

# LMIASystem/Guidance/JobCreationRetention

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## LMIA System Directive: Job Creation or Retention

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**New information is highlighted**

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### 1. Application

The directive applies to all streams of the Temporary Foreign Worker Program.

### 2. Guidelines

Generally, positions requiring foreign nationals with higher or unique skills (e.g. those that typically require extensive training and work experience), could result in creation or retention of jobs for Canadian citizens or permanent residents.

The assessment of Labour Market Factor **(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**, is the assessment of one of the seven LMF's. During assessment of LMF (a) if an officer notices inconsistencies between the information on the application and the potential job creation and retention by the foreign national then the officer should apply reasonableness in determining whether the hiring of a foreign national is likely to result in job creation or retention for Canadian citizens or permanent residents.

An officer conducts an analysis of the LMIA application and the decision should reflect a reasonable and balanced approach ensuring that officers do not base their entire decision solely on the outcome of one of the seven labour market factors. An employer can receive a positive LMIA even if LMF (a) is assessed to be negative and an employer can receive a negative LMIA even if LMF (a) is assessed to be positive.

### 3. References

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

(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

### 4. Exemptions

Occupations that qualify for the Facilitated Labour Market Impact Assessment Process in Quebec are exempt from this Directive.

### 5. Procedures

The primary consideration to be kept in mind while assessing LMF (a) is to determine if employment of the foreign national (FN) will have a positive, neutral or negative impact on the Canadian Labour Market.

**NOTE:** For Owner Operator LMIAs, a thorough assessment of Labour Market Factor (a) is essential. Assessing if the entry of the foreign national will result in the creation or retention of employment opportunities for Canadians and permanent residents, holds more weight in determining the impact on the labour market (global assessment), as only a limited amount of LMFs are assessed.

**Step 5.1**

**Proceed to the Job Creation and Retention screen in the LMIA System. Review the employer's response to the question "Will offering this job to a TFW result in direct job creation or job retention of Canadians/permanent residents?"**

Consider the following when assessing the LMIA application:

- Will the employment of the FN lead to direct job creation or retention?

**Consider the following questions:**

- How will the staffing of this position lead to direct job creation or retention.
  - How many jobs will be created / retained?
  - What are the job titles?
  - When will the positions be filled?
  - Are the positions full-time or part-time?
  - What is the duration of the positions?
  - Will the positions be staffed with Canadians/permanent residents?
  - If the LMIA is for a high wage position does the Transition Plan reflect an activity which supports job creation and or retention?
- 
- Will the employment of the FN have a neutral impact on the Labour Market?
  - Will the employment of the FN lead to job losses, now or in the foreseeable future, for Canadians/permanent residents?

<b>If</b>	<b>then</b>
an employer is able to demonstrate that the employment of a foreign national will or is likely to result in direct job creation, job retention, or an increase in the hours of work for Canadians or permanent residents	the LMF (a) is considered to have a <b>positive</b> effect on the Labour Market.
during assessment an employer is unable to demonstrate that employment of a foreign national will or is likely to result in direct job creation, job retention, or an increase in the hours of work for Canadians or permanent residents, and the employer has attested that the employment of a foreign national will not result in layoffs, outsourcing and offshoring for their Canadian or permanent resident workforce	the LMF (a) is considered to have a <b>neutral</b> effect on the Labour Market.
the employer is unwilling to attest to, or is unable to demonstrate that, the employment of a foreign national will not result in layoffs, outsourcing and offshoring for their Canadian or permanent resident workforce	the LMF(a) is considered to have a <b>negative</b> effect

on the Labour  
Market.

### **Step 5.2**

Use the Summary of Assessment dialog box to document:

- if applicable, conversations with employers and/or third-parties; and
- if applicable, references to any supporting documents and a description of how the information was used; and
- the details of the assessment of LMF (a) including how the officer concluded a positive, neutral or negative effect on the labour market.

### **Step 5.3**

Complete the assessment by selecting the outcome from the list. "What is the result of Job Creation of Retention assessment?"

## **6. Definition: Direct Job Creation**

Direct Job Creation happens when the employment of a single individual results in jobs for Canadians and Permanent Residents.

For example a construction business that is diversifying into developing mines in Northern Ontario's Ring of Fire region decides to bring in a talented creative consultant who has proven track record in creating and establishing resource based projects. The employment of this individual will result in the creation of hundreds of jobs for Canadians and Permanent Residents.

For the purpose of Temporary Foreign Worker Program direct jobs are those where:

- Canadians and permanent residents have been or will be offered positions directly contingent on the employment of a foreign national.
- Employment of a foreign national will directly result in the employer being able to move part-time Canadian or permanent resident employees to full-time work.
- Employment of a foreign national will directly result in the employer being able to maintain their operations at a level that they could not without a foreign national; therefore, helping to retain Canadians and permanent residents in their jobs.

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