

2014 New Wage Policy  
 Questions and Answers

	<u>Questions from Officers</u>	<u>Answers</u>
1	<p><u>Work Location and Wage Range</u></p> <ul style="list-style-type: none"> <li>For the purposes of assessing the wage range, are we considering the same occupation (NOC) at the same <u>work site location</u>, or the same <u>job location (defined as the economic region)</u>?</li> </ul>	<p>The wage range considers all employees in the same occupation (NOC) at the same work site location, not the 'economic region'.</p>
2	<p><u>Yearly/Annual Salary</u></p> <ul style="list-style-type: none"> <li>Typically F&amp;E LMIA requests for positions such as actors, directors etc. indicate wages are paid as a yearly salary, payment by episode, or as a flat contract amount for the film. What do we do in these cases?</li> <li>If a wage is provided in a yearly salary, and the officers contact the employer for the calculation into hours, should we require this in writing?</li> </ul>	<p>When Service Canada receives applications for positions where the wages are listed as a yearly salary, payment by episode, or by flat contract amount for the film, the officer must request the salary/payment to be converted into an hourly wage. —The converted hourly wage must be provided by the employer in writing and should be documented in both the annex and notes [REDACTED] the [REDACTED].</p> <p>—*Note – While the converted hourly wage must be included in file notes and in the annex, the wage format originally provided by the employer can be left as a yearly salary in FWS on the "Job Pay and Benefits" screen and on the LMIA decision letter.</p>
3	<p><u>Wage being offered is consistent with the wage being paid</u></p> <ul style="list-style-type: none"> <li>If the wage range demonstrates that the workforce at that location is being paid at a</li> </ul>	<p>An employer must offer and pay the same wage to the TFW as what is paid to existing CDN/PRS and other TFWs in that occupation</p>

Comment [DV[1]: Suggest adding "(Canadians/permanent residents and TFWs", to add more clarity and to be consistent with the question on the application.

Comment [DV[2]: In cases where Job Bank lists an annual salary but the ER provides an hourly wage, I assume that reverse conversion would also apply?

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	<p>wage rate that is above the prevailing wage, must the employer offer the same wage to the TFWs working in the same occupation and work location?</p> <ul style="list-style-type: none"> <li>Do we consider TFWs in the wage range? Example: 10 staff (assuming same position/location), 9 Canadians are paid \$15/hour but the existing TFW on staff is paid \$25 skewing the range. Is the range still \$15-\$25? If yes, when the employer requests another TFW at \$25, this would be acceptable.</li> </ul>	<p>and location (even if the wage is higher than prevailing) where there is no reasonable justification to explain why the TFW could be paid less.</p> <p>The onus is on the officer to conduct a global assessment of all labour market factors. The employer may meet the wage assessment criteria, [REDACTED]</p> <p>[REDACTED]</p> <p>EX: The prevailing wage for electricians is \$20/hour. The work site has 15 electricians all receiving \$25/hour. An employer has requested a TFW electrician and offers to pay them \$21/hour (above Job Bank prevailing wage, but below what the current wage being paid to employees in the occupation and location. The TFW does not have less experience/education than the current employees, so there is no justification (the) for why the TFW could be paid less. Allowing TFWs to be paid at the lower wage of \$21/hour would put downward pressure on wages for that occupation at that location.</p>
<p>4</p>	<p><b>Contravention of IRPR 203 (3)d</b></p> <ul style="list-style-type: none"> <li>If a TFW must be paid the same wage as CDNs/PRs are we not in contravention of IRPR 203 (3) d which states: "whether the wages offered to the foreign national are consistent with the prevailing wage rate for the occupation and whether the working conditions meet generally accepted Canadian standards"?</li> </ul>	<p>Two of the overarching principles of IRPA/IRPR are to ensure that conditions of the TFWP do not make it more attractive for employers to hire TFWs over CDNs/PRs and to ensure that TFWs receive the same wages and working conditions as CDNs/PRs.</p> <p>The goal of the new wage directive is to ensure that wages being paid to TFWs and CDNs/PRs are as reflective as possible of the actual prevailing wage rate for the occupation in the</p>

**Comment [DV13]:** This seems to be inconsistent with Scenario 1 in the Operational Directive. In that scenario, the offered wage is \$22.00 (above Job Bank wage) and the wage range is \$13 to 27.00. The scenario concludes that "The wage is appropriate and meets program requirements" - It doesn't say the ER has to increase the wage to meet \$27.00 (highest), nor does it say a justification is required.

		<p>location of work. In the past, determining the prevailing wage rate was generally restricted to the median wage posted on the Job Bank/WIC or the collective bargaining agreement in a unionized environment. To be more responsive and reflective of current wages being paid in the actual labour market, the scope of labour market information to be considered in determining the prevailing wage has been expanded.</p> <p>As per the Wage Directive there are multiple ways of determining prevailing wage rate which also include credible sources of labour market information and industry specific wage rates (industry norms). Prevailing wage rate may not necessarily be determined by the Job Bank wage.</p>
5	<p><b>Avoidance of Program Requirements</b></p> <ul style="list-style-type: none"> <li>In a circumstance where an employer [redacted] or without reasonable justification, are we able to refuse the application under the wage factor?</li> </ul>	<p>If there is a discrepancy found by the officer (i.e. [redacted]) more scrutiny will need to be applied to other factors (e.g. recruitment) to ensure that the whole application's impact on the Labour market is assessed.</p> <p>Officers should consult with a TL/BE in cases [redacted]</p>
6	<p><b>Job Matching</b></p> <ul style="list-style-type: none"> <li>When will the job bank be updated to reflect the number of applications?</li> </ul>	<p>Once more information is available on Job Matching this will be shared.</p>
7	<p><b>Wage Range for One Employee</b></p> <ul style="list-style-type: none"> <li>Where there is only 1 other employee in the same position at the same work location, what is the wage range for that position?</li> </ul>	<p>EX: The employer, a restaurant has indicated that the wages offered are \$16.50/hr. The company has only 1 employee, who earns \$11.50/hr., therefore, the wage 'range' is \$11.50/hr.</p> <p>*Note: In the case where there are no employees to determine a wage range, the employer shall pay the median wage on Job Bank * or the wage offered to the other employee(s) in that work location, whichever is</p>

Comment [DV[4]: Is a justification required in this case?

Comment [DV[5]: Does this "the other employee" have to be in the same occupation? According to this, if prevailing wage is \$16.00 and this "other employee" is paid at \$18.00, the ER has to offer \$18.00 to the TFW. Is that correct?

		higher. *Other credible LMI can also be used in lieu of the Job Bank median wage	<b>Comment [DV[6]:</b> The mention of "no employee" and "the other employee" in the same paragraph is a bit confusing. Are we talking about situations where ER only has 1 other employee in the same occupation, or no other employee at all?
8	<p><b>Unnamed Positions</b></p> <ul style="list-style-type: none"> <li>Is Service Canada able to confirm LMIA requests for unnamed LMOs where the wage offer is a wage range?</li> </ul>	<p>As with all other LMIA applications, the thorough assessment of an unnamed LMIA application does not change. The decision of the LMIA will depend on the wage information provided in consideration of all the assessment factors.</p> <p>Officers should consult with a TL/BE in cases where there are unnamed LMOs and the employer is offering a wage range on the application wage offer is not aligned with the ER history or artificially inflated without justification.</p>	<b>Comment [DV[7]:</b> In addition to "not aligned with ER history or artificially inflated," I think a practical challenge would be: how do we triage such an application with a range of offered wages for un-named positions. In one application, some could be low-wage and others could be high-wage.
9	<p><b>Credible Sources of LMI Data</b></p> <ul style="list-style-type: none"> <li>Do we consider APEG as a credible alternate Labour Market information survey?</li> </ul>	<p>Officers can consider other credible labour market information, example - associations for the profession such as APEG keeping in mind that the default would be the highest wage. If the labour market information is recent and credible it may be accepted, however it is imperative an officer document the details in SF notes.</p> <p>* Program officers should seek guidance from <b>Business Expertise</b> when more credible sources of labour market information are available (e.g. P/T or municipal government commissioned surveys, APEG etc) before determining the appropriate wage floor for assessment purposes.</p>	

<p><b>10</b></p>	<p><b>Payroll Records</b></p> <ul style="list-style-type: none"> <li>• Are we able to request payroll records under privacy limitations?</li> <li>• Are we able to request payroll records under the legislation that supports ISB ability to request such records?</li> </ul>	<p>As per the Wage Policy and Directive, and confirmed with NHQ, payroll records may be requested by officers.</p> <p>Any payroll documents requested and collected must be documented and uploaded</p> <p>_____</p> <p>Add more detail here.</p>
<p><b>11</b></p>	<p><b>CRA Tax Records/Information</b></p> <ul style="list-style-type: none"> <li>• Are we able to ask for tax records as they are likely to be more accurate?</li> </ul>	<p>No we are unable to collect tax records for the purposes of wage assessment. Currently only T2 Schedule 100 Balance Sheet Information and T2 Schedule 125 Income Statement Information may be requested for the purposes of Genuineness assessment.</p>
<p><b>12</b></p>	<p><b>Credible Justification</b></p> <ul style="list-style-type: none"> <li>• Should justification details be provided in writing?</li> </ul>	<p>In circumstances where the wage offered differs from the wage range, or the wage offered to the TFW is above the wage range, a credible justification is required and must be provided by the employer in writing.</p>
<p><b>13</b></p>	<p><b>Wage Range and Recruitment</b></p> <ul style="list-style-type: none"> <li>• What is the bottom wage an employer can advertise? Is it the lowest wage paid for the same position at the same location or is it the prevailing wage?</li> <li>• What is the top wage an employer should advertise? Is it the highest wage paid for an occupation at that location or is it the wage offered to the TFW (if it is different)?</li> </ul>	<p>When assessing wage offers and recruitment, officers should always bear in mind that the purpose of recruitment is to attract CDNs and PRs to available jobs.</p> <p>When an employer advertises a wage range, the lowest number of an advertised wage range for recruitment should be the higher of the Job Bank median wage or the lowest wage that is currently being paid by the employer for that occupation and location?</p> <p>Assessment of the recruitment must ensure that Canadians are given first chance at available jobs and that employers hire temporary foreign workers only when qualified Canadians cannot fill available jobs.</p>

Comment [DV[8]: Parameters need to be established so POs are aware that certain information must be redacted.

Comment [DV[9]: Does this include situations where the offered wage is within the wage range?

Comment [DV[10]: I thought justification is also required if the wage offered is BELOW the wage range, according to the Operational Directive.

Comment [DV[11]: So if Job Bank wage is \$18.00 and the wage range at ER's workforce is \$16.00 to 20.00, then the advertised wage range must be "\$18.00 to 20.00"?

		<u>Add Examples:</u>
<b>14</b>	<b>Wage Bulletins</b> <ul style="list-style-type: none"><li>• Does the Cold Lake Wage Bulletin still apply?</li></ul>	This wage bulletin is still in effect and all aspects of the new wage assessment policy apply to Cold Lake wages in the same way as they are applied to Job Bank median wages.
<b>15</b>	<b>Flagging of files</b> <ul style="list-style-type: none"><li>• Can there be a flag available in FWS similar to ALMO where the wage offered is much higher?</li></ul>	

**Comment [W-T12]:** What's the thought process behind this question?