

# Proposed General Principles for the Operation of a Certified Employer Program

Access to skilled workers is vitally important Canadian business and the national economy. Employers are competing on the global stage for skilled workers. While changes are contemplated to improve the permanent residency stream for economic immigrants, (i.e. Express Entry in 2015) there continues to be a demand for high skill vacancies that cannot be sourced from within the Canadian labour market to fill short term gaps and specialized occupations.

## **Objective:**

To develop a timely, predictable and efficient program that streamlines processing of Labour Market Opinions relating to skilled workers for compliant employers, who demonstrate adherence to a specific level of conduct in order to participate in the program. Precedents for a program of this nature exist in North American programs such as FAST; TSA “known shippers”; CBP “trusted travelers” , in the United Kingdom under the Migrant Worker Sponsorship Program, in Sweden under its Certified Employer Program and most recently in Ireland where a pilot project has been launched.

## **1. Program Principles**

- a. The program must provide for more efficient movement of skilled workers from international destinations into the Canadian labour market to fill vacancies that cannot be staffed from within Canada
- b. The program is restricted for high skill occupations only, as defined by National Occupation Codes O, A and B
- c. The program would be available to employers with 50 or more employees, regardless of industry or geographic location
- d. Diligence of employment criteria; i.e. industry experience, skills and knowledge including requisite academic qualifications, for the position must reside with the employer
- e. The program must not undermine existing programs that deny admission on grounds of security, legal status or criminal offence convictions
- f. The program must provide consistency of application and interpretation

## **2. Program Benefits**

The program will deliver greater efficiencies in processing applications for labour market opinions and deliver significant productivity improvements in key industries. This will provide greater certainty to employers in the recruitment of foreign nationals. Main benefits of the proposed CEP are:

- a. Allows business to focus on productivity and innovation during a time of intense global competition for talent
- b. Creates processing efficiencies for both employers and governments and frees up resources available for other priorities such as enforcement, anti-fraud efforts and higher-risk areas of the immigration program

- c. Streamlines the adjudication of labour market testing by eliminating unnecessary and redundant documentary requirements from participating employers
- d. Produces faster, more predictable decisions for employers, and greater efficiencies in the system.

### **3. Program Administration**

- a. Employers will file a Certified Employer designation request and supporting business bona fides with a Certified Employer Unit (CEU) established by CIC/ ESDC. Participation is limited to those companies that demonstrate exemplary records of compliance.
- b. Employers would be pay a reasonable fee for administration of the program
- c. The employer must meet all of the following eligibility requirements to participate in the program:
  - i. The business has operated for over one year
  - ii. Evidence of registration with Canada Revenue Agency
  - iii. Has a valid business license and articles of incorporation/ partnership to operate a business in Canada
  - iv. Has not been subject to conviction / penalty for infractions under federal immigration laws, or violations of provincial labour / employment laws in the previous 24 month period
  - v. The employer must guarantee that the all positions entering through the CEP qualify for an expedited labour market opinion and demonstrate recruitment practices are in place to ensure compliance with advertising requirements as established by ESDC
  - vi. The employer must provide wages, benefits, working conditions and hours of work that are the higher of;
    - 1. the prevailing wage for the position in the industry where skills, training and experience are of a similar level; or
    - 2. the wage paid to other employees with comparable skills, experience and training in similar positions in the company
  - vii. The employer must have a defined plan in place to fill the position from within the domestic labour market within four years from the date the labour market opinion has been issued. The plan may include the transition of the TFW to permanent residency in Canada
  - viii. Agrees to submit an annual report of program use, including: number of positions, details of the positions filled, advertising efforts taken to fill vacancies from domestic sources, training and development plans etc.
  - ix. Agrees to random audits and site inspections by representatives of ESDC or CIC as determined
  - x. Agrees to zero tolerance for program violations
  - xi. Certifies that a genuine position exists and that the foreign national is qualified for the position.
- d. Application

- i. Employer requests pre-designation of the job criteria for specific positions, this will include information about the use of foreign nationals to fulfill business needs and any required criteria related to the credentials for the occupations filed.
  - ii. The employer will provide an estimate of the number of employees that are covered by the program on an annual basis. This could be modeled on the UK program for sponsorship of migrant workers.
- e. The CEU will review the employer's organizational structure, finances and history of compliance with respect to immigration laws
- f. A reasonable registration fee will apply to offset program costs
- g. The CEP application will be processed within 15 business days
- h. The CEU issues (or denies- denials subject to one appeal/refilling) Certified Employer approval
- i. The CEP approval is valid for a five year period, subject to audit by the CEU
- j. The CEU is required to issue an annual report of the program's progress including the number of Certified Employers participating in the program; the number of applications filed and other statistics deemed appropriate.

#### **4. Noncompliance**

- a. A Certified Employer would be suspended for any violation of the Program
- b. An employer will automatically be removed from the Program if the employer ceases to exist or operate as a legitimate ongoing business.

#### **Conclusion**

The establishment of a Certified Employer Program has the potential to deliver significant cost benefits to participating employers and government agencies. It will provide an efficient and predictable recruitment process for the hiring of skilled workers from international locations.