

MEMORANDUM OF UNDERSTANDING FOR THE ENTRY OF TEMPORARY FOREIGN WORKERS FOR PROJECTS IN THE ALBERTA OIL SANDS

PURPOSE

In keeping with their respective roles and mandates relating to the temporary entry of foreign workers, Human Resources and Skills Development Canada (HRSDC), Citizenship and Immigration Canada (CIC), and Alberta Learning wish to support employers in the oil and gas sector in meeting requirements that may arise for temporary foreign workers in construction trades during the course of planned construction for projects to develop the Alberta oil sands in Fort McMurray.

This Framework is intended to: 1. ensure that employers have a clear understanding of the role each of these parties will play; of the requirements that they must meet; and of the procedures to be followed, and 2. meet the unmet labour needs of employers in the oil sands industry for skilled tradespeople.

HRSDC, CIC and Alberta Learning recognize the importance of access to qualified and available labour for oil employers in order to ensure that development and economic growth continues to occur in northern Alberta.

RECOGNITION OF LABOUR NEEDS AND ECONOMIC SIGNIFICANCE OF THE OIL SANDS

Alberta Learning, CIC and HRSDC recognize that the oil sands industry is a foundational economic driver in Alberta and Canada.

- By 2010, the industry could be providing 50 % of total Canadian output of crude oil.
- The estimated economic benefit to Canadians is in the order of \$31 billion in revenues (1998 data on personal and corporate taxes and royalties) from the oil extracting industry in the Fort McMurray region. By 2025, these revenues may reach \$76 billion.
- It is estimated that 17,000 new jobs in the oil sands sector will be created in the region by 2011. Currently 33,000 people are employed directly and indirectly by the oil sands industry.
- The December 2003 unemployment rate in the Wood Buffalo-Cold Lake region, of which Ft. McMurray is a part, was 3.7% (down from Dec. 2002). Shortages of skilled labour will impair needed investment in the oil sands industry.

The Alberta Government recognizes the high demand by industry for skilled tradespeople and has recently provided \$40 million in funding to Alberta post-secondary institutions to expand technical training spaces for apprentices in the designated trades. Alberta welcomes tradespeople from outside Alberta who want to work in Alberta. Alberta:

- recognizes and welcomes tradespeople from other provinces and territories who hold trade certificates with an Interprovincial Standards (Red Seal) endorsement.
- welcomes other tradespeople from outside Alberta. An assessment and certification process is in place, through the Qualification Centres, to recognize their prior work experience, knowledge and skills.
- welcomes apprentices from other provinces and territories. In most instances, apprentices are recognized at the same level of their apprenticeship program as in their home province or territory.
- has established an assessment and certification process for the recruitment of temporary foreign workers to assist Alberta industry with construction projects as well as other industries challenged by skilled trade shortages.
- has a website, www.tradesecrets.org, with information about working in a trade in Alberta.

Alberta trains 20% of all apprentices in Canada.

REGULATORY CONTEXT

1. Under the *Immigration and Refugee Protection Regulations (IRPR)*, most foreign nationals require a work permit issued by CIC to work temporarily in Canada. Under section 203 of the *IRPR*, HRSDC has a mandate to provide CIC an opinion (operationally known as a Labour Market Opinion) on the impact the entry of a foreign worker will have on the Canadian labour market.
2. Employers request a Labour Market Opinion from HRSDC with respect to one or more specific job offers. When assessing an employer's request, HRSDC takes into account the factors set out in section 203 of the *IRPR*.
3. Operationally HRSDC considers key information including:
 - a) current labour market information for the region and for the trade, including unemployment rates, prevailing wage rates, and indications of labour shortages;
 - b) the efforts the employer has made to recruit available and qualified Canadians and permanent residents for the position; and
 - c) whether the salary offered is in keeping with prevailing wage rates for the trade in the region, and whether the working conditions meet generally accepted Canadian norms.

4. In reviewing the foreign worker's request for a work permit, CIC takes account of a positive HRSDC Labour Market Opinion in respect to the job offer. The CIC visa officer will also verify that the applicant meets the requirements of the position, and meets CIC's requirements concerning security, criminality and health.
5. A work permit issued to a foreign worker is issued in respect to a specific job, and for a determined period.

More information can be found on the HRSDC and CIC websites at:

http://www.hrsdc.gc.ca/en/gateways/nav/top_nav/program/fw.shtml

<http://www.cic.gc.ca/english/work/index.html>

PLANNING FOR THE POSSIBILITY OF HIRING LARGE NUMBERS OF FOREIGN WORKERS

HRSDC, CIC and Alberta Learning understand that employers who will be undertaking construction projects in the Fort McMurray oil sands in the next several years want assurance that they will have a secure source of skilled tradespeople when they require them, to avoid loss of project investments and loss of productivity and to ensure that project timelines can be met.

Although employers will not be in a position to identify precise requirements for foreign workers until they have undertaken recruitment of available and qualified Canadians, they can take steps to facilitate faster processing of eventual requests for confirmations of job offers to foreign workers.

The following guidelines are intended to give employers a clear understanding of what will be required of them and how they can prepare for the possibility that they will need temporary foreign workers to supplement the available Canadian and permanent resident workforce, as part of their overall human resources planning for these projects. The timing and sequencing of the steps in the process will vary with employers.

Pre-approval Stage: Employers' Role

Although it is not a requirement, individual employers may wish to provide comprehensive recruitment plans to HRSDC at an early stage, to ensure that the planned approach will support potential requests for confirmation of job offers to foreign workers. It is suggested that the plans provide the following information:

1. An overview of the construction/development project.

2. Human resource requirements for tradespeople to implement the project, including:
 - i) Estimated number of workers by trade;
 - ii) description of duties; and,
 - iii) certification requirements by trade.

3. Advertising, recruitment and training plans directed to available and qualified Canadians and permanent residents. This section should provide details of comprehensive plans to ensure that available and qualified Canadians are made aware of the employment opportunities in the project and have an opportunity to apply. The critical elements are:
 - i) Details/timing/duration of advertising to be placed in technical/trade publications, union publications, newspapers, the INTERNET, in community college/apprenticeship publications, and any other relevant venues.
 - ii) Details of plans to hire and train Canadian apprentices.
 - iii) Ongoing liaison with career offices in community colleges and vocational schools.
 - iv) Specific plans for active recruitment and outreach to Aboriginals.
 - v) Plans for recruitment of young people.
 - vi) Active recruitment initiatives to hire available and qualified Canadians in other provinces, with particular efforts to hire these Canadians in areas of high unemployment.

4. Plans for consultations with relevant unions to advise them of requirements for skilled tradespeople, and of the fact that recruitment plans are expected to include hiring some temporary foreign workers.

5. Wages and working conditions for each trade.

6. Proposed schedule/timelines, with an indication of when hiring is expected to begin.

Employers may wish to meet with HRSDC officials to discuss their needs and plans in greater detail, and to ensure that the approach they are proposing will support any requirement for foreign workers.

Agreements in Principle: HRSDC Role

HRSDC is obliged to assess employer requests for confirmations in the context of labour market information that is current when it is considering the requests. It is prepared to enter into agreements in principle for individual employers in the oil sands who foresee the need to hire foreign workers to meet investment and project development requirements. Under such arrangements HRSDC will

undertake to issue a number of employment confirmations for future offers of employment to foreign workers in specified trades, as the employer identifies the need for the foreign workers, under the following circumstances:

1. The employer can document substantive, positive advertising and recruitment efforts to date, designed to ensure that qualified and available Canadian workers are aware of the upcoming employment opportunities. There must be evidence of outreach to aboriginal communities, and of recruitment in areas of high unemployment.
2. The employer agrees to continue recruiting in Canada.
3. The unions involved have been consulted. The position of each union concerned in respect to the potential entry of foreign workers in unionized workplaces is documented in respect to the availability of qualified Canadian citizens and permanent residents, wage rates and working conditions.
4. The wage rate for each trade is at least equal to the prevailing wage rate for the trade, and the working conditions meet generally accepted standards for the trade in the region. In the case of jobs that are part of a bargaining unit, the terms of the existing collective agreement are respected.
5. The employer can substantiate a requirement for foreign workers on the basis of recruitment results to date, taking into account project plans and timelines and continued domestic recruitment efforts.
6. The foreign workers will be required for the project within 12 months, which represents the horizon for reliable projection of labour market conditions.

In its analysis of labour market conditions, HRSDC will recognize the unique challenges faced by employers who are undertaking projects in the Fort McMurray area, and will take into account the commonality of employer needs for skilled tradespeople in this area. In this regard, if one employer has established satisfactory evidence of a shortage of available and qualified Canadians in a trade or trades, HRSDC will consider that there is a demonstrable shortage in these trades when it assesses requests received from other employers within a reasonable period. HRSDC will consider each factor set out above in addition to evidence of skills shortages in determining the occupations for which it is prepared to issue agreements in principle, and the maximum number of positions in each occupation to be covered under the agreement.

Issuing Confirmations

During the period of validity of the agreement in principle, the employer may request individual employment confirmations up to the maximum number provided for in the agreement in principle for each trade, without a requirement for further labour market assessment. The length of the confirmation will reflect the period for which the employer requires the foreign worker to be in Canada, up to a maximum of three years.

New Agreements in Principle

In keeping with the project timetable and evolving requirements, the employer may request additional agreements in principle for other occupations over the course of the project. These requests will be assessed in accordance with the requirements and conditions set out above. HRSDC will attempt to streamline such arrangements to the extent possible.

Employers of Record

Recruiters or labour brokers are not considered employers of record for purposes of requesting labour market opinions from HRSDC. The employer must be the company or entity that assigns work to the employee; provides day-to-day supervision of the work; and pays the employee. In the context of the oil sands construction projects, the employer of record may be a contractor who is providing specific project development/construction services to the company undertaking the project.

HRSDC understands that the company undertaking the oil sands project rather than individual contractors may assume responsibility for advertising and recruitment efforts, setting wage rates and conditions of employment, and undertaking recruitment of foreign workers.

ASSESSMENT AND CERTIFICATION OF FOREIGN WORKERS

- Alberta Learning will review and evaluate the credentials of foreign skilled tradespeople, as notified by the employer, to ensure that Alberta training and certification standards are met.
- Alberta Learning will assess the trade knowledge and skills of the foreign skilled tradesperson, on a cost-recovery basis, prior to arrival in Canada.
- When processing the application for a foreign national, CIC will assess whether the worker is able to perform the work sought, including being assessed and certified by the Government of Alberta to work in the designated trade, as specified in the Labour Market Opinion. It is

important to point out, however, that making arrangements with Alberta Learning for the assessment and certification of the foreign trades qualifications is the responsibility of the employer and the foreign worker, and not of Alberta Learning, HRSDC or CIC.

- For more details on common certification requirements in designated trades in the province of Alberta, employers may consult www.tradesecrets.org.

WORK PERMITS

IRPR require that a foreign national must not work in Canada without a valid work permit issued by an immigration officer. Applications from foreign workers hired by eligible oil sands employers whereby the applicant's foreign trade credentials have been recognized by Alberta and whereby the application is supported by a Labour Market Opinion from HRSDC will be processed in an expeditious fashion according to the requirements of the Immigration and Refugee Protection Act and Regulations. When a work permit is approved, the expiry date will be the earliest of the expiry date given in the Labour Market Opinion, the expiry date of the passport or in accordance with any other term stipulated in legislation.

CIC will meet with industry sector representatives to exchange information on recruitment best practices and on immigration legislative and operational requirements for the entry of these temporary foreign workers into Canada. CIC will also make available to the oil sands employers and to Alberta Learning, statistics on processing times and approval rates for foreign workers at missions around the world, to assist employers in planning and adjustment of their recruitment practices.

Minister
Human Resources and
Skills Development

Date

Witness

Minister
Citizenship and Immigration

Date

Witness

Minister
Alberta Learning

Date

Witness