

Ask an Immigration Expert

LMIA Advertising and Process

MO: Kim the question talks about ads and this writer has noted 4 places where the ads have been placed – 3 online websites and the job bank. The person wonders whether the ads need to be paid for. Can you comment on that?

KL: Paid advertisements are not required. Service Canada looks to the credibility and quality of the source being used, rather than whether it's paid. In this regard, in order for a publication source to be deemed acceptable, it must show that it's a credible source and one that meets the program requirements, be it high wage or low wage (explanation below). The officer would be looking to see if it's a source that is recognized by the general public and is made readily available if an individual were to search for the job. So, even if a source is paid, it may not serve the purpose to meet the requirements if no one knows about its existence.

MO: Could you briefly review the advertising requirements for LMIAs?

KL: Both low wage and high wage streams are identical in terms of the number of publication sources that must be used for the job posting. Specifically, one source must be the Job Bank while the additional 2 would be from external sources. All 3 sources must run for at least 4 weeks within the 90 days prior to application filing, with one that must remain active throughout the entire process up until a final decision is rendered on the application.

For low wage (not including the AG stream), the 2 external sources must target audiences from 2 of the 4 different underrepresented groups. That is, each of the 2 external sources must target at least one of the following groups: vulnerable youths, indigenous people, persons with disability, and newcomers.

For high wage, of the 2 external sources, at least 1 source must be national in scope. That is, it must attract applicants from all of Canada because the understanding is that individuals who are offered a high wage may be willing to relocate to where the position is being offered.

MO: Can you clarify the difference between high wage and low wage and how the advertising might differ?

KL: Difference in advertisement is indicated above. Relative to how it's determined as to high wage vs. low wage, this is dictated by the provincial median, which is not to be confused with the position median. If the wage being offered is above the PROVINCIAL median, then it is high wage. If it's below, it's low wage.

MO: What is median wage and what role does that play in advertising?

KL: Median wage is the prevailing wage that is dictated by the Job Bank for the proffered position. That is, it is the “minimum wage” for the position being offered to the Foreign Worker. An employer looking to hire a foreign worker must be willing to offer the median wage for the proffered position in order for an LMIA application to be considered. In very rare circumstances a wage lower than median could be accepted, but it’s a very difficult challenge to win and would require extensive independent wage survey and historical hiring practices. I would caution that an application where the median wage is being challenged would be highly scrutinized by the reviewing officer and it is still left at his/her discretion to accept the justification.

The above is why the proper assignment of the NOC code is critical.

MO: Could you briefly describe the 7 “must-haves” for the ads?

KL: The “7 must-haves” in the content of an advertisement are:

- **Title of position**
- **Job description**
- **Minimum requirements**
- **Wage**
- **Hours of work**
- **Name and location of company**
- **Language of work (English or French)**

MO: Are LMIA's an employer-driven or consultant-driven process?

KL: Absolutely employer-driven. As the LMIA application is a true test of the labour market to ensure that there are no ready, willing, and able Canadians/PRs to take on the position offered to the FW by the Canadian employer, the process should be driven by the employer. An RCIC's job is to provide guidance and help facilitate it. Think of it as driving a car to get to a final destination: the employer is the driver, while the RCIC navigates to ensure that he/she gets to the final destination quickly and safely.

It is imperative that the employer is actively involved in not only the preparation of the application materials but also in the proper NOC assignment, the drafting of the job posting, and during the recruitment phase (the screening of resumés and applicants). In fact, Service Canada officers typically ask an employer the role of the third party during the entire process to assess whether the job offer is in fact genuine (R203).

Given the complexity of LMIA's and the length of time (and sometimes cost) it takes to get the application to the point that it's ready for filing, combined with the highly discretionary powers of the decision makers, it is highly recommended that any RCIC

looking to take on the challenge of LMIA's seek guidance from those who are well-versed in the process.

Kim K.C. Ly is a member of the Immigration Consultants of Canada Regulatory Council and Principal of her boutique firm, Borders Immigration Consultancy, located in London, Ontario (www.bordersimmigration.com).

An honours graduate of Humber's Immigration Consultant program, Kim possesses over twenty-three years of experience in the industry, which includes a tenure with law firms located in southwestern Ontario. Prior to establishing her own firm, over the last twelve years Kim was Senior Immigration Consultant at Siskinds Law Firm, one of southwestern Ontario's largest class action law firms.

Maintaining a client base that ranges from prospective Canadian immigrants to corporations that include local businesses and Fortune 500 multinationals, Kim is a regular presenter on various immigration matters at numerous industry-related events, as well as for various corporations and professional associations.

Kim is an accredited member of the Canadian Association of Professional Immigration Consultants (CAPIC) and a member of the Advisory Panel to the London Middlesex Immigrant Employment Council (LMIEC) (now called "IMMPLOY" immploy.ca/about-lmiec), a local community organization that connects local employers to immigrant talent with the aim of strengthening the local economy. She is also immigration counsel to the London Economic Development Corporation (www.ledc.com/about), the lead economic development agency for the City of London.

Having served two terms on the ICCRC's Governance & Nomination Committee (GNC), Kim has also been a member of CAPIC's Education & Training Committee (Ontario Chapter) and currently serves on its Policy & Lobbying Committee.

Useful links

<http://noc.esdc.gc.ca/English/noc/welcome.aspx?ver=16>

<https://www.canada.ca/en/employment-social-development/services/foreign-workers.html>