

Federal Skilled Trades Program offers employers alternative for hiring foreign workers

Program is designed to assist skilled trades workers to immigrate to Canada as permanent residents



Employers could create a road map to assist potential employees to become stronger candidates for the Federal Skilled Trades Program by first assisting them to obtain a temporary work permit and obtaining relevant work experience in Canada

BY DANIEL LEE

In recent years, the BC Construction Association and the Government of British Columbia have increased their efforts to attract new workers to the construction industry through the Skilled Trades Employment Program (STEP) by pairing candidates with potential employers and providing financial supports to participants of apprenticeships. However, there remains a large shortage of available skilled trades workers in British Columbia.

Accordingly, companies are starting to evaluate whether or not hiring foreign workers from outside of Canada could be a strategy to address their existing labour challenges.

This article provides an introduction on how companies can hire foreign workers for construction occupations and how companies can assist foreign workers to become permanent residents of Canada through the Federal Skilled Trades Program.

Work permit options

From an immigration perspective, after finding the right candidate for a vacant position, the employer must consider whether or not the individual is authorized to work in Canada. If the candidate is not a Canadian citizen or a permanent resident, then the employer may need to assist the candidate in obtaining a temporary work permit.

An employer should first assess whether or not the foreign worker will be eligible to apply for a work permit under one of the Labour Market Impact Assessment-exempt (LMIA-exempt) work permit categories, which include the North American Free Trade Agreement intra-company transferee category and the International Experience Canada (working holiday) category. If the foreign worker is eligible to apply for a work permit under one of the LMIA-exempt categories,

then the employer can assist the foreign worker to apply for a work permit without completing an LMIA.

However, if the foreign worker is not eligible for an LMIA-exempt work permit, the employer will need to apply for an LMIA. The LMIA is a labour market verification process whereby Employment and Social Development Canada assesses an offer of employment to ensure that employing a foreign worker will not have a negative impact on the Canadian labour market.

The employer will be required to advertise the position in a prescribed manner for a continuous period of four weeks. Moreover, the employer is required to demonstrate that there are no qualified candidates in Canada for the position and that the foreign worker is the most qualified candidate for the position.

From our experience, most employers are willing to assist foreign workers to obtain an LMIA-exempt work permit. This is because the employer will not have to go through the onerous LMIA process, which may take up to six months to complete. However, if a foreign worker does not qualify for an LMIA-exempt work permit, then the LMIA is a mandatory requirement of obtaining a work permit.

As a result, some employers are searching for alternative immigration programs that can assist foreign workers to become permanent residents immediately. The Federal Skilled Trades Program is one such option.

Federal Skilled Trades Program

This program is designed to assist skilled trades workers to immigrate to Canada as permanent residents along with their spouses and dependent children. Qualified skilled trades workers, such as welders, boilermakers, electricians, plumbers, carpenters and roofers (this is a non-exclusive list), may be eligible to apply

for permanent residency if they meet the following requirements for the Federal Skilled Trades Program:

- **Language:** complete an approved language test in English or French and score Canadian Language Benchmark (CLB) Level 5 in speaking and listening and CLB 4 in reading and writing. The language requirement is equivalent to a beginning-intermediate level. The test must be completed even if the applicant's mother tongue is English or French.
- **Skilled work experience:** have at least two years of full-time or equivalent amount of part-time work experience in a skilled trade within the preceding five years.
- **Qualified in a skilled trade:** meet the job requirement for the skilled trade as outlined in the National Occupational Classification.
- **Job offer:** receive a valid job offer of full-time employment for at least one year from an employer in Canada or have a certificate of qualification in the skilled trade issued by a Canadian provincial, territorial or federal authority.

Express Entry

One of the concerns regarding the Federal Skilled Trades Program was the lengthy processing time of up to 48 months. Employers will be glad to learn that as of January 1, 2015, this concern was addressed by introducing the new Express Entry system, with a processing time of six to seven months. This makes the Federal Skilled Trades Program more attractive to both employers and foreign workers.

Express Entry is an online immigration application system that grants candidates points based on their personal characteristics. Candidates with the highest point scores may receive an invitation to submit a permanent residence application. In 2018, the minimum required to receive an

invitation to apply was between 439 and 456 points. Further, in the past, there were usually two rounds of invitations reserved for the Federal Skilled Trades Program where the minimum was between 284 and 288 points.

Strategic road map

Not all foreign workers will meet the minimum requirements for the Federal Skilled Trades Program. This does not mean the program may not be applicable for the foreign worker in the future. From our experience, employers could create a road map to assist potential employees living outside Canada to become stronger candidates for the Federal Skilled Trades Program by first assisting them to obtain a temporary work permit and obtaining relevant work experience in Canada. Once the employees are in Canada, they can increase their points scores for Express Entry purposes with various strategies, including:

- gaining paid Canadian work experience in the skilled trade;
- obtaining a Certificate of Qualification from the Industry Training Authority;
- improving language proficiency in English and/or French; and
- receiving an arranged employment offer from an employer in Canada.

A number of different strategies can be applied to bring a foreign worker into Canada; however, the same program will not work for all applicants. Accordingly, it is necessary to take an individualistic approach to assess which immigration programs provide the most effective method of obtaining status in Canada.

Daniel Lee is an associate at Alexander Holburn Beaudin + Lang LLP and a member of the law firm's immigration, business law, labour and employment and cannabis practice groups. The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about specific circumstances.

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