Foreign Workers Policy



1. **POLICY**

- Prior to the commencement of employment and subject to this policy, all employees must:
- be Canadian citizens;
- have permanent residency status or be otherwise legally entitled to work in Canada;
- shall provide the **[company]** with a valid Canada Social Insurance Number.
- To prioritize the recruitment of qualified Canadian employees and to employ Canadian employees is the commitment of the **[company].** Whenever feasible, prioritize the training of existing employees.
- The **[company]** may be required to recruit and hire foreign workers where it is not possible to recruit Canadian employees.
- Prior to **the** commencement of employment all foreign workers must obtain a valid work permit from Citizenships and Immigration Canada.

Employment ends on the expiry of the valid work permit.

- A foreign worker is subject to the policies and procedures of **[company]** subject to any requirements specified in a Labour Market Impact Assessment (LMIA) issued to **[company]** by Service Canada.
- The **[company]** is responsible for the following steps and protocols when it is deemed necessary to hire a foreign worker:
- pay the costs associated with the application for a LMIA, British Columbia Provincial Nominee Program (BCPNP) application;
- recruitment;
- transportation of the foreign worker to British Columbia; and
- any other costs required by legislation and the other work permit application process.

2. **PURPOSE**

- The purpose of this Statement of Policy and Procedure is as follows:
- To prioritize the employment of Canadian workers;
- To provide the processes terms and conditions of recruiting and hiring foreign workers.

3. **SCOPE**

- All management and human resources personnel and all foreign workers and potential employees of the **[company]** are bound by this Statement of Policy and Procedures.

4. **RESPONSIBILITY**

- The responsibilities of the **[Human Resources Reporting]** is as follows:
- To carry out efforts to find Canadian candidates required to fill the job vacancy with the required skills and experience or can be trained within a reasonable period to have the skills for the job.
- Prior to the commencement of employment, ensure that employees are Canadian citizen or permanent residents or have valid work permits.
- Prior to engaging their services, ensure that contractors are using Canadian citizens, permanent residents or employees with valid work permits.
- To manage foreign workers applications and work permits by developing and monitoring a "tickler" system.
- To commence foreign worker applications, LMIA applications, BCPNP applications, and recruiting potential foreign worker candidates;
- To provide on – going support to foreign workers who are making application for work permits;
- To refer employees to community based social organizations as well as providing on – going support to foreign workers to ensure that they acclimate to Canadian society.
- **Employees**
- Prior to commencement of employment, every employee is responsible to provide a valid Social Insurance Number to the Human Resources Department.
- Prior to commencement of employment each foreign worker is responsible for applying for and providing a valid work permit to the **[company]**;
- If the **[**company**]** is satisfied that there is still a shortage of qualified Canadian candidates, or for making arrangements to leave Canada within the time frames allowed by citizenship and Immigration Canada, each foreign worker is responsible for adequately preparing for the expiry of the work permit and working with the **[company]** to extend, renew or secure a new work permit.

5. **DEFINITIONS**

- "**Canadian**" means having Canadian citizenship or having the status of a permanent resident of Canada.
- "**Foreign national**" means a person who is not a Canadian citizen or a permanent resident of Canada and includes a stateless person.
- "**Foreign worker**" means a foreign national who is a candidate or is recruited for employment in British Columbia, pursuant to an immigration or foreign temporary worker program.
- **"Permanent resident"** means a person who has acquired Canadian permanent resident status and has not subsequently lost that status.

6. **REFERENCES AND RELATED STATEMENTS OF POLICY AND PROCEDURE**

Employment standards Act (British Columbia)

Immigration and Refugee Protection Act (Canada) and Regulations

SPP HR 2.01 BC – Employment Principles

SPP HR 2.02 BC – Recruitment and Selection

SPP HR 2.14 BC – Job Posting

7. **PROCEDURE**

- **[Company]** shall use its best efforts to fill all vacancies with Canadian employees in accordance with SPP HR 2.02 BC – Recruitment and Selection and SPP HR 2.14 BC – Job Posting policies.
- The **[company]** shall advertise the job vacancy in accordance with Canada's Temporary Foreign Worker Program requirements, prior to making a determination to recruit foreign workers including:
- To place an advertisement on the Federal Job Bank (or provisional equivalent) for a minimum of four weeks and maintain it until an LMIA regarding the position has been issued;
- Not limited to print media, job boards, websites use at least two additional methods of requirement beyond the Federal Job Bank each of which for a minimum of 4 weeks posting. One of these recruitment methods must be national in scope.
- Target under – represented groups.
- Job advertisements must include the following;
    - Company name
    - Business address
    - Title of the position
    - Job duties
    - Terms of employment
    - Wage
    - Benefits
    - Employment location
    - Contact information
    - Skill requirement (including education and experience)
    - Any other additional requirements specified by Employment and Skills Development Canada (ESPC) or Service Canada.
- For at least six years, evidence of all job-related ad campaigns and the results of such campaign, shall be maintained.
- The **[company]** may elect to try to fill the position with a foreign worker if, upon conclusion of the ad campaign, no qualified Canadian candidate has been found, and no current employee can be adequately trained within a reasonable period of time to competently fulfill the duties of the job.
- The **[company]** will make the following determinations:
- Which foreign worker program to apply depending on the job description and skill level of the job;
- Whether the job is temporary or permanent;
- Whether a suitable foreign worker candidate has been located at the time of application.
- The services of an international recruiter may be enlisted to assist in the recruitment of a foreign worker.
- the evaluation of foreign worker candidates for employment shall follow the same process as outlined in SPP HR 2.02 BC – Recruitment Selection.
- Within the time frames specified in order to have a LMIA successfully issued by Service Canada, the **[company]** shall prepare and submit the necessary documentation.

- The **[company]** shall prepare and submit all documentation required to support the foreign worker to apply for a work permit from Citizenship and Immigration Canada which includes:
    - A copy of the job offer or employment contract;
    - description of the job duties;
    - wages and working conditions;
    - a statement of the essential qualifications for the job;
    - registrations or licenses which the applicant needs;
    - language requirements;
    - start and end dates of the contract.
- The **[company]** or any employee of the **[company]** may not keep or hold any property of the foreign worker, including passports and work permits.
- On or before the commencement of employment, the **[company]** shall provide the foreign worker with any publications available from the Director of Employment Standards outlining the foreign worker's rights.
- **[Company]** will cover the reasonable expenses of successful foreign worker candidates associated with the work permit or LMIA application process (including the Employer Compliance Fee). No costs associated with the recruitment or work permit or LMIA application process incurred by **[company]** shall be passed on to the foreign worker or deducted from his or her earnings.
- The **[company]** shall maintain records of the employment of a foreign worker includes:
    - Name, address, payment and date of payment, of any party paid for finding a foreign worker on behalf of **[company].**

Records shall be maintained for **[seven (7)]** years.

8. **ATTACHMENTS**

Attachment A – link to Employment Skills Development Canada Sample Foreign Worker Contract.

Attachment A

SAMPLE FOREIGN WORKER CONTRACT

(Employment and Skills Development Canada)

The instruction Sheet to Accompany Employment Contract is available online at:

www.esdc.gc.ca/end/jobs/foreign_workers/lower_skilled/employment_contract.pdf