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Archived: June 3, 2025 8:07:50 AM
From: Immigration Representatives / Représentants immigration (IRCC)
Sent: Thu, 3 Apr 2025 15:29:02
To:
Cc: Immigration Representatives / Représentants immigration (IRCC)
Subject: FW: Subject: Request for Clarification on Employer Ownership Changes in relate to the issued LMIA based work permit - REP-2025-0197- Due 17-Feb-25
Importance: Normal
Sensitivity: None

Good day,
[redacted] **Representatives Mailbox.**
Please note that this mailbox is intended for general guidance and does not provide responses to case-specific inquiries but have provided the following information as guidance. If you have case specific questions about a file, you are encouraged to submit the IRCC Web form.
Please see our response to your question.
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1. 1. Yes, as long at the takeover organization agrees to assume the LMIA contract and the worker's employment conditions as per the original offer of employment have not changed, then the temporary foreign worker is not obligated to obtain a new work permit and is authorized to continue working under the same conditions. If the type of business, the wages, the job duties or the work location changes, affected workers will need to get new work permits. In this case, the new employer will need to either submit a new offer of employment for each worker or get a Labour Market Impact Assessment (LMIA) (if the job is not LMIA-exempt). These workers can't keep working until they get their new work permits. In all cases, both companies should keep all documents about the merger or takeover in case we do a compliance inspection. The new employer will need to submit a new offer if they want to extend the worker's permit when it expires.

   If my company merges with, or is taken over by, another company, what happens to employees who have temporary work permits?

2. 2. The new company or successor in interest is responsible for reporting this change to IRCC. If the take-over organization is a successor in interest in that it has substantially assumed the interests, obligations, assets and liabilities of the original organization (wholly or partially) and continues to operate the same type of business as the original organization, the take-over organization remains the "employer" for the purpose of the existing work permit as well. The new organization is responsible for ensuring that it only employs a foreign national in a capacity in which the foreign national is authorized under the IRPA to be employed, as per paragraph A124(1)(c).

3. 3. Modifications to a positive LMIA fall under ESDC's purview, we would recommend reaching out to them for more information.

   Contact the Employer Contact Center - Canada.ca

4. 4. Any changes to approved LMIA based work permit applications should be reported. If the change results in a new LMIA being required and the work permit application is already approved, it is likely a new work permit will be required.

5. 5. The temporary worker is not obligated to obtain a new work permit and will continue to be authorized to work in Canada for the duration of the period stated on the existing work permit as long as both of the following apply:

   - * The take-over organization meets the requirements under which the LMIA-exempt work permit was issued (for instance, a qualifying relationship for intra-company transferee), or the take-over organization assumes

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the LMIA contract.

- * The worker's employment conditions as per the original offer of employment (for example, the wages, duties and location) have not changed.

If the take-over organization does not become a successor in interest (that is, it does not assume all of the interests, obligations, assets and liabilities of the original organization), a new LMIA or offer of employment and new work permits are required for all temporary workers holding employer-specific work permits, and the employees should cease working for the take-over organization until new work permits have been obtained.

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[redacted]

The Immigration Representatives Mailbox

De :
Envoyé : 20 janvier 2025 11:00
[redacted]
Objet : Subject: Request for Clarification on Employer Ownership Changes in relate to the issued LMIA based work permit

Dear Sir/Madam,
My name i
I am writing to request clarification regarding the Temporary Foreign Worker Program (TFWP), specifically in relation to the policies outlined in the "**Guide to Mergers and Acquisitions**" (https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/guide-mergers-acquisitions.html). I would appreciate your guidance on how to interpret these policies in situations where Temporary Foreign Workers (TFWs) with LMIA-based work permits are employed in a portion of a company that is being sold to an external party.

The guide states: "*If the new organization is a successor in interest, the temporary worker is not obligated to obtain a new work permit and will continue to be authorized to work in Canada for the duration of the period stated on the existing work permit, as long as the takeover organization assumes the LMIA contract and the worker's employment conditions as per the original offer of employment have not changed.*"

Could you please confirm if this means that, despite a change in employer from the original organization to the takeover organization, the TFW's work permit conditions will remain unaffected as long as the takeover organization agrees to assume the LMIA contract and the worker's employment conditions remain unchanged?

Additionally, I would like to understand the obligation to report changes in employer conditions to ESDC and IRCC. According to the "**Modification to a Positive Labour Market Impact Assessment Guide**" (https://www.canada.ca/en/employment-social-development/services/foreign-workers/modification-positive-lmia.html), it is stated that "*some **minor** modifications must be reported without submitting a new LMIA to ESDC,*" while "***material** modifications that do not respect the terms of the positive LMIA letter and annexes must be voluntarily disclosed.*"

I would appreciate clarification on the following four questions:

1. In the case of a change in ownership of an organization, which party is responsible for reporting this change to IRCC, the previous employer, new employer or the Temporary foreign worker?

2. Would a change in ownership of an organization be considered a minor modification (e.g., a change in contact information) or a material modification (e.g., a change of employer)?

3. Does this reporting obligation apply only to pending LMIA-based work permit applications, or does it also

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extend to approved LMIA-based work permits?

4. Do TFWs have any obligation to report changes in their employer as listed on their work permits? Especially in some cases that the TFW may not even aware of the ownership changes when the public name remain unchanged.

I would greatly appreciate your assistance in interpreting these policies and clarifying the responsibilities of all relevant parties in the case of a change in employer ownership for TFWs with approved LMIA-based work permits.

[redacted] and assistance.

Sincerely,