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Equitable Access: Implementing the Temporary Resident to Permanent Resident Pathway

INTRODUCTION

The Temporary Resident to Permanent Resident Pathway (TR to PR Pathway) represents an opportunity to retain temporary entrants already in Canada who [“possess the skills and experience we need to fight the pandemic and accelerate our economic recovery.”](#)

Unfortunately, barriers in the implementation process can prevent eligible workers from submitting applications. Some workers, especially in lower-skilled occupations, may effectively be excluded by the complex application process which involves a proliferation of lengthy forms to complete; tests to take; documents to obtain, translate and upload; technology to utilize; and fees to pay. Add to this the pressure of meeting the deadline for a one-time program and the lack of expert assistance to complete the application, and it is no wonder why two of the three streams in the TR to PR Pathway remained undersubscribed six weeks after the program launch.

Successful implementation will require focused intervention to ensure equitable access for workers in lower-skilled occupations and the skilled trades as they have few opportunities to transition to permanent residence through other immigration programs. Without such a focus, Canada will lose out on its chance to benefit from the essential skills that these workers offer. This is important since, based on [labour market projections](#) for 2019-2028, we can expect approximately one third of job openings per year to be in lower-skilled occupations in sectors that traditionally employ temporary workers to fill ongoing needs.

This paper recommends ten practical solutions for implementing the TR to PR Pathway to increase equitable access by eligible applicants.

SELECTING PEOPLE ALREADY IN CANADA

The federal government has announced ambitious targets for levels of immigration to address Canada's demographic, economic, labour market, and regional needs. The targets exceed 400,000 permanent residents each year from 2021-2023. The pandemic has made it difficult for Canada to achieve its targets due to closed borders and restrictions on international travel. In 2020, for example, only half of the targeted numbers for immigration were met. This has led to an emphasis on selecting people already in the country.

In December 2020, two [time-limited "guardian angel" programs](#) began, one for Quebec and one for the rest of Canada. Open until August 31, 2021, the programs allow refugee claimants in six health care occupations to apply for permanent residence in recognition of their contribution during the height of the COVID-19 crisis. The programs have been criticized for requiring applicants to have provided direct patient care, thereby excluding many lower-skilled health care occupations.

In addition, the federal government has drawn heavily from the pool of skilled workers in Canada who seek permanent residence through the [Canadian Experience Class of the Express Entry Program](#). On February 13, 2021, 27,332 people in that pool were invited to apply for permanent residence. This was by far the highest single draw to date. Previous and subsequent draws have not exceeded 6,000 invitations. For this draw, the minimum number of points required to be invited to apply was significantly lower at 75 points compared to the typical range of 368 to 467 points. The Express Entry pool filled up rapidly after it was nearly depleted by that massive draw, indicating a pent up and continuing demand for permanent residence in Canada.

The TR to PR Pathway is a time-limited program that enables people already here to become permanent residents of Canada outside of Quebec. Launched on May 6, 2021, the program includes three general streams, each of which has a cap on the maximum number of applications that will be accepted for a total cap of 90,000. Comparable streams are in place for French-speaking applicants, but with no caps. Officials from Immigration, Refugees and Citizenship Canada (IRCC) have estimated a pool of approximately 1-1.3 million temporary residents in Canada, a portion of whom could be eligible to transition to permanent residence under this pathway.

Table 1

TR to PR Pathway – General Streams As of June 17, 2021		
Stream	Applications	
	Cap	Received
Workers in Canada: health care	20,000	1,952
Workers in Canada: essential, non-health care	30,000	14,622
Recent international graduates from a Canadian Institution	40,000	40,000
	90,000	56,574

The period for accepting applications to the TR to PR Pathway will end on November 5, 2021 or sooner if the maximum numbers have been received. The recent international graduate stream reached its cap of 40,000 applications within 26 hours. By contrast, as of June 17, six weeks after the program launch, the government had received less than 10% of the 20,000 maximum applications in the health care stream and less than 50% of the 30,000 in the essential non-health stream. This may be an indication that barriers are preventing eligible applicants in those two streams from applying.

To be eligible for the health care or essential non-health care streams, applicants must:

- be in Canada and plan to live outside Quebec,
- meet or exceed level 4 of Canadian Language Benchmarks (CLB) or Niveaux de compétence linguistique canadiens,
- be currently employed in any job listed in the [National Occupational Classification \(NOC\) website](#), and
- possess at least one year of work experience during the past three years in eligible occupations for the desired stream.

The eligible occupations include all skill levels as designated by [the NOC classification system](#).

Table 2

NOC Designations	
Skill type 0	management jobs
Skill level A	professional jobs that usually require a university education
Skill level B	technical jobs and skilled trades that usually require a college diploma or apprenticeship
Skill level C	intermediate jobs that usually require high school education or job-specific training
Skill level D	labour jobs that usually receive on-the-job training

Refugee claimants and people without status in Canada are not eligible to apply for any stream of the program.

A PROMISING BUT NOT PERFECT POLICY

The policy parameters of the TR to PR Pathway have been subject to some criticism. There are legitimate concerns that refugee claimants and persons without documented temporary status are excluded and that the minimum language requirement excludes many lower-skilled workers. We urge Canada to find pathways to permanent residence for such workers who make a valuable contribution in essential occupations. At the same time, we applaud the government for making a good start to enable over 90,000 temporary entrants and their families to make the transition to permanent residence.

The program has a strong rationale in that it targets people with Canadian experience who are currently employed and who can integrate well without displacing others in the labour market. In addition to helping Canada to achieve its immigration objectives – including Francophone immigration outside of Quebec – the program recognizes the value of temporary workers who have done essential work that has helped Canada get through the pandemic and will help the country through the recovery and beyond.

Although the justification for the program is sound, the implementation process does not promote equitable access for all eligible occupations. For example, temporary workers from lower-skilled occupations may be eligible to apply but, as a practical matter, may not be able to access the program due to a number of barriers discussed later in this paper.

SNAPSHOT: HEALTH CARE OCCUPATIONS

There are [40 eligible occupations](#) in the health care stream of the TR to PR Pathway. Ninety percent (90%) are designated as higher-skilled (NOC A and B) occupations. They include registered nurses, physicians, occupational therapists, medical laboratory technologists and many more.

The remaining ten percent (10%) consist of four lower-skilled (NOC C) occupations. However, data from the federal government's [open data website](#) indicate that NOC C occupations represented over eighty percent (80%) of Temporary Foreign Worker Program (TFWP) permits issued in 2019 among eligible TR to PR Pathway health care occupations, a dramatic increase from less than five percent (5%) in 2015.

Table 3

Eligible Occupations in Health Care Stream of TR to PR Pathway				
	Representation within stream		TFWP permits issued 2019	
	#	%	#	%
NOC A	19	47.5	295	15.3
NOC B	17	42.5	75	3.9
NOC C	4	10.0	1,560	80.8
	40	100.0	1,930	100.0

The 1,560 permits issued in 2019 for NOC C eligible health care occupations were divided among two of the four eligible occupations. [NOC 4412](#), which includes personal support workers, received 1,525 permits. [NOC 3413](#) which includes nurse aides and orderlies, received 35 permits. This indicates a significant pool of health workers in lower-skilled occupations which include many racialized women and men who have worked tirelessly during the pandemic. It also demonstrates a strong need since employers are required to undergo a labour market impact assessment before being permitted to hire a temporary foreign worker from abroad.

SNAPSHOT: OTHER ESSENTIAL WORKERS

There are [94 eligible occupations](#) in the essential non-health stream. These occupations predominantly fall within the NOC skill levels B, C and D, including a large number of industrial, electrical and construction trades under NOC B. Data from the [open data website](#) show that the distribution of these skill levels within the stream is very different from their distribution among TFWP permits issued in 2019 among the eligible occupations. As shown in Table 4, NOC C received a disproportionately large number of permits (87.4%) while NOC B and D were disproportionately low at 7.1 and 5.5% respectively.

Table 4

Eligible Occupations in Essential Non-Health Stream of TR to PR Pathway				
	Representation within stream		TFWP permits issued 2019	
	#	%	#	%
Manager	2	2.1	45	0.1
NOC A	2	2.1	0*	0*
NOC B	36	38.3	5,215	7.1
NOC C	36	38.3	64,345	87.4
NOC D	18	19.1	4,020	5.5
	94	100.0	73,625	100.0

*Values between 0 and 5 are shown as 0 in the open data website for privacy reasons.

[In 2019, 50,000 to 60,000 farming, food and fish processing accounted for 60% of all foreign workers entering Canada under the Temporary Foreign Worker Program.](#) The [open data website](#) shows that NOC [8431](#) (general farm workers) received 48,885 TFWP permits in 2019 which is significantly higher than any other occupation eligible for the essential non-health stream, and represents 76% of permits issued amongst eligible NOC C occupations.

Table 5

Eligible Occupations in Essential Non-Health Stream of TR to PR Pathway Highest #s of TFWP Permits Issued in 2019		
	Occupation	Permits issued 2019
NOC C	General farm workers (NOC 8431)	48,885
	Home child care providers (NOC 4411)	5,410
	Nursery and greenhouse workers (NOC 8432)	4,735
	Transport truck drivers (NOC 7511)	2,490
	Fish and seafood plant workers (NOC 9463)	1,925
NOC D	Labourers in food, beverage and associated products processing (NOC 9617)	1,460
	Harvesting labourers (NOC 8611)	1,085

Based on the above data, equitable access to the TR to PR Pathway would mean a large portion of successful applications from agri-food workers, as well as applications from child care providers and transport truck drivers.

OPPORTUNITIES FOR PERMANENT RESIDENCE THROUGH OTHER PROGRAMS

Lower-skilled occupations

We know from labour market forecasting that Canada continues to need lower-skilled workers in essential occupations. As observed in a May 2021 [policy paper](#) by Rupa Banerjee and Daniel Hiebert, “The pandemic has shown that lower-skilled temporary foreign workers are essential for the economy and fulfill long-term needs in sectors with ongoing demand.”

Despite the demand, workers in lower-skilled occupations have limited options to transition to permanent residence through other programs. Their levels of education and official language capacity are not high enough for most immigration programs. And while most provinces do include lower-skilled workers in their Provincial Nominee Programs, there are very few spots for them.

If eligible lower-skilled workers are unable to apply to the TR to PR Pathway in time due to barriers discussed later in this paper, they will be out of luck and Canada could lose out on desperately needed essential workers who have contributed so much during the pandemic.

Trades

Canada has a continuing need for tradespeople but temporary workers in the skilled trades do not fare well in broad Express Entry draws. This is because they do not score highly in the point system which values higher levels of education. Some tradespeople do obtain permanent residence through semi-annual specific draws for the Federal Skilled Trades Program under Express Entry, but the number has not been high. Only 250 were invited to apply in a draw held in August 2020. As for Provincial Nominee Programs, Ontario appears to be the only province with a program that specifically targets the skilled trades. All of this makes it crucial to ensure eligible tradespeople are able to apply for the TR to PR Pathway.

Equitable versus equal access

One could argue that all applicants in the health care and essential worker streams are treated equally in that they are all subject to the same requirements as others in their streams. This does not mean, however, that they are treated equitably. When you consider the barriers that some potential applicants face, based on income, digital skill level, geographic location, and more, it becomes clear that some accommodation and assistance must be provided to level the playing field. Otherwise, these two streams will remain undersubscribed or filled entirely with individuals in higher-skilled occupations.

Some people are sceptical about whether the government is truly committed to an inclusive approach in which workers from all eligible skill levels can gain access to the program. In a June 2021 [First](#)

[Policy Response](#) article, Anna Triandafyllidou and Lucia Nalbandian observe that identified barriers facing eligible workers have “raised suspicions that the government has left the sorting of immigration applicants to the complex application system, allowing only those with the technical skills, education and

competence to navigate the application portal successfully.” Others have observed that the minimum CLB language requirement will exclude otherwise eligible applicants, including many temporary agri-food workers.

The two composite scenarios below illustrate stark differences that can exist among eligible applicants in their capacity to prepare and submit an application for the TR to PR Pathway.



Scenario 1: Mahalia

Mahalia came to Canada from the Philippines as an international student and has recently graduated with a bachelor's degree in chemistry. She has a permit allowing her to work in Canada for up to three years and is working in an entry-level position as a medical lab assistant in a medium-sized clinic. Mahalia has superior English language skills and is well able to understand the complexities of the application process for the TR to PR Pathway. She also has high digital literacy and access to a personal computer on which she can upload information and complete online forms. Although it has been more than two years since Mahalia took an approved language test, she is familiar with the test format and has no difficulty in obtaining the required proof of her language ability. She does not need to go to the trouble or expense of obtaining translated documents or a medical exam since this was already done for her student visa. With a steady income and access to family funds if needed, the fees and costs associated with the application are manageable. Fortunately, Mahalia's employer is supportive of her ambition to become a permanent resident and allows her time to complete what is, despite her many advantages, a complex and time-consuming application process. With help from an immigration consultant, Mahalia completes and submits her application shortly after the program begins.



Scenario 2: Javier

Javier plants and harvests crops on a farm in a rural community. A resident of Mexico, he has received a work permit under the Seasonal Agricultural Workers Program of the Temporary Foreign Worker Program for the past five years. As a general farm worker, he has accumulated more than the one year of experience required in an eligible occupation in the essential (non-health) stream of the TR to PR Program. Javier wants to become a permanent resident and for his wife and young children to join him in Canada. Although he is eligible to apply to the TR to PR Pathway, it seems like an impossible task. Javier has no access to a computer to collect information or upload documents; no transportation to the closest urban centre to get a language test, medical exam, translation of documents, or biometrics; no help from anyone to complete the process; insufficient funds to pay all required fees; no time off (let alone paid time off) to complete the process; and low digital literacy. He has insufficient English language proficiency to work through a highly technical process even though, unlike most of his co-workers, he would meet the CLB Level 4 minimum requirement. To make matters worse, Javier knows that his employer is not supportive of temporary workers seeking permanent status. Javier is not confident that his employer would verify his employment experience. He also suspects that he might be fired for making an application, and, without a bridging open work permit, could not seek work with another employer. After considering his options, Javier has decided not to submit an application.

WHAT ARE THE BARRIERS?

A successful program outcome would include the acceptance of applications from a diversity of eligible occupations, including professions and trades, higher and lower-skilled occupations, agricultural workers, etc. Without a user-centred approach to implementation that mitigates barriers faced by different types of applicants, the program could end up inadvertently excluding workers from types of occupations the policy is meant to include.

Affordability

For many applicants, the biggest barrier is the cost, not just for the application fees but for obtaining documentation, translation, testing and travel. We have estimated a total cost of \$2,200-\$2,400 per person or \$4,700-\$5,240 for a family of four, excluding any fees paid for immigration consultants or lawyers. This is simply not affordable for many potential applicants, especially those in lower-skilled occupations. Potential applicants are also at a disadvantage if they do not have a personal credit card or Canadian debit card to submit payment online.

Risk of refusal

Applicants who can put the funds together may nonetheless be unwilling to risk a rejected application due to a technical error. In the How to Apply section of the IRCC website, applicants are warned:

“If you don’t meet the requirements of at least one stream or are missing any required documents, your application for permanent residence will be refused. You will not receive a refund of your application fees.”

Time and uncertainty

Another barrier is the time required for the worker to put together a complete application, especially for those who are working at multiple jobs or in exhausting work environments. This can be compounded by the pressure to submit an application well before the November 5, 2021 deadline, knowing that the application window may close sooner if the cap for the relevant stream has been met.

Pressure remains for the worker even after submission of the application due to the uncertainty of not knowing if or when the application will be successful, and whether they should (or can afford to) apply to other immigration programs.

Work permits

Temporary workers who apply under economic immigration programs typically can obtain a bridging open work permit. This allows them to continue working while their application is being processed. Unfortunately, this option is not available to TR to PR Pathway applicants. This will put many people in the untenable position of being unable to earn any income while they await a decision on their acceptance to the program. This is not a concern for recent international graduates since the federal government has agreed to extend their work permits. It is a dire concern for seasonal agricultural workers who are expected to return to their home countries when their permits expire. Without a bridging open work permit, they could effectively be excluded from the TR to PR Pathway.

Technology

Applications must be submitted through the government’s online portal. No paper applications are permitted. The process involves validating a barcode form, uploading documents, and completing various forms on a computer. The computer must have Adobe Reader 10 or higher and JavaScript must be turned on. Potential applicants who have limited digital literacy or lack access to computers, scanners, and reliable internet access may consider the application process to be beyond reach.

Language proficiency

A potential applicant’s proficiency in English or French can also affect their ability to complete the application process and increase the risk of making a technical error that will result in the rejection of their application without reimbursement of any fees. While CLB4 is the minimum that is required for eligibility to the program, that may not be sufficient to navigate successfully through the complex and technical application process. Even people who speak and understand English as one of their languages may have difficulty passing the language assessment, for example, if their reading comprehension and writing skills are low.

Language testing

The requirement for language testing can also pose problems. Some applicants cannot take time off work to take the test (which may take a full day) or cannot afford to take time off work without pay. The cost of the language test can also be a barrier, as is the potential need to retake the test for people who are unfamiliar with it.

Currently, there are only two authorized English language tests: International English Language Testing System (IELTS) and the Canadian English Language Proficiency Index Program (CELPIP) Test. Their testing sites tend to be heavily booked and are not available in all communities.

Documents and translation

Some documents required for the application could be difficult to obtain expeditiously, especially if they must be requested from another country. Certified translations can also be difficult or costly to obtain.

Medical exams

The requirement to take medical tests can be a challenge, in part because panel physicians are not available in every community. The cost and time to travel add to the burden.

Fingerprints and photo

The requirement to provide fingerprints and photo (biometrics) adds to the time and cost of completing an application, including access to a photographer and a Service Canada office.

The IRCC website highlights biometrics as a mandatory requirement and also notes “temporary” exemptions due to COVID 19. This seems unnecessarily confusing for a one-time program that has a six-month or shorter window to apply.

Geography

Some locations within Canada are well equipped with the services that applicants will need to access to complete an application. Others are not, especially rural and remote communities where temporary agricultural workers often reside. Lack of access to services, test sites, and reliable internet service can add to the time and cost of pursuing an application or, in many cases, dissuade an eligible person from

applying. This is a missed opportunity in light of Canada's interest in attracting and retaining immigrants in smaller centres.

Assistance

In the face of a complex, technology-based and time-sensitive application that will be rejected if errors are made, many potential applicants in lower-skilled occupations would greatly benefit from experts to assist them. IRCC does note that “an immigration consultant or lawyer may assist clients with their application, but they should not log in to the portal using a client's credentials or sign the application for them.” However, such experts would add to the cost of an already costly application process for people who are not high-income earners. Many settlement agencies are limited in their ability to help because federal funds cannot be used to assist temporary entrants. And community legal clinics, where they exist, are unlikely to have sufficient resources to assist.

Note concerning recent international graduates

The rapid submission of applications in the stream for recent international graduates from a Canadian institution is an indication that many graduates have access to what is required to make a successful application. Without data, however, we do not know how many submitted applications will be rejected for being incomplete or not meeting the requirements of the recent graduate stream. Nor can we tell whether certain populations within this stream are well or poorly represented in the submitted applications. For example, what percentage were graduates from trade or vocational programs as opposed to bachelor's, master's or doctoral programs? It is too late, however, to redress potential inequities in that stream since the cap was reached early on.

TEN POTENTIAL SOLUTIONS

With only a few months left in the window to submit applications, any improvements in the implementation process for the health care and essential non-health streams must be highly focused and able to be quickly implemented. In that vein, we

recommend ten solutions for the federal government's consideration.

1. Make a concerted effort to generate applications from occupations where relatively few eligible applicants have applied (despite the significant numbers of temporary work permits issued), Include tradespeople and workers in lower-skilled occupations who have few other opportunities to transition to permanent residence.
2. Reach out to potential applicants and conduct information sessions with stakeholders that they trust, including migrant worker organizations, settlement services, and trade unions.
3. Create pictograms with clear, plain language to explain the step-by-step application process. Translate them into major languages spoken by the targeted population of applicants and disseminate widely to trusted community stakeholders.
4. Analyse submitted applications on a rolling basis to identify gaps and strategies to address them:
(a) If relatively few applications are coming in from targeted occupations, reserve a certain number of spots for those occupations and consider extending the deadline.
(b) Analyse gaps, errors, and missing or unacceptable documents that result in the rejection of applications. Take remedial steps based on the data, such as allowing applicants to correct technical errors.
5. To increase access for potential applicants, designate more government-approved physicians to conduct immigration medical exams and allow organizations certified to conduct Canadian Language Benchmark tests to assess language skills for the program.
6. Enable applicants to provide application fees and the results of biometrics and medical exams after their applications have been approved in principle and to apply to the Immigration Loans Program to cover the associated fees and costs.
7. Offer bridging open work permits to people awaiting a determination on their application.
8. Encourage provinces to facilitate the transfer of eligible Provincial Nominee Program (PNP) applicants in lower-skilled occupations and trades to the new program. This would help with uptake and free up precious spots in provincial programs.

9. Allow staff of federally funded service provider organizations to assist people in completing and submitting applications, ideally in collaboration with trained law students, lawyers and legal clinics.
10. Encourage civil society organizations to set up pop-up pro-bono clinics in partnership with the legal community to assist targeted applicants. This would be an adaption of a model successfully used to assist with sponsorship applications during the Syrian refugee crisis.

CONCLUSION

The objectives of the TR to PR Pathway cannot be fully achieved without equitable access for eligible applicants. An equitable approach to implementation, which recognizes the differing situations of eligible applicants, will increase fairness and help Canada to benefit from skills that we need for our country to thrive.

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