



*By Herman Van Reekum, President, VRV Global Immigration & Recruiting*

## **INTRODUCTION**

Canada's oil and gas industry is experiencing unprecedented demands for labour at a time when many regions of the country are facing labour shortages. In this environment, employers are increasingly resorting to hiring temporary foreign workers. On the surface it would seem that this type of recruiting offers employers a valuable opportunity to get the job done. However, it is not without risk. If it is not done properly, hiring temporary foreign workers can create its own set of problems and challenges. It is very important for employers to acquaint themselves fully with this process and plan carefully for every phase of bringing temporary foreign workers to Canada.

This article provides a high level overview of the issues related to hiring temporary foreign workers. It is not intended to be a "how-to" piece. Instead, the article clarifies some of the concepts involved in hiring this type of worker and highlights some of the important decisions that employers need to make once they have decided to embark on this path. The article also contains links to important websites that readers can refer to if they want more information about any of the topics.

## **The Cost Issue**

There are two types of costs to consider in relation to hiring temporary foreign workers. The first is the cost of not hiring these types of workers, which means that an employer will decide to cope with the current labour shortage environment. They may find that they will incur costs related to delayed projects and the inability to fulfill contractual obligations. They may also include opportunity costs or a loss of market share to a competitor who is hiring temporary foreign workers. Each employer needs to make this calculation and make a decision based on their understanding of their business and their marketplace.

Conversely, employers have to consider the costs of hiring temporary foreign workers. These costs can be considerable. They can generally be broken down into three categories:

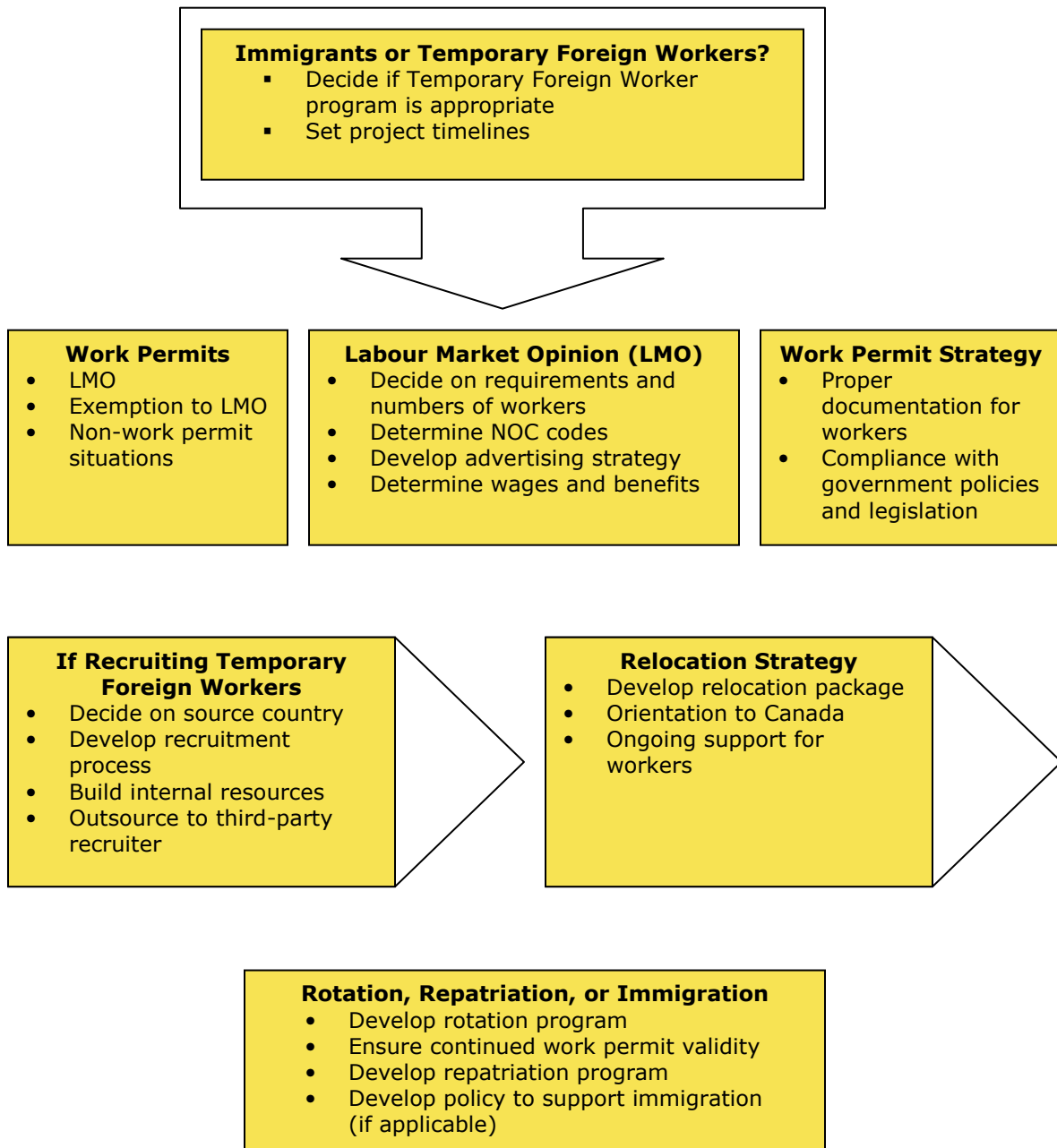
1. Recruiting costs related to finding workers in other countries;
2. Government fees to pay for immigration documents, passports, medical exams, etc.;
3. Relocation costs related to bringing workers to Canada and arranging for their successful integration into the labour force and the community.

The main issue for employers to decide is how much of these costs they are willing to pay and how much they expect the workers to pay for themselves. It is important to strike a balance between what benefits and wages employers provide for their existing workforce and what the employer is willing to do for the foreign workers. Doing too much for the foreign workers can lead to resentment amongst the existing workforce. On the other hand, if not enough relocation assistance is provided, the temporary foreign worker may return home sooner than planned.



## TEMPORARY FOREIGN WORKER RECRUITMENT PROGRAM CHECKLIST

The following checklist summarizes the information needed in order to take steps to develop a temporary foreign worker recruitment program. The following pages provide more information on the steps in the process.





## **DIFFERENCES BETWEEN IMMIGRANTS AND TEMPORARY FOREIGN WORKERS**

Immigrants go through an application procedure which leads to their being given permission to live in Canada on a permanent basis. Generally speaking, immigrants have a right to enter Canada and can live and work in any part of Canada. They are not restricted as to what occupation they can work in or who they can work for.

Temporary foreign workers, on the other hand, do not have a right to enter Canada and they face specific restrictions as to how long they can stay in Canada. They are also usually restricted to working for one employer in a specific occupation. Temporary foreign workers can be removed from Canada if they violate any of the terms and conditions that have been imposed on them when they are admitted.

Canada is experiencing unprecedented levels of immigration. Since 1993, averages of 250,000 immigrants per year been welcomed to this country.

*See: [www.cic.gc.ca/english/pub/facts2005/overview/01.html](http://www.cic.gc.ca/english/pub/facts2005/overview/01.html)*

Canada is a very desirable destination and every year applications for immigrant visas far surpass the numbers of visas that will be issued in that year. This situation has created tremendous backlogs at Canada's embassies and consulates overseas. It can take years for an immigrant visa to be processed. This means that employers who have immediate needs for workers cannot rely on Canada's immigration system to provide short term relief. Fortunately, the immigration law, called the Immigration and Refugee Protection Act (IRPA), allows for the admission of temporary foreign workers to be admitted to Canada on the strength of a work permit.

*See: [www.cic.gc.ca/english/pub/imm-law.html](http://www.cic.gc.ca/english/pub/imm-law.html)*

While it is possible to bring temporary foreign workers to Canada more quickly than immigrants, it is still important to recognize that government processes take time and that there is often little that can be done to have applications processed quickly. It can take as much as six months before all of the necessary applications are completed to bring the first workers to Canada. Employers should consult with various government departments and develop project schedules that account for governmental processing times. Read more about Canada's Foreign Worker Program on the Human Resources and Skills Development Canada (HRSDC) website.

*See: [www.hrsdc.gc.ca/en/gateways/nav/top\\_nav/program/fw.shtml](http://www.hrsdc.gc.ca/en/gateways/nav/top_nav/program/fw.shtml)*

## **LABOUR MARKET OPINION (LMO)**

The main concern of the Government of Canada in deciding if an employer can bring a foreign worker to Canada is to ensure that the Canadian labour market is protected. Temporary foreign workers cannot be allowed to take jobs from Canadians. Moreover, employers must provide temporary foreign workers with the same wages and benefits as Canadian workers receive.

The Canadian government department Service Canada reviews applications from employers requesting that they be allowed to bring temporary foreign workers to Canada. This department has established regional offices called Foreign Worker Recruitment Branches and it is to these offices that employers apply.

*See: [www.hrsdc.gc.ca/en/epb/lmd/fw/listhrcc.shtml](http://www.hrsdc.gc.ca/en/epb/lmd/fw/listhrcc.shtml)*



Service Canada officials review each application and, if it is approved, issue a Labour Market Opinion or LMO.

See: [www.cic.gc.ca/english/work/hrdc-1.html](http://www.cic.gc.ca/english/work/hrdc-1.html)

In most cases, employers must obtain an LMO before a temporary foreign worker can be allowed into Canada to work. The LMO is essentially advice to an immigration officer that the admission of the temporary foreign worker will not adversely affect the Canadian labour market.

It is important to understand, however, that not all work permits require the prior issuance of an LMO. The Immigration and Refugee Protection Regulations (IRPR) allows for some exemptions to the LMO. Some of these exemptions are based on international treaties such as the North America Free Trade Agreement (NAFTA) which allows for professionals who are citizens of the United States or Mexico to work in Canada.

See: [www.dfait-maeci.gc.ca/nafta-alena/menu-en.asp](http://www.dfait-maeci.gc.ca/nafta-alena/menu-en.asp)

Other exemptions are created through policy. Examples of these include provisions to allow the spouses of some kinds of foreign workers to obtain open work permits and provisions that allow foreign students to obtain work permits after graduating from Canadian post-secondary institutions. More information about exemptions to the LMO process is available from Citizenship and Immigration Canada (CIC).

See: [www.cic.gc.ca/english/work/exempt-1.html](http://www.cic.gc.ca/english/work/exempt-1.html)

In 2006, the Minister of Citizenship and Immigration established Temporary Foreign Worker Units in Calgary and Vancouver. Employers in Alberta and BC can contact these offices to obtain advice as to whether an LMO is required in a specific situation.

See: [www.cic.gc.ca/english/work/tfw-units.html](http://www.cic.gc.ca/english/work/tfw-units.html)

There are also some situations in which work permits are not required for certain types of visitors to Canada. These are generally referred to as business visitors and they can be admitted to Canada for purposes including attending meetings and providing after sales service or training. More information about business visitors can be found at CIC.

See: [www.cic.gc.ca/english/work/exempt-1.html#business](http://www.cic.gc.ca/english/work/exempt-1.html#business)

It is important to note that LMOs must be applied for by the employers of the foreign worker. It is not possible for industry associations to apply for LMOs on behalf of companies in the association. However, industry associations can play an important role on behalf of employers by providing information to Service Canada about such things as labour shortages, common job descriptions and typical wage rates.

### **Applying for a Labour Market Opinion**

There are essentially three main issues that employers need to pay attention to when applying for an LMO:

1. Make clear job descriptions;
2. Prove that efforts have been made to find Canadian employees first; and
3. Prove that the wages and working conditions being offered to the foreign worker are up to Canadian standards.



### **1. Make clear job descriptions**

In relation to the first issue, it is critical that employers are very clear about what types of positions they are applying to have filled by the foreign workers. This is an obvious point, but it is often overlooked. The Government of Canada has an established taxonomy of occupations in Canada called the National Occupational Classification (NOC). It is stratified vertically by industry type and horizontally by skill level.

See: [www23.hrdc-drhc.gc.ca/2001/e/generic/welcome.shtml#about](http://www23.hrdc-drhc.gc.ca/2001/e/generic/welcome.shtml#about)

Further, the Petroleum Human Resources Council has created standard job descriptions used in the oil and gas industry and has linked them to NOC codes.

See: [www.petrohrsc.ca/pdf/jobfamilies\\_1\\_1.pdf](http://www.petrohrsc.ca/pdf/jobfamilies_1_1.pdf)

Each occupation is given an NOC code. The NOC also describes the main tasks of the occupation as well as the educational requirements for that occupation. Employers need to review their job descriptions and match them to the NOC. It is important that employers clearly state that the people they are looking for overseas will perform the tasks that are described in the NOC and that they will meet the educational requirements specified in the NOC.

Employers can apply for more than one position in an LMO application. Service Canada allows for "bulk" applications and employers are able to apply for as many positions as they think they will need in any given year. In cases in which employers require more than 50 workers in a position, regional Service Canada offices are required to consult with the national headquarters of Service Canada before approval can be given.

### **2. Prove that efforts have been made to find Canadian employees first**

Secondly, employers need to prove to Service Canada that they have made attempts to find Canadians for the jobs that are being applied for in the LMO. Service Canada has set standards for advertising that vary from one region to another. Typically, Service Canada will require at least two forms of advertising. The first is some form of print advertising in a local newspaper. The second is internet advertising. Service Canada recommends that employers advertise on the Job Bank.

See: [www.jobbank.gc.ca/Intro\\_en.aspx](http://www.jobbank.gc.ca/Intro_en.aspx)

Service Canada often requires that employers publish the level of remuneration for the jobs in their advertising. Employers should consult with Service Canada to determine the extent and type of advertising required in a particular region of Canada. In November, 2006, the Government of Canada announced that some occupations in Alberta and BC could be deemed to be Occupations Under Pressure and set clear standards for advertising in those occupations.

See: [www.hrsdc.gc.ca/en/epb/lmd/fw/occunderpres.shtml](http://www.hrsdc.gc.ca/en/epb/lmd/fw/occunderpres.shtml)

In any event, every LMO application must include evidence of advertising. Service Canada will refuse the application if the advertising is deemed to be insufficient.

### **3. Prove that the wages and working conditions are up to Canadian standards**

Thirdly, employers must ensure that the remuneration being offered to the temporary foreign worker is equivalent to that being offered to Canadians. This is fair to both Canadians and the temporary foreign workers.



Employers can consult with industry and government to find more information about wages in a particular industry. The Government of Alberta has a website which lists average wages in Alberta for each NOC code.

See:

[www.alis.gov.ab.ca/wageinfo/Content/RequestAction.asp?format=html&aspAction=GetWageHomePage&Page=Home](http://www.alis.gov.ab.ca/wageinfo/Content/RequestAction.asp?format=html&aspAction=GetWageHomePage&Page=Home)

Service Canada employs Labour Market Specialists who conduct regular surveys of regional labour markets and who set wage standards in their regions. Service Canada will expect an employer to offer a wage to the foreign worker that meets the Department's understanding of the prevailing wage rate in that industry and in that region.

Service Canada has established a special program for low skilled workers. These are workers who fall into the lower two levels of the NOC because the educational requirement for their jobs is a high school education or less. Employers are able to bring low skilled workers to Canada, however, they must pay for the flight to and from Canada and make arrangements for their accommodation. Also, low skilled workers can only work in Canada for one year and are then required to return home for four months before being allowed to come back to Canada to work for another year.

The various regional Foreign Worker Branches have seen dramatic increases in applications for LMOs. This means that employers must often wait for several months for a decision. In Alberta, for example, LMO processing takes at least 12 weeks. Employers need to factor that timeframe into their overall planning.

## **WORK PERMITS**

It is important to remember that there is a distinction between the LMO and the work permit. Service Canada, the department that issues the LMO, is concerned only with whether the employer has met the requirements related to protecting the Canadian labour market. Once approved, the LMO will advise the employer and the department of CIC how many work permits can be issued, the duration of the work permits, the NOC code and any special requirements that the foreign worker must meet in order to be granted a work permit.

It is the role of immigration officers employed by CIC to examine the foreign workers to ensure that they meet the requirements set out in the LMO and to ensure that the foreign worker meets the requirements of Canada's immigration laws and regulations. This is an important point because even though Service Canada has approved an LMO, it is still possible for CIC to refuse to issue a work permit to the temporary foreign worker. Employers need to ensure that the workers who are being brought to Canada will successfully obtain a work permit.

Employers should be familiar with the requirements of the LMO and recruit only foreign workers who meet those requirements. For example, if the employer specified in the application that he or she was looking for rig workers with three years' experience, that specification will be reflected in the LMO. The onus is then on the foreign workers to demonstrate through letters of reference that they have at least three years' experience. Similarly, if employers specify that they want foreign workers who speak English,



Citizenship and Immigration Canada (CIC) officers will ensure that the foreign worker can speak English before they issue a work permit. Again, employers need to carefully plan for their requirements and prepare the LMO applications accordingly.

Immigration officers will also ensure that the foreign workers do not pose a risk to the Canadian public. They will check criminal records and security records, and can require the workers to take medical exams prior to coming to Canada.

Foreign workers can apply for initial work permits at the Canadian embassy or the consulate that serves their country. Depending on the country, this type of overseas processing can take anywhere from a day to several months.

Canada has imposed visa requirements on most countries in the world. This means that citizens coming from those countries must apply for a work permit at an embassy or consulate. It usually means that they have to complete medical exams if they are coming to Canada for more than six months. It also means that an immigration officer can refuse to issue a work permit and visa to someone if it is suspected that the individual will violate Canada's immigration laws or attempt to stay in Canada illegally. Employers need to know that if they hire someone who is a citizen of a country from which Canada requires a visa, then both the processing time and risk of permit refusal increase.

*See: [www.cic.gc.ca/english/visit/visas.html](http://www.cic.gc.ca/english/visit/visas.html)*

There are countries from which Canada does not require a visa. Examples include the United States and the countries of Western Europe. Citizens of these countries can apply for their work permits either at a Canadian embassy abroad or at Canada's ports of entry when they first seek to enter Canada. In these cases, work permits can be issued much more quickly, but the onus is still on the foreign workers to demonstrate to the immigration officer that they meet the requirements of the LMO and of Canada's immigration laws and regulations. It is important for workers to bring evidence of their ability to do the job for which they have been hired. In many cases it is also a good idea for applicants to bring proof that they do not have a criminal record.

Work permits place several restrictions on the workers. The work permit will specify for whom they can work, in what occupation and for what duration. Employers should obtain copies of the employee's work permits and help ensure that employees do not violate the terms and conditions of admission. This can be done by ensuring that employees leave Canada prior to the expiration of their documents. In most cases it is possible for foreign workers to extend their work permits, but this will require a new LMO.

Employers of temporary foreign workers need to know that the workers cannot work for any other employer while they are in Canada, unless they obtain another work permit for a new employer. Temporary foreign workers can quit their jobs and can be dismissed by the employer. In cases in which a foreign worker has left the employer for whatever reason, the employer should advise Service Canada and CIC. Employers cannot remove someone from Canada - that can only be done by Canada's law enforcement officers after due process is followed. Employers also need to be aware that they cannot promote foreign workers or change their occupation within the company without first obtaining a new LMO and work permit. Employers can be fined or imprisoned if they knowingly violate Canada's immigration laws and regulations. *See: [www.cic.gc.ca/english/pub/imm-law.html#act17](http://www.cic.gc.ca/english/pub/imm-law.html#act17)*



## **RECRUITING TEMPORARY FOREIGN WORKERS: THE PROCESS**

One of the most difficult decisions employers face in the process of recruiting temporary foreign workers is to determine where they will go to recruit the workers. In theory, employers could go to any country in the world to find willing workers. In practice, there are a wide range of issues that employers should take into account. These include the following:

1. **Language:** To what extent is English a requirement in the workplace? This often relates to safety concerns and training.
2. **Educational qualifications:** Will it be fairly easy for workers to demonstrate to immigration officers that they have educational qualifications equivalent to those specified in the LMO? This is especially important when bringing professional workers or skilled trades people to Canada. Educational systems differ around the world and it is a challenge for Canadian officials to determine equivalencies when deciding whether or not a foreign worker has the requisite education.
3. **Proximity to Canada:** This is particularly important in situations in which the employer is paying for transportation to Canada or is rotating employees in and out of Canada.
4. **Tolerance for extreme weather conditions and for working in foreign locations.**

There may be other factors that employers in the oil and gas industry will want to consider such as familiarity with the industry. The point is that employers should carefully consider where they want to go to recruit workers.

For more information, view the statistics: [Canada – Annual Flow of Foreign Workers by Top Source Countries](#)

*See: [www.cic.gc.ca/english/pub/facts2005/temporary/03.html](http://www.cic.gc.ca/english/pub/facts2005/temporary/03.html)*

Once the source country decision has been made, employers need to determine how they will go about recruiting the workers. There are many options. The first is to look at the company's own resources and decide if these resources can be used to carry out a foreign recruitment process. One of the most successful methods is to use ethnic networks. This means that employers identify employees who are immigrants and who are excellent workers. Employers can ask such workers to help them find more workers from their country who have similar education and experience.

Secondly, employers can use third-party recruiters. There are many agencies located in Canada and abroad that specialize in international recruitment. Employers should use caution when choosing such agencies because some recruiters will charge the foreign workers a fee for finding them jobs in Canada. This is unethical and can place foreign worker in a desperate situation in which they must pay off the recruiter who brought them to Canada. This can cause resentment toward the employer who is identified with the recruiter in the eyes of the workers. Employers should expect to pay recruiters for their work and ensure that the recruiters do not charge the worker.



Employers should also determine which government agencies, departments or programs may assist them in the recruitment process. For example, some Canadian provincial governments lead overseas trade missions that are intended to attract foreign workers to the province. Likewise, many foreign governments are interested in encouraging their citizens to work abroad and they can be contacted to arrange for local recruitment.

Regardless of what method is chosen to recruit workers, it is strongly recommended that companies send their human resources staff and even their front line supervisors to the foreign workers' country of origin to interview them and to make hiring decisions. It is very important that employers educate themselves as much as possible about the country from which the workers are coming. The best way to do this is to see the workers in their own situation before they come to Canada.

In this way, management can form a better impression of the capabilities of the workers, see first-hand the conditions under which they are used to working and gain a better understanding of the workers' motivation for leaving their country to work in Canada. It will also create a very favourable impression of the company in the eyes of the workers. They will know that the job offer is credible and that the employer is a responsible employer.

### **RELOCATING WORKERS TO CANADA**

Bringing temporary foreign workers to Canada is an expensive proposition. Employers need to recognize that their foreign employees, no matter where they come from, will go through an adjustment process. It is easy for newcomers to become disillusioned with their new jobs in Canada and return home sooner than planned.

Newcomers to Canada typically go through three phases in their adjustment. The first is a "honeymoon phase" during which they are very excited about their new life in Canada. Then disillusionment will set in, as individuals notice the differences between Canada and their homes and become homesick for family and their former life. Finally, the newcomers adjust to the changes and learn to accept their new life in Canada. Employers can mitigate the problems that may be experienced during this process by taking steps to make sure that policies and procedures are in place to make the workers' transition to life in Canada as smooth as possible.

Relocation programs can include such things as payment for travel to and from Canada, arranging for accommodation in Canada, programs for spouses and children, language classes, orientation seminars and so on. There should be ample opportunity for workers to access company support services so they know where to go to resolve problems. There should be bilingual staff available to facilitate clear communication between management and staff. Finally, front line supervisors and coworkers should receive training on the language, customs and background of the newcomers. This can go a long way toward preventing friction between existing staff and the temporary foreign workers. Employers can obtain more information about best practices in relocation through the [Canadian Employee Relocation Council](#).

See: [www.cerc.ca](http://www.cerc.ca)



In some cases, temporary foreign workers will be required to meet Canadian standards if they are going to work in a regulated profession or trade. This is true of professionals such as engineers and in many of the trades. Another very important aspect of relocation strategy is to assist temporary foreign workers in obtaining the appropriate Canadian credentials. Failure to do so may result in the worker not being allowed to work in Canada. Employers should be knowledgeable about the requirements for specific occupations and take care to select employees who have a high likelihood of meeting Canadian requirements.

### **NEXT STEPS: ROTATION, REPATRIATION OR IMMIGRATION**

An important aspect of any temporary foreign worker recruitment strategy is to determine what will happen once the work term is finished. There are essentially three possibilities:

#### **Rotation Plan**

The first is to develop a rotation plan in which employees are returned to their home country and then brought back to Canada after a prescribed period of time. This may be similar to the work rotations that many companies in the oil and gas industry already have in place for their Canadian staff. A rotation policy is particularly important in the case of low skilled workers who are allowed to work for a maximum of 12 months in Canada and then must return home for four months. It may be possible for a schedule to be developed to coincide with employer's business or seasonal cycles. If a rotation strategy is developed, it is important to ensure that LMOs and work permits are up to date. Remember that temporary foreign workers do not have a right to enter Canada without proper documentation. Immigration officers must examine anyone who appears at a port of entry to ensure compliance with immigration laws and regulations.

#### **Repatriation**

The second possibility is that employees are simply allowed to return home after their work term is complete. This is fairly straightforward. Employers should ensure that departing employees have the ability to complete Canadian tax returns and have access to information that may be required. If temporary foreign workers quit or are dismissed, the employer should notify Service Canada and CIC authorities.

#### **Immigration**

Third, there may be situations in which the temporary foreign worker and his or her employer decides that it is appropriate for the employee to apply for permanent resident status. Employers should decide if this is something that they will support and develop criteria to determine when and how an employee will be supported in their applications for permanent resident status. For example, the employer may want to wait for six months before making a decision to see if the employee has made a successful adjustment to Canada and to the company.

Generally, temporary foreign workers can apply for permanent resident status in one of two ways. The first is under the skilled worker category. This is based on a points system and applicants in this category receive extra points if they have worked in Canada or if they have a job offer from a Canadian company.

See: [www.cic.gc.ca/english/skilled/index.html](http://www.cic.gc.ca/english/skilled/index.html)



The second way for temporary foreign workers to apply for permanent resident status is through the Provincial Nominee Program (PNP). In recent years, the Government of Canada has entered into immigration agreements with almost all Canadian provinces and territories. One feature of these agreements is that they allow the provincial government to nominate a limited number of immigrants based on selection criteria that are determined by the provinces. Several provinces have programs that are “employer driven”. In these cases, employers can nominate temporary foreign workers for immigration status. It is important to remember that once temporary foreign workers become permanent residents of Canada, they are free to live and work wherever they want in Canada.

See: [www.cic.gc.ca/english/skilled/provnom/index.html](http://www.cic.gc.ca/english/skilled/provnom/index.html)

### **PETROLEUM HUMAN RESOURCES COUNCIL OF CANADA**

The Petroleum Human Resources Council of Canada is a national, not-for-profit collaborative forum that addresses human resources issues within the petroleum industry.

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