

2.0 Eligibility

A positive Job Vacancy Assessment (JVA) will only be issued when an employer meets the eligibility criteria and identifies a vacant position(s) that also meets the eligibility criteria.

2.1 EMPLOYER ELIGIBILITY

The Department of Immigration, Population Growth & Skills(IPGS) accepts JVA applications from the following employers:

- Private sector businesses registered and in good standing with Service NL [Companies and Deeds Online \(CADO\)](#). Exceptions may be made for sole proprietorships;
- Federal crown corporations and comparable provincial crown corporations;
- Provincial and regional health care authorities and agencies;
- Public post-secondary education and training institutions;
- Other provincial/federal/municipal government organizations and agencies;
- Other non-profit groups registered as charitable organizations and incorporated under Part XXI (21) of the Corporations Act RSNL 1990,c C-36, or the Canada Corporations Act RSC 1970,c.C-32, and in good standing;
- Band/tribal councils

2.1.1 Established and Operating in Newfoundland & Labrador

- - The employer must be permanently established in Newfoundland and Labrador, as defined by the federal [Income Tax Act](#).
 - The employer must demonstrate they have been in active business under current ownership and management, in Newfoundland and Labrador, for at least two (2) consecutive years. In exceptional circumstances, the Office of Immigration and Multiculturalism (OIM) may accept applications where the employer has been operating under current management for at least one (1) year. Some exceptions include:
 - new business opened following closure/sale of previous successful business
 - business engaged with innovation/export markets
 - business located in rural region of Newfoundland and Labrador
 - If registered with Service NL, [CADO- Companies and Deeds Online](#), employer must be in good standing. For the purpose of determining “permanently established employers, CADO will also be considered a sufficient resource, (i.e. employers listed in “standing” will be considered permanently established. This confirmation, however, is notwithstanding the 1 year minimum rule established as a business)

2.1.2 Employs Indeterminate, Full-Time Employees

- - Employers seeking to avail of the JVA process must employ indeterminate, full-time employees.
 - If located within the St. John's census metropolitan area, employers need to have at least two (2) indeterminate, full-time, local employees in the staff complement;
 - If located outside the St. John's census metropolitan area, but within Newfoundland and Labrador, employers need to have at least one (1) indeterminate, full time, local employee in the staff complement;

2.1.3 Labour Law & Program Compliance

As part of the JVA application, employers must confirm that they are in compliance with the acts and regulations listed below:

- - Labour Relations Act & Labour Standards Act (as applicable)
 - Occupational Health and Safety Act
 - Workplace Health Safety and Compensation Act
 - Newfoundland and Labrador Human Rights Act
 - Immigration and Refugee Protection Act
 - Immigration and Refugee Protection Regulations
 - Canadian Human Rights Act
 - Canada Labour Code
 - Federal Labour Standards

Employers found to have falsely indicated compliance could be excluded from the Newfoundland and Labrador Provincial Nominee Program (NLPNP) and other ISL programs.

Employers who have availed of IPGS programs must be prepared to demonstrate a history of compliance in the Labour Market Programs Support System (LaMPSS).

2.1.4 Demonstrate Success in Retaining International Workers

Employers who have previously or are currently availing of OIM immigration programs (Newfoundland and Labrador Provincial Nominee Program or Atlantic Immigration Pilot Program) must, upon request, be prepared to provide an update on their success in retaining workers they have hired under these programs. To demonstrate such success, employers will be required to submit the following information:

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- Description of the number of employees in the organization hired through Newfoundland and Labrador immigration programs, including the current status of any international workers in their employ;
- Details of activities and/or measures taken to retain employees in the organization long-term. These measures may include but are not limited to regular raises, benefits and settlement supports, and potential employment opportunities for spouse or other family members; and
- In instances of employee departure, describe the reasons for the employee's departure, describe measures taken by the employer to retain the employee, and if possible, the destination of the former employee and contact information.

2.2 INELIGIBLE EMPLOYERS

2.2.1 Businesses of an Inappropriate Nature

IPGS will not accept JVA applications for positions which, by association, would bring the Newfoundland and Labrador Provincial Nominee Program and Government of Newfoundland and Labrador into disrepute

2.3 ELIGIBLE POSITIONS

To be considered for approval by IPGS, the vacant position to be filled by an international worker must:

- Have been vacant for a period greater than three(3) weeks
- Preferably be a position of indeterminate length or full time 2 year job offer with the possibility of extension
- Require full time hours (1,560 hours of paid employment over a minimum 12-month period and a minimum of 30h/week)
- Be necessary for the company's operations. The job duties must be consistent with the business activities of the company.
- Meet the prevailing wage, which is defined as the highest of either:
 - The median wage rate for that occupation in the sub-provincial region of Newfoundland & Labrador in which the position is located
(**Note:** Information about wage levels in different occupations and regions of the province can be found on the Government of Canada Job Bank website ("[Explore Careers by Wages](#)" section):
 - Where sub-provincial median wages for the occupation are unavailable, the 10 per cent above or below the occupation median wage (at the provincial level) will be the range used to establish comparable wages, as long as it meets Newfoundland and Labrador provincial minimum wage standards.

- The wage that is within the wage range current employees are paid for the same job and work location, and with the same skills and years of experience.

2.3.1 Express Entry Skilled Worker Position Criteria

To be considered for approval, your prospective employees applying through the Express Entry Skilled Worker category must meet all the criteria for this category, as stipulated [here](#). The vacant position to be filled by an international worker must be in a skilled occupation identified as a [National Occupational Classification \(NOC\) Code 0, A or B](#). The prospective worker must **already have a profile in the Express Entry Pool before applying to the NLPNP**.

2.3.2 Skilled Worker Position Criteria

To be considered for approval, your prospective employee applying through the Skilled Worker category must meet all the criteria of this category, as stipulated [here](#). The vacant position to be filled by an international worker can be in any NOC Skill level (0, A, B, C, D), but must not span multiple occupations (i.e. Cook and Food Counter Attendant).

2.3.3 International Graduate Position Criteria

A job vacancy assessment is not required for individuals to be eligible for the NLPNP international graduate stream. To be eligible for this category, the candidate will hold a Post-Graduate Work Permit, which enables them to work for any employer in Canada for the duration of the permit. Individuals can find more information about this category [here](#).

2.4 INELIGIBLE POSITIONS

A vacant position(s) will be considered ineligible if:

- The prospective foreign worker has an ownership stake in the business, and the employee's share of ownership exceeds 10 per cent;
- The vacant position is for a contractual or locum position (short-term positions usually less than twelve (12) months in duration with little or no possibility of extension);
- The vacant position is of a seasonal or cyclical nature, or is considered part-time;
- The vacant position is not located on the company's premises (for example, employees who work from home or "virtual" locations and serve the employer by telecommuting);
- The vacant position is in conflict with any existing collective bargaining agreements or if there is a labour dispute involving either the employer or the applicant. In addition, positions that will affect the settlement of any labour dispute, or affect the employment of a person involved in such a dispute, will also be ineligible;

- The vacant position is commission-based or the compensation is not in the form of a salary.

2.5 JVA EXEMPTIONS

IPGS reserves the right, in exceptional circumstances, to exempt employers and certain positions from the JVA process. The list of in-demand occupations exempt from provincial labour market testing processes, such as the Job Vacancy Assessment and Atlantic Immigration Program advertising requirements, is regularly updated, and may be accessed [here](#).

2.6 JVA PRIORITY

IPGS will prioritize JVA applications for occupations experiencing labour market pressures in select priority sectors (aquaculture, agriculture, and technology), in consultation with the Workforce Development Secretariat division of the Department. Priority will also be given to employers recruiting Francophone skilled professionals. This will be subject to regular ongoing review and updates by the Workforce Development Secretariat.