



Temporary Foreign Worker Program - Ontario Region
Presentation to the
Windsor Essex Economic Development Corporation
March 26, 2013



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What is a Labour Market Opinion (LMO)

At the request of an employer, Service Canada - Temporary Foreign Worker Program, will provide the employer and, Citizenship and Immigration, with an opinion on what would the likely impact be on the labour market if a foreign national were to enter the Canadian labour market. In other words, how the offer of employment would likely affect Canadian jobs.



What is the role of Service Canada?

There are three partners in the program:

Human Resources and Social Development Canada/Service Canada works with employers who want to hire foreign workers.

Citizenship and Immigration Canada work with foreign workers who want to work in Canada.

Canada Border Services Agency determines admissibility.



Authority to issue Opinions

Immigration and Refugee Protection Act (IRPA) provides Service Canada with its legislative authority to provide Labour Market Opinions.

Immigration and Refugee Protection Regulations (IRPR) defines what is considered when issuing Labour Market Opinions to employers and Citizenship and Immigration Canada

LMO Application Process

- **Check with the Temporary Foreign Worker Unit (CIC) to see if you qualify for an exemption!**
- **Step 1:** The employer completes the form “Foreign Worker Application for a Labour Market Opinion.” and submits the application to the TFWP.
- **Step 2:** Service Canada reviews the application and develops a Labour Market Opinion.
- **Step 3:** Service Canada sends a written letter with results from the Labour Market Opinion assessment to the employer. The employer is responsible to communicate the results to the foreign worker.
- **Step 4:** In the case of a positive Labour Market Opinion, the employer sends a copy of the confirmation letter to the foreign worker.
- **Step 5:** The foreign worker applies to Citizenship and Immigration Canada for a work permit, attaching a copy of the confirmation letter.

LMO processing - Post April 1 2011

Genuineness

Effective April 1 2011, Officers must examine for Genuineness:

1. Actively engaged
2. Consistent with Employer's needs
3. Employer's ability to fulfill terms of employment
4. Past compliance with Federal/Provincial/Territorial legislation

LMO processing - Post April 1 2011

Substantially the Same Assessment

Officers must verify that returning employers have provided foreign workers with **wages, occupation and working conditions**, that were “**substantially the same**” as indicated in the Labour Market Opinion

Applying for a Labour Market Opinion: Assessment considerations

R203 “The Six Factors”

- 1) Job creation or job retention for Canadian citizens or permanent residents.**
- 2) Creation or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents.**
- 3) Filling a labour shortage**
- 4) Wages are consistent with the prevailing wage rate and the working conditions meet generally accepted Canadian standards.**
- 5) Employer has made reasonable efforts to hire or train Canadian citizens or permanent residents.**
- 6) Employment of the foreign worker is likely to adversely affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute.**



LMO validity

Six month validity

- Labour Market Opinions (LMOs) issued to employers will be valid for the purpose of work permit applications for a **maximum of six months from the date of issuance**.
- A LMO that is not submitted to Citizenship and Immigration Canada (CIC) to support a work permit application within the maximum six-month period will be deemed to have expired. The employer will be required to apply for a new LMO if he/she still wishes to hire a temporary foreign worker.

Third Party Representatives

On June 30th, 2011 IRPA Section 91 – Eligibility of Third Party Representative became law.

This act defines who may be a representative on the employer's behalf, to Service Canada, for the purposes of obtaining a Labour Market Opinion.

Paid:

- Lawyers and paralegals in good standing with a provincial or territorial law society
- Immigration consultants in good standing with the Immigration Consultants of Canada Regulatory Council (ICCRC)
- A member in good standing with the Chambre des notaires du Quebec.

Unpaid:

- Family member or friend
- Member of a non governmental or a religious organization

Third Party Representatives

Employers are responsible for:

- Ensuring that the third party they have selected is adequate to meet the employers' needs
- Truth and accuracy of the information provided to Service Canada
- "Appointment of Representative" Form and "Annex" are completed

Web Service

On April 25, 2012, Service Canada, TFWP, launched Web Service.

Web Service provides employers and third party representatives the opportunity to create an on-line account. The employer can use this on-line account to self manage their information and submit Requests for Opinions directly.

To participate in Web Service, Employers and Third Parties will be required to register for an account; this registration process includes the completion and submission of a paper document to HRSDC/Service Canada

Some of the benefits to using Web Service:

- On-line submission and tracking of LMO application
- Monitoring of third party activity
- Reduced paper burden
- Electronic signature
- User-managed profile allows for updating information

Not available to employers who do not have a CRA Number

Attestation based Labour Market Opinion (ALMO)

Only available for NOC O, A and B

Two main objectives:

- Improve program integrity and labour market outcomes
- More efficient and timely LMO processing within 10 days

Eligibility for employers to participate

- Have at least one positive LMO within the last 2 years
- Have a clean compliance history with the TFWP
- Not been the subject of an investigation, an infraction or a serious complaint and do not have any unresolved violations under provincial laws

Employer must consent to participate in a Compliance Review .

Launched April 25, 2012



Prevailing Wages

HRSDC/Service Canada expects employers to offer wages that are consistent with the prevailing rate paid to Canadians in the same occupation within the region. This is to ensure the following:

- that it is not more attractive for an employer to hire a foreign worker than a Canadian worker;
- that the entry of foreign workers does not put downward pressure on Canadian wages; and
- that the foreign workers are compensated, at the same prevailing wages as Canadians, for their work in Canada.



Prevailing Wage

A wage up to 15% less than the posted wage will be accepted provided that the wage is the same wage paid to Canadian or Permanent Resident (PR) employees in the same occupation. Employers opting to pay less than the posted wage may be subjected to a compliance review. HRSDC/Service Canada will issue a negative LMO if the wage offered to the TFW is more than 15% below the posted wage.

Employers who offer wages within a range of 15% below the posted average/median (prevailing) wage will be required to demonstrate that the wage is what they pay their Canadians and PRs doing the same job in the same location. Employers must submit the template regarding payroll information when applying for a Labour Market Opinion.

HRSDC Website & Contact Centre

www.hrsdc.gc.ca/eng/workplaceskills/foreignworkers/index.shtml

Contact Centre: 1 866 945-7342

Temporary Foreign Worker Program: Option 5