

Policy: Category A Eligibility for the Global Talent Stream

Policy Statement

Innovative employers in Canada seeking to fill positions that require unique and specialized talent in order to scale-up and grow, are eligible for Category A of the Global Talent (GT) Stream if they have been referred to the GT Stream by a Designated Referral Partner, and are able to make commitments to creating jobs or increasing the overall growth of their businesses.

Scope

This policy applies to all applications submitted to Employment and Social Development Canada (ESDC) for processing through the GT Stream of the Temporary Foreign Worker (TFW) Program provided that they fall under Category A.

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

Temporary Foreign Worker Program

- ii. is able to justify, under subsection (1.1), any failure to satisfy the criteria set out in subparagraph (i).

Immigration and Refugee Protection Regulations (IRPR) 203(3)(a)(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

Overview

For Category A of the GT Stream, eligibility is limited to employers who meet the following eligibility criteria:

- Employer is operating in Canada;
- Employer has a focus on innovation;
- Employer has a willingness, and is capable of growing or scaling up;
- Employer has a need for a unique and specialized position in the company; and,
- Employer has identified a qualified foreign worker for potential hire into that unique and specialized position.

Temporary Foreign Worker Program

The eligibility criteria may be adjusted in response to lower or higher than anticipated intake volumes or to increase the variety of companies accessing this Category of the GT Stream (refer to Annex A for more details on the eligibility criteria).

Eligible employers must be referred to the GT Stream by a Designated Referral Partner (for an up-to-date list of Designated Referral Partners, refer to the [TFW Program website](#) and the Quebec Government's [Ministry of Immigration, Frenchisation and Integration \(MIFI\) website](#)).

Category A employers must make commitments in their employer-specific Labour Market Benefits Plans (LMBPs) to carry out activities that will have lasting, positive impacts on the Canadian labour market, specifically to creating jobs for Canadians or permanent residents. Where possible, focus should be placed on creating jobs for Canadians or permanent residents as a result of the foreign national being hired, or on the company's business growth since the foreign national was hired.

Wage and Other Requirements

All Category A employers in the GT Stream need to comply with TFW Program regulations including 203(3)(d) *whether the wages offered to the foreign national are consistent with the prevailing wage rate for this occupation and whether the working conditions meet generally accepted Canadian standards*. For additional information on these requirements, refer to the TFW Program policy titled *Compensation*.

Factoring in these TFW Program and wage requirements for Category A, employers must offer a wage to their requested foreign worker position, at or above the highest of the following:

- The regional median hourly wage posted on Job Bank's *Wage Report* for the occupation requested (see *Compensation* policy);
- The wage as defined by other publicly available labour market information that is considered a reliable source (see *Compensation* policy);
- The wage that is within the wage range that the employer is paying their current employees hired for the same job description and work location, and with the same skills and years of experience (see *Compensation* policy).

The base salary offered must be at least \$80,000 per year, and the employer cannot offer less than \$38.46 on an hourly basis, for the first two foreign worker positions requested by the employer and approved by the TFW Program in a calendar year to Category A, or an annual base salary equivalent to the prevailing wage for that occupation if it is higher than \$80,000 (\$38.46 per hour). For any additional unique and specialized positions requested by the employer and approved by the TFW Program in that same calendar year (i.e. more than two, resetting on January 1) to Category A, the annual base salary offered must be at least \$150,000 (\$72.11 per hour), or a salary equivalent to the prevailing wage for that occupation if it is higher than \$150,000 (\$72.11 per hour) (Annex A). Given that immigration is a joint federal and provincial responsibility in the province of Quebec, the wages for foreign worker positions requested under Category A in the Province of Quebec will be assessed by MIFI.

Labour Shortage and Recruitment

All Category A applications in the GT Stream will be assessed for labour shortage, 203(3)(c), by reviewing the uniqueness and degree of specialization required for the position(s) the employer is seeking to fill. If the position(s) is determined to be unique and specialized, then the application should receive a positive assessment on 203(3)(c). For additional details on assessing whether a position(s) is unique and specialized, refer to Annex A.

There is no requirement under the GT Stream for employers to demonstrate that they advertised the requested position(s) to Canadians prior to applying to the TFW Program. However, during the assessment of Category A applications, employers may be asked, and may choose, to describe their ongoing recruitment efforts, including advertising the job and contacting underrepresented groups that

Temporary Foreign Worker Program

face barriers to employment. This information will be used to support program-wide analysis and decision making.

Labour Market Benefits Plan

All Category A employers in the GT Stream must develop LMBPs that demonstrate their commitment to creating jobs for Canadian workers and other employer-chosen activities that will have lasting, positive impacts on the Canadian labour market. While it may not be possible in all cases, efforts should always be made to ensure that Category A employers' commitments to creating jobs occur as a result of the foreign national being hired by the employer, or the company's business growth since the foreign national was hired, in order to help demonstrate the impact of the GT Stream on the company's incremental growth.

For more information, refer to the *Labour Market Benefits Plan* policy.

Service Standard

All GT Stream applications will be processed in 10-business days by ESDC, 80% of the time. This service standard will begin on the business day after the application has been received by Service Canada. Category A applications will not be processed until ESDC has received the applicable referral from a Designated Referral Partner in order to ensure the employer is considered by the Partner to have met the eligibility criteria (refer to Annex A for more details on the eligibility criteria). Each individual application under Category A must be supported by a referral from a Designated Referral Partner.

All Category A employers in Quebec will also receive expedited service to process their GT Stream applications, targeting a joint 10-business-day service standard by ESDC and MIFI, 80% of the time. The service standard will begin on the business day after the application has been received by Service Canada. Category A applications in Quebec will not be processed until ESDC has received the applicable referral from a Designated Referral Partner in the province of Quebec (an up-to-date list of Designated Referral Partners in Quebec can be found on the [TFW Program](#) and [MIFI](#) websites, respectively).

ANNEX A

CATEGORY A CRITERIA AND DESIGNATED REFERRAL PARTNERS

For the purposes of the GT Stream, ESDC has entered into agreements with governmental and non-governmental institutions with significant business development expertise necessary to identify and refer eligible companies in Canada on the basis that they are innovative and seeking to fill positions that require unique and specialized talent in order to scale-up and grow (an up-to-date list of Designated Referral Partners can be found on the [TFW Program](#) and [MIFI](#) websites, respectively).

Employers in Quebec may be referred to Category A by Referral Partners located in Quebec that have been designated by MIFI. Employers in Quebec may also be referred by Designated Referral Partners which are national-reaching Federal government departments or crown corporations, and who are partners with ESDC but have not been designated by the Quebec Government. Other ESDC Designated Referral Partners, such as provincial governments or private sector organizations located outside of Quebec, may only refer employers in Quebec in cases where the employer wishes to fill a unique and specialized position located in one of its offices in that province or region, and in Quebec.

Eligibility criteria

Guidance factors on assessing eligibility criteria

Guidance factors to assist Designated Referral Partners in validating the eligibility criteria for Category A can be found below in Columns A and B. It should be noted that these guidance factors are not exhaustive, as Designated Referral Partners may exercise judgement when assessing an employer's eligibility for this category of the GT Stream.

In order to be considered eligible for Category A, employers must have identified a specific foreign worker for potential hire at the time of the referral, who is considered to possess "unique and specialized global talent". ESDC reserves the right to make the final determination as to an employer's eligibility and to alter the eligibility criteria as needed.

In addition, employers must be seeking to fill a very limited number of positions requiring unique and specialized talent (up to two positions per calendar year, resetting on January 1) in order to meet their needs, on the basis that very few of these specialized individuals exist with the unique and specialized skill-set required for the position.

<p>1. Firm is operating in Canada</p> <ul style="list-style-type: none"> ▪ i.e., the firm has a Canada Revenue Agency (CRA) business registered number.
<p>2. Firm has a focus on innovation</p> <ul style="list-style-type: none"> ▪ e.g., commercialization of Intellectual Property (patents, trademarks, etc.). ▪ e.g., R&D capacity.
<p>3. Firm has a willingness, and is capable of growing or scaling up</p> <ul style="list-style-type: none"> ▪ e.g., Annual revenues of more than \$3 million or an average annualised growth greater than 10% per annum (in revenue or in number of employees), over a three year period or a significant investment (i.e. \$5M or more) ▪ e.g., achievable Business Plan with Human Resources Strategy.

Temporary Foreign Worker Program

<p>4. Firm has a need for a unique and specialized position in the company</p> <ul style="list-style-type: none">▪ Minimum annual salary of \$80,000 (\$38.46 hourly); and,▪ Advanced knowledge of the industry; and,▪ Advanced degree in an area of specialization of interest to the employer; and/or,▪ Min. five years of experience in the field of specialized experience.
<p>5. Firm has identified a qualified foreign worker for potential hire into that unique and specialized position</p>

ESDC may consider accepting more than two positive referrals that lead to approved positions per employer per calendar year (resetting on January 1) to Category A provided that the employer has been successful in meeting its LMBP commitments to date under the GT Stream. The circumstances under which multiple referrals to Category A (in other words, more than two positive referrals leading to approved positions) could be accepted are outlined below:

<p>1. The firm meets the standard eligibility criteria for Category A in the table above.</p>
<p>2. The annual wage for the additional position requested is at or above \$150,000 (\$72.11 hourly).</p>