

Global Talent Stream: Fast-Track Work Permits to Fuel Canada's Innovation Strategy

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GLOBAL TALENT STREAM: FAST-TRACK WORK PERMITS TO FUEL CANADA'S INNOVATION STRATEGY

Written by Kevin Weber – 2/4/19

The Global Talent Stream is a two-year pilot program of Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC) that commenced on June 12, 2017. It allows skilled workers with arranged employment in recognized "in-demand" occupations, or who have been referred to the program by designated referral organizations, to obtain work permits within two weeks of having their eligibility for the program approved.

For U.S. companies that have subsidiary or sibling companies in Canada and who also face difficulty extending the terms of U.S. work authorizations, the Global Talent Stream offers a potential route to employees to continue working within the organization in North America. It offers a long-term solution or a stopgap measure while awaiting better prospects for approval of U.S. work visas.

The initiative seeks to assist in the growth of innovative Canadian companies by ensuring they can access highly skilled talent quickly, particularly in occupations where there is an identified labour shortage in Canada. To qualify for the program, the Canadian-based employer must commit to a "Labour Market Benefits Plan" (LMBP) whereby they agree to carry out specific activities designed to bring about specific

benefits to the Canadian labour market. The contents of the LMBP are fleshed out in negotiations with ESDC officials, who then seek to expand the commitments and create measurable benchmarks that are expected to be met during a specific timeframe. These commitments are subject to regular auditing by ESDC. Employers seeking to use the Global Talent Stream must balance the costs of these commitments with the benefits of the program, and be careful not to overcommit themselves.

In its LMBP, the Canadian employer must commit to providing one labour market benefit classified as “mandatory” and two benefits classified as “complementary.” At least one specific activity must be stated as a method of bringing each of these benefits. By way of demonstration, one of the eligible benefits recognized by ESDC is “increasing skills and training investments for Canadian citizens and permanent residents.” Examples of activities that an employer could commit to in order to support this benefit include, but are not limited to:

- Increasing investments in in-house skills and training;
- Establishing or enhancing educational partnerships with local or regional post-secondary institutes or with other organizations that are supporting skills and training (for example, providing post-secondary institutes with free licenses or other access to specialized software that will help build student skills on key industry tools);
- Providing paid co-op or internship opportunities for Canadians and permanent residents at the company; and

- Participation in work-integrated learning or other federal and provincial skills and training programs.

Another labour market benefit recognized by ESDC is “job creation.” For this benefit, the employer must track the number of jobs for Canadian citizens or permanent residents that are either directly connected to the foreign worker being hired, or to overall job growth within the company. Activities that an employer could commit to in order to support this benefit include, but are not limited to:

- Hiring additional Canadians or permanent residents to support the foreign worker in his/her role; and
- Increasing the number of Canadians and permanent residents employed full time and part-time by the company.

Potential pitfalls of which Canadian employers must be aware in seeking to access the Global Talent Stream program include “overpromising” in terms of the benefits and/or activities that wish to commit to without thinking through how they are going to meet those requirements or perform at the 6-month audit. This can occur during the negotiations process with ESDC. In addition, employers must keep in mind that *if* they commit to an LMBP for one foreign worker, and shortly thereafter need to access the Global Talent Stream again to hire more foreign workers, ESDC will seek to negotiate enhancement of the benefits and/or activities agreed to under the initial LMBP. This will be particularly problematic if the company overcommitted in its initial LMBP, as ESDC officials will then be pressuring the company to put itself into an even deeper hole at that later stage.

About the Author

Kevin J. Weber is a Partner in Dickinson Wright's Toronto office where he provides services in all areas of Canadian immigration law. He advises and assists clients in applying for work permits obtained through the Labour Market Impact Assessment ("LMIA") process; work permits for intra-company transfers and professional exempt from regular the LMIA process through NAFTA, the Canada-EU Trade Agreement, and the Global Talent Stream process; "significant benefit" work permits; permanent residence through the Express Entry system; entering Canada to conduct business that does not require a work permit; immigration compliance audits; citizenship; overcoming barriers to entering Canada due to criminal record or arrest history; and special immigration routes available to members of the entertainment industry. He can be reached at 416-367-0899 or kweber@dickinsonwright.com.

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