

# Comments Regarding the Government of Canada's Proposed Global Skills Strategy & Short-Term Work Permit

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The government of Canada is proposing that the new Global Skills Strategy will set an ambitious two-week standard for processing visas and work permits for global talent for the following companies:

- High-growth Canadian companies that need to access global talent in order to facilitate and accelerate investments that create jobs and growth. This will include companies that can demonstrate labour market benefits, such as increasing investments, knowledge transfer and Canadian job creation; and
- Global companies that are making large investments, relocating to Canada, establishing new production or expanding production, and creating new Canadian jobs.

In December 2016, CERC canvassed its immigration working group for suggestions about the operation of the Global Skills Strategy. Members of the working group were asked to provide their thoughts about how the Strategy could best work; the types of occupations the strategy would cover and conditions under which employers would be able to access/participate in the Strategy.

Below is a summary of the feedback received regarding the proposed Global Skills Strategy and the short-term work permit.

## **1. Are there certain occupations that should be included in the Global Skills Strategy?**

Picking “winners” (i.e. certain industries) is a hazardous approach for government. Government surveys, for the basis of skills shortages, are inevitably based on historical data and often do not reflect current labour markets. Employers are more adept at identifying immediate needs (as long as they do not avoid obligations to train and develop local staff). For these reasons the Strategy should be broadly applied and accessible to accredited employers.

A trusted employer program, involving accreditation, is the best means to enforce compliance and commitment to the local labour market and to facilitate the entry of people with desired skill sets.

Enterprises in all fields of activities can be investing and creating jobs locally. Other programs should address areas where there is a recognized penury of manpower but global talent should more facilitate the movement of all necessary personnel.

The Strategy should cover occupations that are highly skilled (i.e. NOC groups 00, 11, 12, 214, 217, 5241) managers, engineers and engineering technicians, IT specialists/managers (including, Software designers, IT developers for cutting edge technologies, Graphic designers), research scientists.

## **2. What attributes best define global talent?**

The concept of global talent is imprecise. A better approach is to consider skill sets in demand, which can change over time. As populations age the demand for some skill sets will rely upon more appropriately qualified graduates to meet labour market demands and the ability to attract foreigners with the necessary skill sets.

This would also include unique skills currently unavailable in Canada, and skills that are available in Canada, but in limited supply.

To be successful the Strategy should:

1. Ensure immigration systems are efficient, predictable and accessible
2. Ensure certified employers are supported through targeted immigration to meet their particular skills needs (the trusted sponsor concept again can facilitate such an approach).

Access to global talent means being able to hire the very best of the best on a global scale, and leveraging the most cutting edge skills and knowledge that have yet to develop in Canada. These are not just “nice to have” for Canadian corporations aiming to be competitive globally, they are critical. If Canada wants to keep pace with other nations, an aggressive strategy to bring in global talent more quickly and easily is essential.

The concept of global talent should also include talent that is necessary to attract investments such as managers that are trusted by foreign investors to start their operations (important when there is no intra-group possibility), professionals and specialists of proprietary technologies or business processes, supervisors and trainers in new technologies or products.

A work permit for a ‘global talent’ work permit applicant should be issued on the basis of a job offer to work in Canada. The assessment of whether the applicant qualifies for a work permit could include factors such as: occupation (NOC), salary level, experience in occupation / industry, language, education and skills equivalency.

## **3. Is NOC the best proxy to determine global talent, or is salary a more accurate determination?**

The NOC matrix has been long outdated, and it is cumbersome to update. Wages might be more nimble and flexible. High tech occupations evolve at such a rapid pace that the NOC codes are always behind. A smaller company may need a specific skill set but can’t necessarily afford a higher wage rate. It should be relative to the company’s own band levels and Canadians in that occupation in that region

At the same time, the NOC is seen by some to be the best proxy. It provides for a common nation-wide language to discuss occupations related to global talent. Wages vary greatly from region to region and at various points in the economic cycle.

For these reasons employers see the merits of both the NOC and salary as being considerations in determining global talent.

#### 4. Should there be limits on work permit duration?

Limits on duration are reasonable as long as there is a clear cut and reliable path to permanent residency for those who want to stay. As one company noted *“Our company invests a great deal in relocating and developing our talent, and with the current state of our PR program there is too much uncertainty.”*

Work permit length could either be linked to the duration of the employer’s project / initiative or subject to a cap (as with the intra-company transfer work permit category). Successful candidates should be encouraged to remain in Canada with incentives to seek permanent resident status.

#### 5. Should the jobs under the Global Skills Strategy be exempt from labour market testing?

The Global Skills Strategy should exempt labour market testing based on the ability of the company to demonstrate that it meets the criteria (labour market benefits, such as increasing investments, knowledge transfer and Canadian job creation, making large investments, relocating to Canada, establishing new production or expanding production, and creating new Canadian jobs).

Successful applicants will either have a skillset that is in high demand or that is rare and difficult to find in Canada, meaning that there will be a shortage of qualified Canadians available to assume these roles. Employers will hire locally if possible, given the extensive costs of relocating a foreign national into Canada.

In order to ensure the Strategy is responsive and agile, labour market testing should be avoided. Labour market testing adds unnecessary steps in the process and is a poor fit for high skilled positions in many of today’s rapidly changing industries.

A certified or trusted employer program provides government with an objective and verifiable means to review the commitment of employers to the local labour market. Relevant industry groups could also be consulted on a regular basis to determine in demand skills.

Requiring ongoing labour market applications by individual companies adds a degree of uncertainty and unnecessary administrative burden.

#### 6. What defines “High-growth Canadian companies”? Should the Strategy be expanded to all companies that are looking to create jobs and growth? What about companies that need skills for short term projects?

The Strategy should be available to companies of various sizes and needs, whether short or long term. Canadian job retention (Canadians already assigned to short term projects) is as important as job creation (expanding companies). The Strategy should include all companies that are looking to create growth and highly qualified jobs for both short and long term projects, and deliver economic benefit to the country.

A concept of high growth companies implies that government wishes to pick “winners” in an economy. Governments are ill equipped to do that. Such an approach distorts local economic activity by favouring an area of business based on assumptions that may or may not be correct. A system for “trusted sponsors” who are committed to the local labour market creates a level playing field that favours

innovation and hard work more than picking a limited number of occupation codes or types of businesses.

A company should not be required to demonstrate it is a “High growth Canadian company” in order to access the program. Any employer should be able to qualify based on the creation of jobs in the domestic labour market.

“High growth” is not a fair test to participate in this Strategy. There are many leading Canadian companies that do not grow quickly but are profitable and need to access global talent to be able to continue to prosper. This is true at all levels of the skills spectrum. Restricting participation to high growth companies unfairly penalizes Canadian companies that have growth at normal levels. Foreign companies that are relocating to Canada should not receive work permit advantages over those that a Canadian company may not be able to access .

#### **7. What attestations would be sufficient for employers to file in order to participate in the Strategy?**

A program for trusted or certified employers is based upon an assessment of empirical information related to an employer’s commitment to the local labour market and the development of Canadian staff members. It would thus makes accreditation a transparent and politically acceptable program. Such a system means that access to improved immigration systems can be open to any business that shows its commitment to Canadian workers. From that point market forces and management will determine business outcomes.

Previous compliance under IMP and/or TFWP may also be good proxies to determine eligibility under the Strategy, together with evidence of a viable, ongoing business that employs people in occupations that are chronically difficult to fill with Canadian employees.

Companies should be required to sign attestations or undertakings. Attestations should relate to program objectives and outcomes (e.g., creating jobs for Canadians, delivering training to Canadians, growing company revenues, etc.) and those businesses should be held accountable for their compliance with undertakings.

#### **8. Should employers be permitted to file blanket applications (i.e. X number of positions under specific occupations for a one year term)?**

Where an employer has approval or accreditation under the Strategy there is no reason why multiple applications could not be made, noting that audits can be used to spot check any areas of possible concern. There should be justification related to the ratio of foreign workers to Canadian workers.

Where an employer has a large-scale project or initiative that will require multiple foreign workers in the same occupation, the employer should be able to file a blanket application for this occupation. The employer’s application should set out the minimum educational, work experience and skills requirements for the occupation, with each foreign worker applicant having to meet these minimums. The candidates would need to be assessed on a case by case basis.

A blanket application might be more cost effective and efficient for larger sized employers.

**9. Which government department / ministry should be responsible for managing the Strategy?**

Systems in the United Kingdom and Australia are managed through one agency to providing employers with consistency in program management and policy application. Once responsibilities are divided there are undesirable implications relating to efficiency, predictability and consistency.

Management of the Strategy should fall within the responsibility of Immigration Refugees Citizenship Canada (IRCC).

**10. Which agency should determine the threshold questions around job creation / growth etc.? Could this be managed by a non-government agency?**

Employment Workforce Development and Labour could make recommendations based on labour market information and resources, but IRCC should have final determination. An assessment would not be necessary in every case. The company would be required to provide evidence that the objectives set out in the application have been achieved in order to further access the program.

Threshold questions (e.g. business plan assessment) could be outsourced to a qualified third party agency (or to multiple agencies) to maintain service standards and reduce processing times. This would be similar to the outsourcing of educational credentials assessments. Government agencies (such as Service Canada) struggle to understand business needs and realities and are ill-suited to assessing business plans.

Outsourcing to a third party may create challenges around confidentiality and potential for conflicts of interest that would have to be resolved.

**11. What steps can be taken to ensure the process of application/ administration (i.e. red tape) does not undermine the program objectives?**

The trusted employer systems that operate in other countries are designed to be “light touch” with the applications but with rigorous with audit provisions. In other words, they are meant to be agile and assist business. At the moment the application processes in Canada do not compare favourably (except the Port of Entry concept).

Exempting the Strategy from the LMIA process, with the ability to make application at POE for visa exempt nationals consistent with all other Work Permit categories, result in greater levels of consistency and predictability in the adjudication of applications.

Other suggestions include:

Increase the scope and responsibility of the officers in the Express Entry Employer Liaison group to include regular consultations with industry and employers.

The assessment of job creation should be straight forward and very similar to the manner in which IRCC officers adjudicate ICT Specialized Knowledge cases.

Government must be transparent about program objectives, deliverables and eligibility criteria. Policy manuals should be made publicly available in addition to data on work permit approvals/refusals by category and processing office. An employer hotline should be available so that companies and their

representatives can obtain guidance on program application processes and criteria from call centre personnel.

Program criteria and outcomes must be flexible enough to accommodate business realities (e.g. while a company may commit to creating 10 jobs, they may be unable to do so due to an economic downturn).

Service standards should be clear and unambiguous with stated timeframes and escalation processes. An electronic case management or intake system would provide employers with visibility over the process and streamline applications (e.g., by allowing applications to be submitted electronically rather than by paper).

Officers assigned to certain industries/employers so that employers are not providing the same information over and over again to different officers. Establishing the Strategy as a pilot program for two years

## **12. Similar models that have proved to be successful**

The Australian business sponsorship concept (introduced 1996) and the British sponsor licence system (introduced in 2008) are based on these concepts.

The UK Tech Nation Visa Scheme: <http://www.techcityuk.com/tech-nation-visa/>

The previous Information Technology Workers LMIA exemption worked very well before it was cancelled.

# Short-Duration Work Term Permit

In addition to the Global Skills Strategy, the government is proposing a new work permit exemption for short-duration work terms.

## **1. How should “temporary expertise” be defined?**

Short term consulting work permits should be issued for high skills or where specialized knowledge can be demonstrated (i.e. based on current NAFTA management consultant definition) and include any NOC O, A and B entering to work for less than 30 days in a 12-month period. The criteria could usefully include:

1. To meet an urgent need / emergency or related to a specific project;
2. Where the skills are set out in a list of nominated occupations;
3. Industry or company-specific knowledge/expertise that is required by a Canadian company on a short-term basis.

## **2. Should the work permit exemption cover specific occupations (NOC) or is wage a better proxy?**

Since the work permit is of a short term duration, NOC is likely to be the better proxy. When employees are brought over from markets like China or India for short stays, they remain on the home payroll. NOC would be more appropriate for determining short duration work permits.

Additional compliance checks may be required, but the policy should be more employer friendly not restrictive.

**3. Is the term of the work permit cumulative days? How is this tracked and by which department (IRCC/ESDC)?**

The term should be cumulative days within a 12 month period, tracked by CBSA and IRCC

**4. Other Comments**

Is it (the exemption) project specific? What if a company has multiple short term projects, could one WP be issued for several clients/employers? Or would they need to apply for multiple WPs in tandem based on individual contracts?

This work permit exemption should be broad enough to include short-term work assignments where the foreign worker requires a company-specific background and there is no real opportunity to hire / train a Canadian for the role. Where a foreign national is coming to Canada to work for a few days or a few weeks, there is no real labour market impact.