

Policy: Layoffs, Dismissals, Outsourcing and Offshoring in the Global Talent Stream

Policy Statement

The Global Talent (GT) Stream will not be used to facilitate layoffs, dismissals, outsourcing or offshoring. Should an employer attempt to use the GT Stream to facilitate any of these practices, this will result in a negative Labour Market Impact Assessment.

Scope

This policy applies to the GT Stream.

Exemptions

There are no exemptions to this policy.

Authority (Acts, regulations and other legislation)

Immigration and Refugee Protection Regulations (IRPR) 203(1)(b)

Assessment of employment offered

203 (1) On application under Division 2 for a work permit made by a foreign national other than a foreign national referred to in subparagraphs 200(1)(c)(i) to (ii.1), an officer must determine, on the basis of an assessment provided by the Department of Employment and Social Development, of any information provided on the officer's request by the employer making the offer and of any other relevant information, if

- a) the job offer is genuine under subsection 200(5);
- b) the employment of the foreign national is likely to have a neutral or positive effect on the labour market in Canada;**
- c) the issuance of a work permit would not be inconsistent with the terms of any federal-provincial agreement that apply to the employers of foreign nationals;
- d) in the case of a foreign national who seeks to enter Canada as a live-in caregiver,
 - i. the foreign national will reside in a private household in Canada and provide child care, senior home support care or care of a disabled person in that household without supervision,
 - ii. the employer will provide the foreign national with adequate furnished and private accommodations in the household, and
 - iii. the employer has sufficient financial resources to pay the foreign national the wages that are offered to the foreign national; and
- e) the employer
 - i. during the period beginning six years before the day on which the request for an assessment under subsection (2) is received by the Department of Employment and Social Development and ending on the day on which the application for the work permit is received by the Department, provided each foreign national employed by the employer with employment in the same occupation as that set out in the foreign national's offer of employment and with wages and working conditions that were substantially the same as — but not less favourable than — those set out in that offer, or
 - ii. is able to justify, under subsection (1.1), any failure to satisfy the criteria set out in subparagraph (i).

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Immigration and Refugee Protection Regulations (IRPR) 203(3)(c)(d)(e)

Effects on the labour market

203 (3) An assessment provided by the Department of Employment and Social Development with respect to the matters referred to in paragraph (1)(b) shall, unless the employment of the foreign national is unlikely to have a positive or neutral effect on the labour market in Canada as a result of the application of subsection (1.01), be based on the following factors:

- a) whether the employment of the foreign national will or is likely to result in direct job creation or job retention for Canadian citizens or permanent residents;**
- b) whether the employment of the foreign national will or is likely to result in the development or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents;
- c) whether the employment of the foreign national is likely to fill a labour shortage;**
- d) 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;
- e) whether the employer will hire or train Canadian citizens or permanent residents or has made, or has agreed to make, reasonable efforts to do so;**
- f) whether the employment of the foreign national is likely to adversely affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute; and
- g) whether the employer has fulfilled or has made reasonable efforts to fulfill any commitments made, in the context of any assessment that was previously provided under subsection (2), with respect to the matters referred to in paragraphs (a), (b) and (e).

IRPR text available at: <http://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/FullText.html>

Policy

Layoffs and Dismissals

If an employer applying for the GT Stream should indicate on its application that there were layoffs or dismissals within the last 12-months in their workforce in the same position(s) for which the temporary foreign worker (TFW) is being requested, GT Stream Operational Unit officers should engage the employer to get a better sense of why these layoffs or dismissals occurred.

In particular, officers should engage with the employer to explore the relationship between layoffs or dismissals within the last 12-months in the employer's workforce and the request for TFW positions through the GT Stream. If the GT Stream Operational Unit officer requests additional information as part of this process, employers are expected to provide the relevant supporting documents.

If the GT Stream Operational Unit officer determines through discussions with the employer and the review of any relevant supporting documents, that the layoffs or dismissals in the last 12-months are

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linked to the employer's request for a TFW position under the GT Stream, the application for the TFW position will receive a negative assessment.

The GT Stream will not be used to layoff or dismiss Canadians and permanent residents.

Outsourcing and Offshoring

As part of the application to the GT Stream, an employer is asked whether the hiring of the TFW in the position they are requesting under the GT Stream will lead to job losses or a reduction in work hours, now or in the foreseeable future, for Canadian/permanent resident employees in their workforce, or in the Canadian workforce more generally, including from outsourcing and offshoring (definitions provided in the Applicant Guide).

If an employer applying to the GT Stream indicates that hiring the TFW in the position they are requesting under the GT Stream will result in job losses or a reduction in work hours, now or in the foreseeable future, for Canadian/permanent resident employees in their workforce, or in the Canadian workforce more generally, including from outsourcing and offshoring, the application for the TFW position will receive a negative assessment.

If the GT Stream Operational Unit officer determines through discussions with the employer and the review of any relevant supporting documents, that the hiring of the TFW in the position being requested under the GT Stream will result in job losses or a reduction in work hours, now or in the foreseeable future, for Canadian/permanent resident employees in their workforce, or in the Canadian workforce more generally, including from outsourcing and offshoring, the application will receive a negative assessment.

The GT Stream will not be used to outsource or offshore Canadian jobs.