

Faculty Relations – Immigration Update September 2014

Earlier this summer the Canadian government announced changes to the Temporary Foreign Worker Program (TFWP). A summary of the changes were circulated to each Dean's Offices in July. At that time it was not fully clear how these changes would impact foreign hires at UBC.

As we have worked through foreign hires in the last few months it has become clear just how adversely the changes affect our ability to recruit and hire foreign academics.

Over the summer UBC has been actively engaged in the lobbying efforts to get an exemption from the changes (*The film industry was covered when it was first passed and obtained a general exemption*). AUCC and U15 are also aggressively working on this. The new regulations were passed by the government without any consultation or advance notice.

LABOUR MARKET IMPACT ASSESSMENT (LMIA)

Formerly called the Labour Market Opinion (LMO) this is required by Service Canada for every foreign worker hired where the individual does not fall under a specific LMIA exemption.

Employers hiring foreign workers must now provide more detailed information on the recruitment process and the foreign academic. The cost of the assessment has increased from \$275 to \$1,000. Additionally a new LMIA is required when a foreign faculty member's work permit expires (see below for further details).

EMPLOYER TRANSITION PLAN

New in the LMIA process is the requirement for employers to complete a Transition Plan. It is a mandatory requirement for all employers applying to hire temporary foreign workers (TFW) and offering a wage at or above the provincial/territorial median hourly wage – foreign academics hired at UBC are above the median wage. The purpose of the plan is to ensure that employers hiring foreign workers have a plan in place to transition to a Canadian workforce over the period of time covered by the LMIA.

The transition plan requests details on 4 measurable activities that an employer will undertake to transition the position to a citizen or permanent resident of Canada. For tenure stream positions we feel that we cannot complete these 4 activities because it is contrary to the offer made to a new tenure stream hire. The form also includes a 5th activity to support transition of the individual foreign worker to permanent resident status. We have attempted to obtain a positive LMIA for a temporary foreign worker offered a position as a tenured associate professor by filing a transition plan that only provided for one activity, assisting the person to obtain permanent resident status. This application was denied. As a result of lobbying efforts there are indications from the Minister's Office that universities will be able to opt for this as the only activity on the transition plan, however, we are still awaiting official word from Service Canada that this is the case. Until this is confirmed, we strongly encourage newly recruited faculty members to apply for permanent resident through the BC Provincial Nominee Program (PNP) prior to arrival in Canada. Please note that only those with at least 2 years' experience in rank can apply through the BC PNP. Once approved by the BC PNP nominees will be able to obtain a letter of support from the BC PNP for a work permit. As such there would be no necessity to obtain a LMIA.

TENURE STREAM POSITIONS MUST BE RE-ADVERTISED WHEN THE INCUMBENT'S WORK PERMIT EXPIRES

Another change announced in June was that tenure stream positions held by a foreign academic must be re-advertised prior to Service Canada issuing a positive LMIA. If the individual has applied to the BC PNP the LMIA and therefore re-advertising is not required. Previously only term positions, such as Lecturers or Research Associates, had to be re-advertised when an incumbent's work permit expired. Service Canada has indicated that a full recruitment process will have to be undergone in an attempt to find a qualified Canadian. We have been lobbying the Minister's Office for an exemption to this requirement,

and have received encouraging news last week that consideration was being given to make universities exempt from this requirement. However, as with the transition plan we are awaiting official word from Service Canada that a full recruitment will not be required for tenure stream positions.

Regardless of whether universities are exempted from re-advertising tenure stream positions, we strongly encourage faculty members with temporary work permits to obtain permanent resident status as early as they can – ideally prior to the expiry of their current work permit. Keep in mind that work permits are temporary and there has always been an expectation from Citizenship & Immigration Canada (CIC) and Service Canada that foreign workers who are not holding short term positions will apply for permanent resident status.

Normally tenure stream faculty will opt to apply for permanent resident status under the BC Provincial Nominee Program (PNP). In order to apply through the PNP individuals should have at least 2 years' experience at their current rank. Once accepted by the BC PNP, should an individual's work permit expire they will be able to obtain a new work permit under the PNP exemption, thus avoiding the LMIA process.

Term faculty with at least one year's experience in Canada may opt to apply for permanent resident status under the Canadian Experience Class (CEC). Depending on the timing of the expiry of their current work permit they may be able to obtain a [bridging work permit](#).

Further information on applying for permanent resident status can be found on the [Faculty Relations website](#).

ADVERTISING

Units must advertise as widely as possible ensuring that Canadian publications/websites are used in addition to advertising in non-Canadian sources. The more places the better. This is essential because part of the LMIA process is to prove to Service Canada that citizens and permanent residents of Canada are made aware of the openings.

We strongly encourage units to advertise on the [National Job Bank](#) and/or on the [WorkBC site](#), both of which are viewed favourably by Service Canada.

LMIA EXEMPTIONS

There have been no changes yet to LMO exemptions (*Visitors, Postdocs, US citizens under NAFTA*) that were in place prior to the TFWU announcement at the end of June. CIC has announced that exemptions will fall under [International Mobility Programs](#) and has indicated there will be some changes, but these have not yet gone into effect. In their changes they have indicated that all exemptions will require pre-approval from the TFWU and that there will be a new compliance fee of \$230.

PERMANENT RESIDENT STATUS

As indicated above we strongly encourage faculty members to apply for and obtain permanent resident status as soon as possible. *If they do not and a further LMIA is required, there is a significant risk that a positive LMIA will not be obtained and thus the University will not be able to continue to employ them.* Units should review the list of their foreign faculty members and start working with them to apply for permanent resident status.

As further updates are announced by the TFWU we will pass the information along to the campus.