

# LMIAS - RECRUITING & HIRING

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Frances Hannigan, RCIC #R507077  
Assistant Director, Immigration & Visa Services  
Legal & Immigration Services



UNIVERSITY OF  
**WATERLOO**



# Acronyms used within Immigration

- BOWP – Bridging Open Work Permit
- DLI – Designated Learning Institution
- **ESDC – Employment & Social Development Canada**
- GSS - Global Skills Strategy
- IEC – International Experience Canada program
- **IRCC – Immigration, Refugee & Citizenship Canada**
- IRPA – Immigration & Refugee Protection Act
- IRPR – Immigration & Refugee Protection Regulations
- **LMIA – Labour Market Impact Assessment**
- NOC – National Occupation Classification
- SOWP – Spousal Open Work Permit
- SP – Study Permit
- TEER – Training, Education, Experience & Responsibility category
- TRV – Temporary Resident Visa
- **WP – Work Permit**
- CCFTA – Canada-Chile Free Trade Act
- CUSMA – Canada-US-Mexico Trade Agreement (formally NAFTA)

# Nature of Our Business

University of Waterloo is an Academic Institution. We are also an Employer to whom we hire employees to provide services as an Academic Institution.

Thus, the nature of our business is to teach and do research and provide support services to those activities.

# What is deemed “work”

## Immigration Canada’s definition:

Section 1(1) of IRPR sets out the definition for work as “an activity for which wages are paid or commission is earned, or that is in direct competition with the activities of Canadian citizens or permanent residents in the Canadian labour market.”

## How it’s applied:

The nature of what the University of Waterloo does needs to be taken into consideration to determine if an activity to be performed is deemed as work.

# Permissions to Work in Canada

## Work Permit required

Sections 194 to 203 of IRPR provide regulatory authority for all activities considered as work (as defined in Section 1(1) of IRPR) and the need for a work permit to perform that work in Canada

## LMIA required

Section 203 of IRPR specifically sets out the regulatory parameters of eligibility to issue a work permit based on assessments of the employer's recruitment efforts against the employer's local/regional labour market.

Section 209 of IRPR sets out the regulatory parameters and obligations for the employer to follow to meet compliance if they are to hire a foreign national

# LMIA vs. LMIA Exempt vs. Work Permit Exempt

- LMIA – mostly done for faculty appts; extensive advertising for position must be done along with bona fide recruitment & interview process
- LMIA Exempt – for most visiting & PDF positions; categories of exemption are limited
  - \* Both are used to support the work permit application
- Work Permit Exempt – mostly used for visiting research positions only; period of visit is exact and limited with requirement to physically leave Canada after visit period ends

# LMIA's - What is it & Why is it required

## What is it

It is a formalized Assessment made by IRCC and ESDC

## Why is it required

It is used to determine if the applicant employer has made every effort to recruit and hire a Canadian or Canadian Permanent Resident for the position being offered and whether the hiring of a foreign national for the position will negatively Impact the Labour Market regionally, provincially and/or federally

## \*Work Permit Renewals/Extensions

If a LMIA was done to support the original WP, then a new LMIA must be done to support the renewal/extension application

# LMIA - Faculty Hire requirements

- **Advertising:**

- 30 days minimum in 3 national posting sites – 1 must be on JobBank.gc.ca
  - JobBank.gc.ca – Job Match of 4 stars or higher must be invited to apply
  - Waterloo's faculty posting site not considered national in scope
- Any foreign postings must run concurrently with at least 1 national posting and remain live until the foreign posting(s) expires or is taken down
- All Cdn/CPR applications received must be reviewed – even if received after closing date of posting



# LMIA - Faculty Hire requirements - cont'd

- Each posting must contain the following statement:
  - All qualified candidates are encouraged to apply; however, in accordance with Canadian immigration requirements, Canadians and Permanent Residents of Canada will be given priority.
- **Recruitment:**
  - Cdn/CPR applicants given priority for short-list and/or interview and/or offer (i.e. similar qualifications between FN & Cdn/CPR – Cdn/CPR must be short-listed, interviewed or offered position)
  - List of each & every Cdn/CPR applicant with rationale as to why they were not considered, short-listed, interviewed or offered the position

# LMIA - High Wage Hire requirements

## High Wage Hire

High Wage Hire refers to any hire that is made for any position not professorial or is of a definite term/contract position AND the wage must be above the provincial/territorial Median hourly wage amount

Additionally, the wage must also minimally meet the regional prevailing wage amount of the position being offered

Waterloo limits the types of positions LMIA's will be applied for under this category based on factors of availability of "local" candidates – i.e. OWP/SP holders, position's ROI to the University (not just to the hiring area), feasibility of a positive LMIA outcome, Compliance and reporting obligations to IRCC, ESDC and/or CRA

# LMIA - High Wage Hire requirements - cont'd

- Advertising
  - All the same requirements as Faculty Hiring including the following:
    - 1 of 3 national postings must remain live and accessible until a decision is rendered on the LMIA
    - No requirement to review any Cdn/CPR application received after submission of LMIA, but IRCC and/or ESDC can halt processing of submitted LMIA and mandate a new review of any and/or all Cdn/CPR applications received, including applications received after submission of LMIA
- Recruitment
  - All the same requirements as Faculty Hiring including the following:
    - Position offer must be made conditional on a positive LMIA and approval for the work permit

# **LMIA Application Package for Faculty Hires**

## **Once an offer is made:**

- Entire UARC file is required as any part of the file can be requested for by ESDC as back-up for why a non-Canadian candidate has been offered the position
- List of all Cdn/CPR applicants along with rationale as to why each applicant was not short-listed, interviewed, and/or offered the position
- Proof showing each ad was posted for the minimum of 30 days, along with a copy of the ad

## **Once the candidate signs back accepting the offer:**

- Signed acceptance of the Appointment must be provided to ensure all conditions are acceptable to the foreign national

# UARC vs. LMIA Requirements

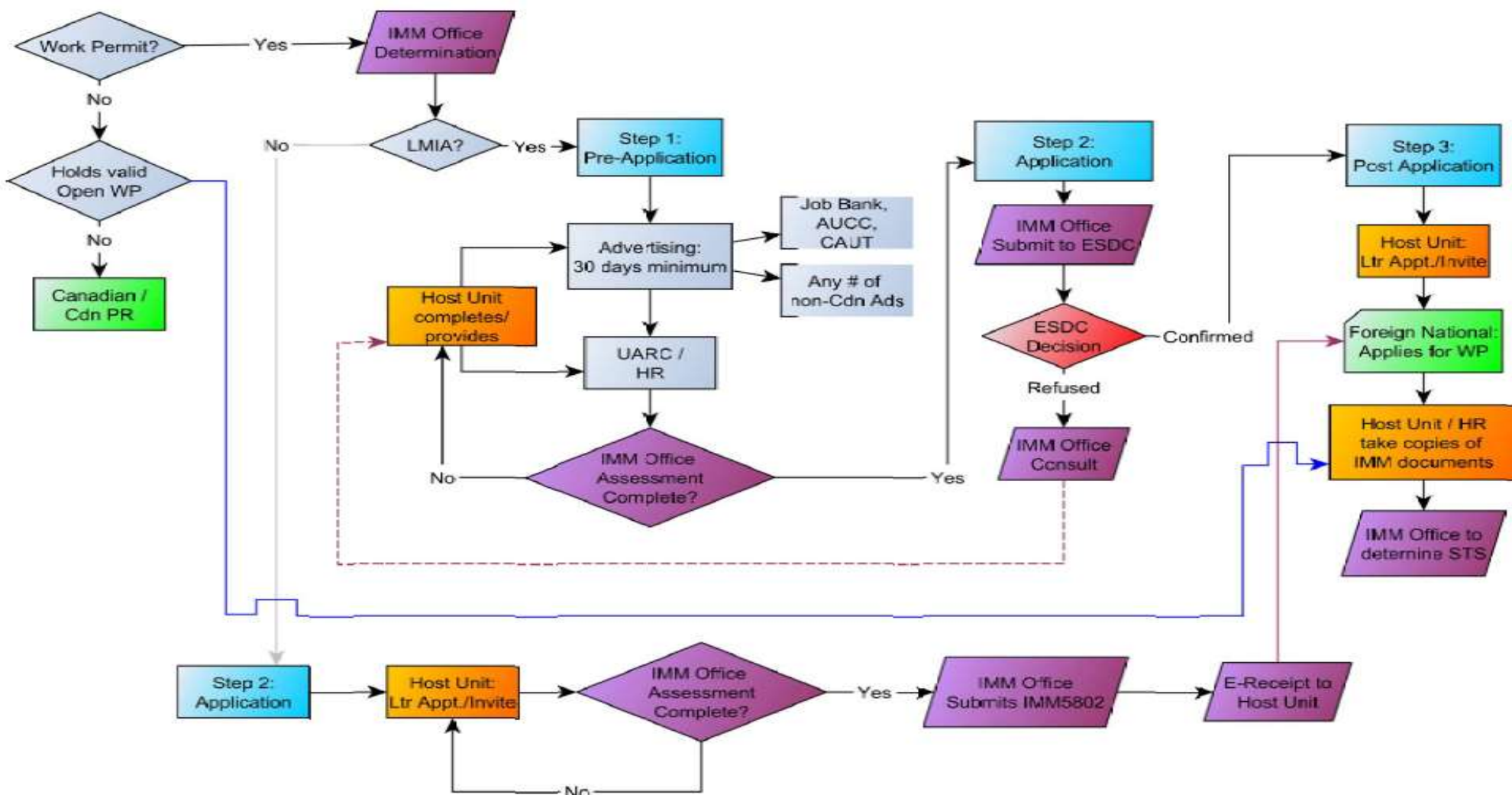
UARC	LMIA
60 days recommended advertising; 30 days per UARC policy	30 days minimum advertised posting
Special efforts to recruit under-represented <u>gender</u>	Special efforts to recruit under-represented <u>groups</u>
Closing date for receipt of applications	Closing date irrelevant as all Cdn/CPR applicants must be reviewed
Advertising required only for appts. of 2 years or greater	Advertising required for any regardless of appt. period

# LMIA Application Package for High Wage Hires

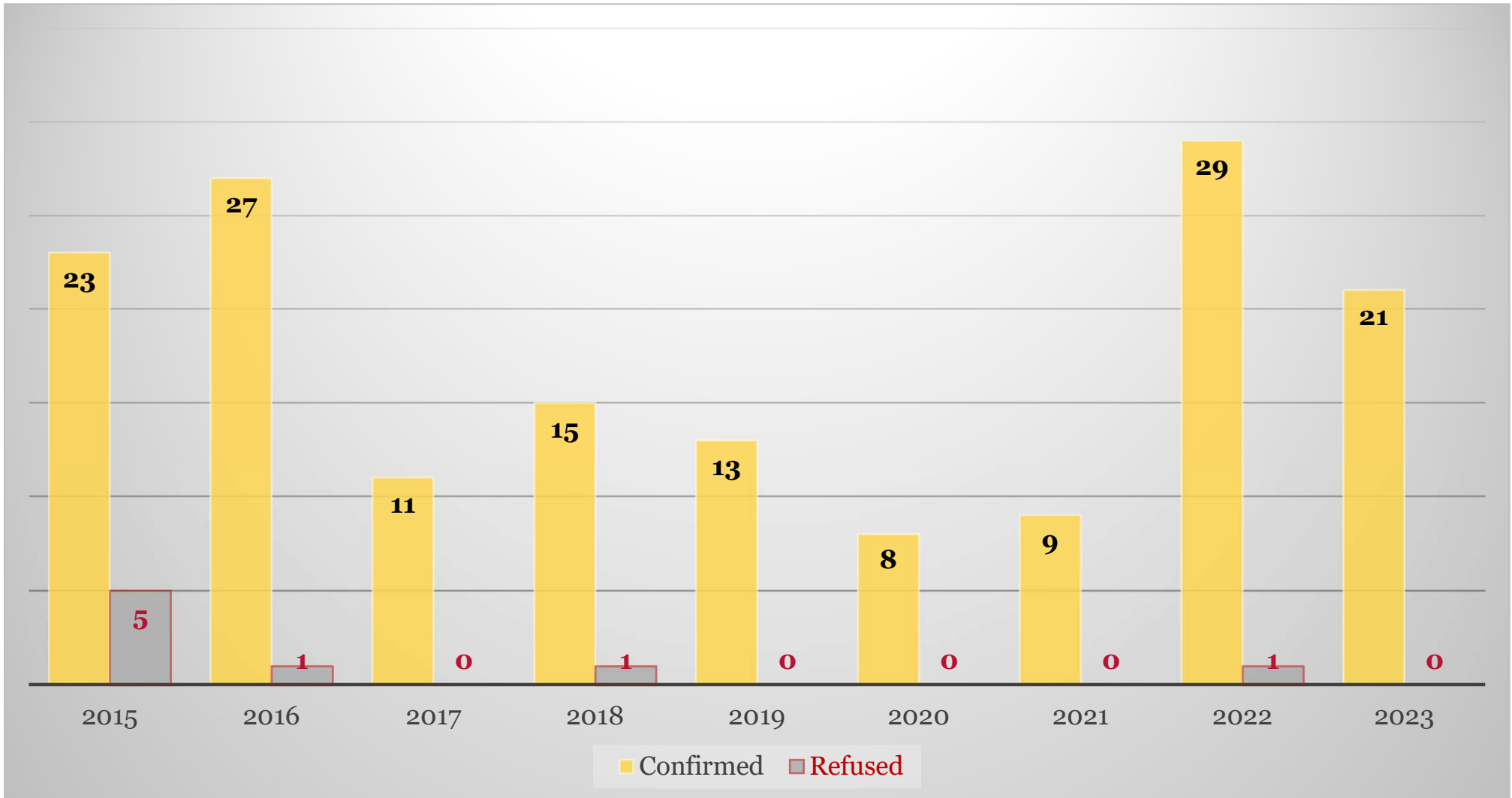
## Once conditional offer is made AND signed back accepted

- Signed acceptance of the Appointment must be provided to ensure all conditions are acceptable to the foreign national **including** the possibility of withdrawal of the offer should the LMIA be refused, or the work permit cannot be approved by the noted start date
- List of all Cdn/CPR applicants **up to and including** any received by LMIA submission day along with rationale as to why each applicant was not short-listed, interviewed, and/or offered the position
- Proof showing each ad was posted for the minimum of 30 days, along with a copy of the ad **including** proof of live posting showing ad is still open during LMIA processing
- Transition Plan on how the hiring area will move away from hiring any other foreign nationals for the position – if position is not project based
- Provide 3 University-wide strategies for the Labour Market Benefits Plan – to be reported on for the next 3 years

# Work Permit Decision Matrix



# LMIA's





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Frances Hannigan, RCIC #R507077  
Assistant Director, Immigration & Visa Services  
fhanniga@uwaterloo.ca  
519-888-4578 ext. 43662