per cent in areas with skilled labour shortages. It is clear the target is Alberta's oil-sands construction workers.

Under the new Accelerated Labour Market Opinion (ALMO) process, employers can bring in TFWs and pay them *less* than the prevailing wage rates in the region. Employers can do this only if Canadians in the same workplace and same occupation accept a lower wage than the prevailing wage in the region.

This is a huge advantage for non-unionized employers. Non-union construction firms, for example, pay lower wages than unionized construction jobs.

The new system is clearly about using temporary foreign workers as a pawn in a bid to undermine construction unions in Alberta's oil sands.

Under the new rules, employers no longer have to prove any real effort to hire Canadians before TFWs.

### ***New Rules Designed to Give Competitive Advantage to Non-union Construction Firms***

TFWs brought in to a unionized worksite must be paid the same as the Canadian workers. Unionized construction workers tend to negotiate wages that keep pace with the high cost of living in Alberta.

On the other hand, non-unionized workplaces tend to have lower wages. With the changes to the Temporary Foreign Worker program, they will have a ready supply of thousands of non-Canadian workers willing to work for those lower wages. They will have approval for TFWs in just 10 days and will not have to prove they attempted to recruit Canadians for the jobs in any meaningful way.

Non-union construction firms like Merit Contractors can now have just one Canadian on a work site willing to work for the inferior wages and benefits they offer. Merit and other non-union shops have trouble attracting and retaining skilled tradespeople (because they do not offer as attractive wage and working condition packages, due to the absence of unions), but now they can fill in most of their workforce needs with temporary foreign workers.

These changes give a competitive advantage to non-unionized construction firms, like Merit Contractors, bidding on large oil-sands projects.

Alberta workers will be the ones left paying the price. Because oil-sands construction is such a large part of our economy, these new rules will depress wages for everyone.

### ***The Real Story about Oil-sands Construction Costs***

According to a recent report by equity firm Raymond James, wage rates increased by only 20 per cent during the last oil-sands boom (2005-2008), reflecting increases in the cost of living. But oil-sands construction projects went over budget by an average of 100 per cent. Some projects went 260 per cent over initial cost estimates. Most cost overruns are due to productivity losses and the high cost of steel.<sup>1</sup>

### ***Lax Oversight with the ALMO Process***

Under Harper's new rules, there are virtually no documents required for an ALMO application process. The new rules require far less documentation to be retained by employers in case of audit.

Less than 20 per cent of ALMO applications will be subject to a compliance review.<sup>2</sup>

Under the old LMO rules, employers have to show they made an effort to recruit Canadian or permanent resident workers.

This requirement is gone under the new accelerated process. Unlike the LMO process, where employers had to show how many Canadian or permanent resident workers applied for a position and why they were not hired, employers using the ALMO process to bring in TFWs simply show that they advertised the job. There are no requirements that employers consider domestic workers rather than TFWs.

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<sup>1</sup> Raymond James Equity Capital Markets Energy Industry Report, January 23, 2012.

[http://www.raymondjames.ca/en\\_ca/equity\\_capital\\_markets/equity\\_research/sample\\_research/docs/Oil%20Sands%20%20Producers%20012312.pdf](http://www.raymondjames.ca/en_ca/equity_capital_markets/equity_research/sample_research/docs/Oil%20Sands%20%20Producers%20012312.pdf)

<sup>2</sup> Human Resources and Skills Development Canada, "TFWP A-LMO Fact Sheet,"

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/almo/factsheet.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/almo/factsheet.shtml)

## **Technical Briefing: In-depth Analysis of the Accelerated Labour Market Opinion Process**

On April 15, 2012, the Harper government announced significant changes to the Temporary Foreign Worker Program.<sup>3</sup> The changes include a new “fast-tracked” applications system - the Accelerated Labour Market Opinion (ALMO) process.

In order to be eligible for the ALMO process, employers must have:

- Been issued at least one positive Labour Market Opinion (LMO) in the previous two years;
- Have a clean record of compliance with the TFW program within the last two years;
- Not have been the subject of an investigation, infraction or a serious complaint; and
- Not have any unresolved violations or contraventions under provincial laws governing employment and recruitment.<sup>4</sup>

The ALMO only applies to higher skilled positions, as defined by the National Occupational Classification (NOC). These are skill types O, A and B under the NOC system. Generally, these positions require a university, college, or trade-school education or some other form of specialized training.<sup>5</sup>

| Skill Level (alpha)   | Skill Level (digit)    | Nature of Education/ Training  |
|---|------------------------|--|
| <b>O</b>  | Management Occupations |  |
| <b>A</b><br>Occupations usually require university education.                                       | 1                      | University degree at the bachelor's, master's or doctorate level.  |
| <b>B</b><br>Occupations usually require college or vocational education or apprenticeship training. | 2 or 3                 | Two to three years of post-secondary education at a community college, institute of technology or CEGEP<br><i>or</i><br>Two to five years of apprenticeship training<br><i>or</i><br>Three to four years of secondary school and more than two years of on-the-job training, specialized training courses or specific work experience.<br>Occupations with supervisory responsibilities and occupations with significant health and safety responsibilities, such as firefighters, police officers and registered nursing assistants are all assigned the Skill Level B. |

(Source: Human Resources and Skill Development Canada, “NOC Tutorial,” <http://www30.hrsdc.gc.ca/NOC/English/NOC/2006/Tutorial.aspx> )

<sup>3</sup> Government of Canada, “Government Of Canada Announces a more Efficient and Responsive Temporary Foreign Worker Program ,” April 25, 2012, <http://news.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=5&mthd=advSrch&crtr.dpt1D=&nid=670919&crtr.lc1D=&crtr.tp1D=&crtr.yrStrtVI=2008&crtr.kw=temporary%2Bforeign&crtr.dyStrtVI=26&crtr.aud1D=&crtr.mnthStrtVI=2&crtr.page=1&crtr.yrndVI=2012&crtr.dyndVI=17>

<sup>4</sup> Human Resources and Skills Development Canada, “Temporary Foreign Worker Program,” April 25, 2012, [http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/communications/a-lmo.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/a-lmo.shtml)

<sup>5</sup> MLT Lawyers, “Immigration Law Update,” January 10, 2011, <http://www.mlt.com/media/application/10Q3ImmigrationLaw.pdf>

These positions include, but are not limited to:

- All construction trades, including plumbers and pipefitters, carpenters, machinists, and electricians;
- Heavy equipment and transportation operators and mechanics;
- Underground miners, oil and gas drillers and related occupations; or
- Engineers.<sup>6</sup>

The ALMO process may expand to include all occupations.<sup>7</sup>

## ***Wages***

The ALMO process is clearly designed to suppress wages in areas of high economic activity and skills shortages like Alberta.

Under the ALMO process, TFW wages can be up to 15 per cent lower than the prevailing occupation's wage in the region, so long as that wage is no lower than the Canadian average and is no lower than the wage of a Canadian or permanent resident worker with the same job in the same workplace.<sup>8</sup>

Under the old wage structure, employers were required to pay temporary foreign workers at least the average wage for an occupation in a specific region, regardless of what they were paying their Canadian employees.

## ***Outcome for the Non-union Construction Sector Bidding on Industrial Projects in Alberta***

Non-unionized employers, like Merit Contractors, will now have a huge competitive advantage in terms of their ability to recruit TFWs at wages below the regional average. Firms won't have to show the federal government that they made meaningful and concrete attempts to recruit Canadians to fill the jobs.

The prevailing wages of every skilled position in Alberta is above the national average.<sup>9</sup> That said, good data on wages is difficult to obtain. Statistics Canada's NOC data is spotty and does not include wages for every skilled position included in the ALMO process.

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<sup>6</sup> Human Resources and Skills Development Canada, "NOC Matrix," <http://www5.hrsdc.gc.ca/NOC/English/NOC/2011/pdf/Matrix.pdf>

<sup>7</sup> Government of Canada, "Government Of Canada Announces a more Efficient and Responsive Temporary Foreign Worker Program ," April 25, 2012, <http://news.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=5&mthd=advSrch&crtr.dpt1D=&nid=670919&crtr.lc1D=&crtr.tp1D=&crtr.yrStrtVI=2008&crtr.kw=temporary%2Bforeign&crtr.dyStrtVI=26&crtr.aud1D=&crtr.mnthStrtVI=2&crtr.page=1&crtr.yrndVI=2012&crtr.dyndVI=17>

<sup>8</sup> Human Resources and Skills Development Canada, "Accelerated Labour Market Opinion Application," [http://www.servicecanada.gc.ca/eforms/forms/sc-emp5535\(2012-03-001\)e.pdf](http://www.servicecanada.gc.ca/eforms/forms/sc-emp5535(2012-03-001)e.pdf)

<sup>9</sup> See Statistics Canada, CANSIM Table 282-0069

## ***Advertising and Recruiting Considered One and the Same***

Advertising is the sole criteria for the federal government's requirements for recruiting, hiring and training Canadian or permanent resident workers. Under the TFW Program, advertisement *is* recruitment. The only thing a potential employer has to in order to prove to the government their willingness to hire Canadian or landed immigrant workers is to advertise.<sup>10</sup>

Minimum advertising requirements under the ALMO process have not changed. Employers must advertise on Government of Canada's [Job Bank](#) for at least seven calendar days and demonstrate that they have on-going recruitment mechanisms in place.<sup>11</sup>

As mentioned previously, for the purpose of this TFW Program, advertising *is* recruitment. There are few, if any, mechanisms in place to ensure employers consider Canadian workers before hiring TFWs.

One such mechanism, if it can be called that, is a box on a checklist at the end of the ALMO application (*emphasis ours*):

- I am aware of and I have complied with HRSDC/Service Canada's requirement that **requests** employers to make reasonable efforts to train Canadian citizens and permanent residents in order to meet their labour needs, **where possible**.<sup>12</sup>

Under the old LMO process employers had to document efforts to recruit Canadians or permanent residents including, copies of advertisements, number of Canadian applicants and why they were rejected.<sup>13</sup>

With the ALMO process, efforts to recruit Canadians or permanent residents appear to have been scrapped; employers are required only to advertise and to be prepared to prove they've done so if requested by the federal government for a "compliance review" after the fact.<sup>14</sup>

## ***Enforcement and Oversight***

The ALMO will be processed "within 10 business days,"<sup>15</sup> instead of timelines under the LMO process which could take up to six months.<sup>16</sup>

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<sup>10</sup> Human Resources and Skills Development Canada, "Minimum Advertising Requirements,"

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/communications/advertrecruitment.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/advertrecruitment.shtml)

<sup>11</sup> Human Resources and Skills Development Canada, "Regional Occupations under Pressure List – Alberta,"

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/oup/ab\\_rol\\_200709\\_e.pdf](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/oup/ab_rol_200709_e.pdf)

<sup>12</sup> Human Resources and Skills Development Canada, "Accelerated Labour Market Opinion Application,"

[http://www.servicecanada.gc.ca/eforms/forms/hrsd-emp5517\(2011-09-003\)e.pdf](http://www.servicecanada.gc.ca/eforms/forms/hrsd-emp5517(2011-09-003)e.pdf)

<sup>13</sup> Human Resources and Skills Development Canada, "Temporary Foreign Worker Program – Minimum Advertising Requirements,"

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/communications/advertrecruitment.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/advertrecruitment.shtml)

<sup>14</sup> Human Resources and Skills Development Canada, "Accelerated Labour Market Opinion Application,"

[http://www.servicecanada.gc.ca/eforms/forms/hrsd-emp5517\(2011-09-003\)e.pdf](http://www.servicecanada.gc.ca/eforms/forms/hrsd-emp5517(2011-09-003)e.pdf)

<sup>15</sup> Government of Canada, "Government Of Canada Announces a more Efficient and Responsive Temporary Foreign Worker Program," April 25, 2012, [http://news.gc.ca/web/article-](http://news.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=5&mthd=advSrch&crtr.dpt1D=&nid=670919&crtr.lc1D=&crtr.tp1D=&crtr.yrStrtVI=2008)

[eng.do?crtr.sj1D=&crtr.mnthndVI=5&mthd=advSrch&crtr.dpt1D=&nid=670919&crtr.lc1D=&crtr.tp1D=&crtr.yrStrtVI=2008](http://news.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=5&mthd=advSrch&crtr.dpt1D=&nid=670919&crtr.lc1D=&crtr.tp1D=&crtr.yrStrtVI=2008)

Compared to the LMO process, ALMO application requirements are extremely lax. Under the ALMO process, employers essentially do not have to submit anything other than the application form. Employers are required to submit documentation only if a compliance review takes place. Required documents are few compared to the LMO process [ALMO documents include copies of recruiting advertising, TFW work permit(s), registration with the province of territory where applicable, proof of no labour dispute, payroll records, time sheets and job description].

Given budget and staff cuts across the federal government, there may be doubts about the quality of compliance audits, if they happen at all.

Fewer than 20 per cent of successful ALMOs will be subject to a compliance review.<sup>17</sup>

There are no real punitive measures for employers found to be non-compliant with the ALMO process. Should an employer be found non-compliant:

“employers will have an opportunity to provide justification as well as to take corrective action, where applicable. HRSDC/Service Canada will work with the employer to implement the appropriate corrective action and may request proof to this effect in order for the employer to be deemed compliant.

Employers found non-compliant with the A-LMO Initiative, will be subject to consequences which will include:

- ineligibility to use the A-LMO Initiative;
- possible revocation of other LMOs for which work permits have not been issued yet;
- sharing the compliance review finding with HRSDC/Service Canada federal and provincial partners, for further investigation; and
- greater scrutiny of any pending or subsequent LMO applications.”<sup>18</sup>

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[&ctr.kw=temporary%2Bforeign&ctr.dyStrtVI=26&ctr.aud1D=&ctr.mnthStrtVI=2&ctr.page=1&ctr.yrndVI=2012&ctr.dyndVI=17](#)

<sup>16</sup> <http://www.immigroup.com/CanadaWorkPermit.aspx>

<sup>17</sup> Human Resources and Skills Development Canada, “TFWP A-LMO Fact Sheet,” [http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/almo/factsheet.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/almo/factsheet.shtml)

<sup>18</sup> Ibid.

## ***Links and Resources***

Government of Canada News Release announcing changes to the TFW Program:

<http://news.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=1&mthd=advSrch&crtr.dpt1D=420&nid=670919&crtr.lc1D=&crtr.tp1D=1&crtr.yrStrtVI=2008&crtr.kw=&crtr.dyStrtVI=26&crtr.aud1D=&crtr.mnthStrtVI=2&crtr.page=3&crtr.yrndVI=2015&crtr.dyndVI=4>

Accelerated Labour Market Opinion Fact Sheet:

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/almo/factsheet.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/almo/factsheet.shtml)

Accelerated Labour Market Opinion Application Form:

[http://www.servicecanada.gc.ca/eforms/forms/sc-emp5535\(2012-03-001\)e.pdf](http://www.servicecanada.gc.ca/eforms/forms/sc-emp5535(2012-03-001)e.pdf)

Regional Occupations Under Pressure List (Alberta):

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/oup/ab\\_rol\\_200709\\_e.pdf](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/oup/ab_rol_200709_e.pdf)

Temporary Foreign Worker Program: New Wage Structure:

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/communications/wage.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/wage.shtml)

Temporary Foreign Workers Program: Prevailing Wage Policy – Scenarios:

[http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/communications/scenarios.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/scenarios.shtml)

