

**TOP 10 ISSUES in PNP - WESTERN CANADA
(British Columbia, Alberta, Saskatchewan and Manitoba)**

**A Look at 10 Important Issues Affecting
Provincial Nominee Programs in the West**

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TOP 10 ISSUES in PNP - WESTERN CANADA (British Columbia, Alberta, Saskatchewan and Manitoba)

1) TRENDS IN PROCESSING

a) Staffing

In 2010, the BC PNP hired 10 additional advisors. There are currently 24 advisors: 7 processing business applications and 17 processing the strategic occupations. SINP has 43 staff, with assignment of 29 to skilled workers, 12 to entrepreneurs, 2 to program integrity. Neither the SINP nor BC PNP anticipates further funding for additional staff at this time.

The AINP currently employs 35 people, 22 of which are program officers. Approval has been received to hire a few additional officers to cover leaves of absence. The AINP moves officers around as processing demands necessitate. No set number of officers are allocated to any particular stream.

The MPNP currently employs a staff of 16 program officers for application adjudication. These officers are also assigned to other MPNP related assignments from time to time. The program also has a pre-assessment team of 4 individuals that are responsible for ensuring file completeness before files are submitted to program officers for adjudication. The MPNP has an administration staff of 5 employees (e.g. maintain statistics, reports drafting, etc.). The Program does not anticipate hiring additional staff at this time.

b) Processing Times

Over the last six months, the BC PNP has decreased strategic occupations processing time from 16-18 weeks to 12-14 weeks. The ideal 8-10 week service standard would require additional staff.

SINP category processing is as follows: skilled worker 6.4 months; family 8.8 months, entrepreneur 3.3 months; students 2.3 months; and, all other worker categories (i.e., primarily low skilled and health professionals) 2.1 to 2.8 months.

Despite listed processing times of 11 months on the AINP website, it is currently taking 7 to 8 months to process employer driven application within the both the skilled and semi-skilled streams. The balance of other categories are listed as follows: compulsory and optional trades 6 months, engineering 6 months, US visa holder backlog 28 months, family backlog 54 months. With the closing of the US visa holder and family streams on August 23, 2010, and the implementation of a new bar code feature within the application forms, processing times are expected to continue to decrease over the coming months.

The MPNP has continued to improve on its processing times over the last couple of years. Its Employer Direct, Student and Strategic Initiative Streams are all currently processing applications within 3 months on average. As of April 2010, processing times for the Family and General Streams have decreased significantly from 18 to 24 months to approximately 6 months. These processing times have and are expected to remain consistent.

c) Implied Status

Work permit extension processing is strictly a Citizenship and Immigration Canada matter and neither the BC PNP nor SINP is liaising with the CIC or CPC-V to ensure concurrent processing.

The CIC appears to have instructed its call centre agents to inform callers that CPC-V applies its policy on concurrent processing of work permit extensions and LMOs to concurrent processing with PNP work permit support letters (“WPSL”). That is, CPC-V officers are disinclined to wait more than two months for a WPSL to be added to a work permit extension application in process.

The BC PNP reports that some CPC-V officers will email or telephone the PNP to enquire on the processing timeline for the WPSL and nomination. However, this is entirely within the CPC-V officer’s discretion, and the BC PNP will neither request that the CPC-V officer hold the work permit extension application nor will the BC PNP expedite its processing of the nomination application and WPSL. The SINP reports that it does not receive calls from CPC-V on this matter, mostly because many of its applicants have an LMO-based work permit or a post graduation work permit.

The AINP and MPNP did not report any direct involvement in the concurrent processing of work permits through CPC-V. The failure of an employer to obtain an LMO for a nominee candidate may be seen by the AINP as an indicator of no labour shortage in the occupation for which the nomination is being requested. Because the AINP is focused on address local labour conditions, any disruption in the continuing validity of a candidates work permit could impact negatively on the adjudication of the nomination application. If concerns exist over the availability of future LMOs for a given candidate, counsel are urged to submit nomination applications at the earliest possible opportunity to ensure ongoing eligibility within the program.

2) REPRESENTATION

Immigration lawyers continue to enjoy a good relationship with the BC PNP & MPNP, which has a policy of contacting counsel or notifying counsel in instances wherein the advisor needs to contact the applicant directly (e.g., where a document casts doubt on credibility).

The SINP Code of Conduct for Representatives is a 14 point document requiring counsel's signature. Point 12 states "I will be personally accountable to the applicant and the SINP respecting all aspects of the application." SINP management has now agreed lawyers, but not immigration consultants, may cross out that statement. The SINP is working with its legal department to determine appropriate wording on the intended revision of that form.

Approximately 30% of applicants use third party representation when applying to the AINP. Representation is currently divided equally between lawyers and consultants (50/50). The local CBA immigration sections have worked hard to improve relationships with the AINP. However, like other PNP programs, AINP candidates are repeatedly instructed that all materials may be obtained free of charge and that retaining counsel offers no advantage over going it alone. The lead statement on the representative page of the AINP website states in bold letters: "*You don't need to hire an immigration representative to help you with your AINP application.*"¹

Fortunately, when counsel are properly appointed, the AINP and MPNP generally respect the role of the representatives and will often communicate any concerns directly with counsel should issues arise within the adjudication of the nomination application.

3. SEMI-SKILLED WORKERS

On February 4, 2010, the BC PNP extended the Entry Level and Semi-Skilled Workers Pilot Project (ELSS) to August 31, 2011. If the BC PNP were to extend ELSS, it would almost certainly be with revisions. A PNP announcement is expected in approximately one month.

In the BC PNP 2009-2010 fiscal year, 1057 ELSS applications were received, accounting for nearly 35% of all applications. With this shift, the overall strategic occupations refusal rate increased to 23% by late 2010, but has now dropped to about 20% as application quality has improved.

Refusals primarily result from applicants failing to meet the low income threshold, which applies to all occupations but would rarely affect skilled applicants. The threshold is 90% of the Low-Income Cut-Off (LICO) most recently published by Statistics Canada for BC and Metropolitan Vancouver.² It should be noted that:

¹ <http://www.albertacanada.com/immigration/immigrating/immigration-representative.aspx>

² http://immigration.welcomebc.ca/wbc/immigration/come/work/about/strategic_occupations/information/ability_page

1. the threshold increases approximately 17% for applicants within Metropolitan Vancouver;
2. a spouse's employability or overseas employment is irrelevant; however, if the spouse is employed in BC, then that income is counted toward meeting the low income threshold as it is a better indicator of the ability to become successfully establish in Canada; and
3. the federal government does not require settlement funds for PV2 applicants unless concerns of financial inadmissibility were to arise.³ The BC PNP low income threshold insulates PV2 applicants from this inadmissibility concern.

Like most nominee programs, SINP requires employers to pay workers the prevailing wage. It does not specifically engage in a low income threshold analysis.

Semi-skilled workers currently comprise 50% of total nominations under the AINP's employer driven category. There are currently five (5) semi-skill streams with varying eligibility criteria. The AINP is exploring the possibility of reducing the eligibility criteria to one common set of criteria across all streams. As such, we could see changes to some of the existing categories as the AINP attempts to make the application process more streamlined. The AINP has expressed a willingness to receive submissions and suggestions on how the annual 5000 nomination quota should be managed and the priorities given to processing within each AINP category.

The AINP is currently considering the adoption of a LICO for semi-skilled workers. Similar to the numbers used in BC, the AINP is leaning toward the adoption of provincial welfare figures, which are approximately 90% of the current CIC LICO figures. However, there are no LICO figures being considered within the assessment criteria at this time.

4) LANGUAGE TESTING

The federal government favours stricter language testing rules. It is highly unlikely the provinces will adopt the federal government position of forcing all applicants, regardless of skill level or English or French fluency, to take the IELTS.

On its website, the BC PNP requires all applicants to have basic proficiency in English. If the LMO or PNP Guaranteed Job Offer Form indicates no English is necessary, then the employer must pay for the nominee to take TOEFL, IETS or LPI, and if the nominee fails to meet the basic proficiency requirements, then the employer must pay for the nominee's 6 month or longer ESL course.⁴

However, the BC PNP has found language is not an issue with skill level O, A, or B, including the trades within skill level B as they often need sufficient English in order to be certified within their

³ Burke Thornton, Consul (Immigration) Consulate General of Canada in Buffalo, New York - email enquiry response March 7, 2011.

⁴ http://www.welcomebc.ca/wbc/immigration/come/work/about/strategic_occupations/entry_level/who.page

trade. Neither has been a great issue for skill levels C and D, as the programs require applicants to have already been working in their job with an LMO-based work permit for at least nine months. Essentially, the posted requirements simply reserve the BC PNP right to apply that policy if the need were to arise.

The SINP program website requires non-native English speakers to prove English language skills, but provides several options for doing so:

- a) employer swears an affidavit confirming the applicant has sufficient English for the position;
- b) applicant has an English education;
- c) applicant has English tests equivalent to IELTS 6;
- d) applicant has English or French language certificates; or,
- e) former employers confirm English or French was the principal workplace language.

In practice, the SINP and MPNP have found that employer confirmation of adequate language skills is normally sufficient.

If English proficiency is claimed as part of a MPNP General Stream application, the MPNP will expect IELTS test results to support the claim. Generally, if IELTS scores are submitted to demonstrate language ability, a test score of at least 5.0 will be expected.

The AINP has confirmed that CIC has been pushing for mandatory testing for some time. The AINP is currently looking at minimum language standards; however, have not yet decided on where that level should be. Similar to the BC PNP, minimum language skills are not considered a concern for skill level O, A, and B occupations. However, English language proficiency does play a role in varying degrees within the five (5) semi-skilled streams.

5) GROWTH / CAPS / TARGETS

The PNPs are absorbing the decrease in Federal Skilled Worker targets.

The 2011 Annual Report to Parliament on Immigration provides a quota range for all PNPs (excluding Quebec) of 42,000 to 45,000⁵ – a drastic increase from the 2010 range of 37,000 to 40,000.

The BC PNP 2011 target will remain the same at 3,500. It is noteworthy that provincial targets are calculated over the federal calendar year, not the provincial fiscal year.

In 2009-2010, the BC PNP issued 3033 Strategic Occupation nominations, bringing the total to well over 10,000 since 2011.⁶ Although business applications were in decline for a few years, they are rebounding.

⁵ http://www.cic.gc.ca/english/resources/publications/annual-report2010/section1.asp#table_1%20idtable_1

⁶ CBA BC Immigration Section October 27, 2010 minutes from presentation by Ian Mellor, BC PNP Director presentation.

SINP issued 4185 nominations in 2010, and has a 2011 target of 4000.

The MPNP issued 5186 nominations in 2010 (including 400 as part of the MPNP – Business Category). Its target for 2011 will remain at 5,000 and it is expected to keep this status quo for 2012 as well (discussions currently ongoing with CIC on this point).

In 2010, the MPNP issued 719 Employer Direct nominations, 1868 in the Family Support Stream, 204 for International Students, 141 through its Strategic Initiative Stream and 1784 nominations in the MPNP General Stream.

The AINP's target for the 2011 fiscal year is 5000. It is expected that this target will remain unchanged for the 2012 fiscal year. The 5000 nomination target was met in 2010 and it is expected that the AINP will meet or exceed its targets in each of the coming years.

By January 31, 2011, the AINP had issued approximately 4000 nominations allocated in the following manner: employer driven - 2675 nominations (50/50 split between skilled and semi-skilled category), strategic recruitment – 1000 nominations with 200-300 being within the compulsory trades/engineering streams, and family stream – 323.

With the implementation of annual targets, the AINP has been forced to manage their inventories carefully. Prioritizing application processing has now become a significant issue for the program.

6) CHANGING PROGRAMS WITHOUT NOTICE / RETROACTIVITY of CHANGES

The cancelling of the US visa holder and family stream programs is just one example of steps being taken by the AINP to ensure the program stays within the 5000 nomination target.

Prior to the cancellation of the US visa holder class, steps were taken to reduce the significant number of applicants within this stream. Internal policy changes were implemented to require that applicants maintain valid US visa holder status (such as H1B status) throughout the processing of the application. Any applications from candidates that failed to maintain valid US visa status, were refused. These internal policy changes were implemented retroactively to all applicants regardless of the stage at which the application was at. The effect was to disqualify candidates that fully met the requirements of the US visa holder category at the time in which the application was submitted, but no longer qualified due to the retroactive change.

In an effort to further reduce the number of US visa holder applications flooding into the system, the AINP created a list of occupations under pressure for the province of Alberta. Only applicants with occupations contained within this list were eligible for nomination under the US visa holder category. The occupations under pressure list was changed from time to time in order to reflect current skill shortages in the province. Instead of applying a specific lock in date for candidates with occupations being removed from the list, the AINP refused many applications for candidates that

once again met the qualification requirements at the time of application but did not do so at the time in which their applications were being considered.

These retroactive changes have sparked class action lawsuits against the AINP. There are two active class actions in relation to the AINP. Both actions have commenced beyond pleadings stage. One of the actions with *Kurniawan* as the lead claimant is in the final stages of being resolved. This action related to the refusal of applications for candidates that did not maintain H1B status throughout adjudication of their applications. In speaking with counsel on the file⁷, it appears that settlement will likely be reached to the satisfaction of those claimants involved. Approximately a dozen or so applicants are involved with this litigation.

On the second action, initially with *Sawney* as a lead claimant, the matter is still ongoing. The matter has proceeded to the examination of affidavit stage just prior to the certification of the class action. Once the examination of affidavit is completed counsel will then be filing briefs for a special chambers application regarding certification of the class action. If successful, the actions that are contemplated will officially become class proceedings under the Alberta Class Proceedings Act. This class action has many potential class members as the AINP delivered many thousands of refusals to individuals who originally applied under valid occupations, but no longer qualified when those occupations were removed from the occupations under pressure list and retroactively applied in refusing applications.

7) UPDATE on WRAPA

Shortly after the enactment of the WRAPA in 2008, the MPNP started contacting all employers named in the application for Employer Direct stream applications to confirm (a) that the applicant is in fact employed with the employer named in the application and (b) that the job offer is in fact a permanent / long term job offer (and not a term contract).

Further, if the employer has not registered with the Manitoba Employment Standards Branch (MESB) prior to their employee's application being submitted (a step that became part of the LMO process in Manitoba, post WRAPA) in most cases the employer will be asked to register with the MESB and a Certificate of Registration filed with the MPNP, before a nomination is issued to the principal applicant.

8) STUDENTS

The CIC has been consulting with the provinces with the intent of pursuing bilateral arrangements toward ensuring foreign student program integrity wherein the provinces will indicate which educational institutions will be accredited for immigration benefits (e.g., student work permits). Reporting mechanisms are anticipated to provide a means by which to ensure students effectively attend and perform in their programs.

⁷ Peter Wong Q.C., Caron and Partners LLP, Calgary, AB

The BC PNP standard student stream accepts application from International Graduates with employment offers, including low skilled offers with a promotion plan. On May 28, 2010, it announced a second stream, the 3 year International Post Graduate Pilot Project for graduates from specific areas of study and without an employment offer. The program has had a slow start, presumably because institutions and the public are not yet familiar with it, and many potential applicants have applied under the Canadian Experience Class. The pilot project popularity is expected to increase as the BC PNP is holding about 40 information seminars per years, most of which are on campuses.

The AINP also has an international graduate stream for foreign graduates. The candidate must have completed at least two years of undergraduate studies or one year of graduate studies at an approved institution. The candidate must hold a valid PGWP and be working for an Alberta employer for a minimum of 6 months in an occupation related to the candidates field of study. This category is not heavily relied on by post graduate students as the CEC tends to be a more attractive option in terms of processing times.

The SINP has two student streams for undergraduate and graduate. Similar to the BC PNP, an applicant can apply with a low skilled employment offer if there is a promotion plan, and the work does not need to be related to studies. The SINP requires all student applicants to have six months of work experience in the province, with the undergraduate experience and employment offer from the same employer.

Last September, the Manitoba Premier announced a Strategic Initiative which will now allow international students to apply to the MPNP without the “6 months of work experience after graduation” requirement. However, students will need to complete an “Employment Readiness Program” with the MPNP settlement office (which is currently under development). Details with respect to this initiative are expected to be available on the MPNP website this summer.

9) FRAUD / ENFORCEMENT

a) Illegal Work Experience No Longer Counts

In January 2011, *Lexbase* published CIC emails obtained under an *Access to Information Act* request in which the department stated illegal Canadian work history may count toward work experience for PV2 applicants.⁸ Within days, Minister Kenney’s office issued an unequivocal statement that counting illegal work experience is unacceptable.⁹

b) Investigations and Compliance Issues

⁸ [Lexbase](#), Volume 22, Issue 1

⁹ <http://cnews.canoe.ca/CNEWS/Politics/2011/01/10/pf-16832931.html>

The BC PNP conducts site visits for some applications, especially where the employer or immigration consultant history with the program indicates a pattern of concern. The SINP conducts on site visits for entrepreneurs, and a mix of telephone and on site interviews of employers, especially where concerns arise on file. In Manitoba, the MPNP only conducts site visits when there is a specific concern on a file. Since 2008, WRAPA is used as a means to gather information by other means through its connection with the Manitoba Employment Standards Office.

To date, no Memorandum of Understanding on information sharing exists between the BC PNP and federal government (i.e., the CIC, CBSA, or RCMP).

The AINP also conducts site visits directly with employers and often utilizes the department's regional offices who gather intelligence as well as conduct visits on behalf of the AINP across the province. The AINP does not have any independent information sharing agreements with other government bodies; however, they are linked into agreements signed by the department with agencies such as CIC and HRSDC.

The AINP currently utilizes candidate background check information originally obtained from Alberta Apprenticeship and Industry Training in their assessment of applications submitted within the compulsory and optional trade categories. In this manner, the AINP is able to avoid duplication of effort and accelerate the speed in which an application can be processed.

10) ETHICAL ISSUES & PRACTICE TIPS

a) COMPLY WITH CONTACT PROTOCOLS

The BC PNP is adamant that counsel never first contact its executive. For case specific enquiries, counsel should contact the advisor on file. One can find out who the advisor is, or make a general policy enquiry, by emailing pnpinfo@gov.bc.ca. This email is checked daily. Only contact the program manager if the matter cannot be resolved with the advisor.

The SINP also advises counsel to use its [public enquiry protocols](#).

The AINP also recommends that counsel first contact the AINP toll free number or use the case specific e-mail addresses located on the AINP website ¹⁰, before attempting to contacting a program officer, or program manager directly. Ultimately, should a need arise, the AINP officers are generally very good about contacting the third party representative on file versus circumventing the representative and going straight to the client regarding requests for additional clarification or documentation.

The MPNP advises counsel to use immigratemanitoba@gov.mb.ca for case specific inquiries. Cover letters are often not read by MPNP program officers as it is not a mandatory document in the adjudication process, so counsel is recommended to use the email address noted herein to address case specific inquiries and issues.

b) RESPECT PROCESSING TIMES

The BC PNP will not entertain expedited processing requests, even where the applicant could lose status in Canada. The SINP is disinclined to expedite applications, although some consideration may be given to ensure work permits do not expire, and entrepreneurs investing 1 million or more may receive expedited processing.

The AINP does not expedite applications. Strict adherence is placed on a “first in - first out” basis when processing applications within each individual application stream. However, priority is given to the employer driven and compulsory/optional trade categories when allocating staff resources thus resulting in faster processing times when compared with other categories.

Priority is given to MPNP Employer Direct, Student and Strategic Initiative streams, hence faster times. Family and General stream applications have longer processing times.

3) NO ADVANTAGEOUS RELATIONSHIP

¹⁰ <http://www.albertacanada.com/immigration/contactus.aspx>

The SINP prefers that representatives explain to applicants that the representative enjoys no advantageous relationship with SINP, and that no preference is given to represented over *pro se* applications.

As stated previously, the AINP makes considerable effort on their website to inform clients that they do not need to hire a representative to submit an application to the AINP. It is explained that an application will not be given special attention, receive faster processing, or result in a more favourable outcome if a representative is used. All the forms and information that the candidate needs to apply are available for free on the website and the candidate can submit them on their own. The MPNP website also identifies these points as well.

The AINP has alluded to the fact that some representatives consistently make the same error repeatedly on the same applications. Despite being contacted and instructed to remedy these errors on future application, the errors continue. In other cases, some representatives repeatedly submit applications that do not meet the minimum requirements for the category in which they are applying. In the public interest, the AINP is exploring the possibility of refusing to accept applications from these representatives and or publicizing this information to the general public. Fortunately, these issues do not generally arise within the ranks of immigration lawyers.

d) INTENTION TO RESIDE & REPRESENTATIVE

On November 24, 2010, the CIC published Operational Bulletin 251 in conjunction with a CBSA memorandum to Border Services Officers instructing the BSOs that they may write an A44(1) report against PV2 permanent resident visa holders who seek landing but do not intend to reside in the nominating province.¹¹ If the PV2 visa holder's intention changed subsequent to applying for permanent residence, then the A44(1) report is based on R87(2)(b) requiring the intention to do so. If the intention never existed, then the A44(1) report may also be based on A40(1)(a) misrepresentation.

If the BSO does not write an A44(1) report, then the local CIC is to inform the PNP. If the PNP withdraws the nomination, then the local CIC should refuse the PV2 application and issue the A44(1) report based on A41 non-compliance.

Generally, if a lack of intent to reside in Manitoba is evident during the landing process, CIC or the CBSA will in most cases, contact the MPNP and refer the applicant to the local CIC office for an interview before the landing adjudication may continue. If it is known prior to landing and during processing, generally, the MPNP will withdraw their nomination.

¹¹ <http://www.cic.gc.ca/english/resources/manuals/bulletins/2010/ob251.asp>

Even if the PNP elects to maintain the nomination, the local CIC officer may still choose to issue an A44(1) report based on R87(2)(b) and possibly also A40(1)(a) if that officer disagrees with the provinces assessment of the applicant's intent.

Furthermore, if the PV2 visa holder states to the BSO that a legal representative advised that R87(2) intention requirement does not apply, then the BSO should inform the local CIC and record a non-computer based FOSS entry.

Immigration lawyers should take care to ensure R87(2) compliance is communicated to the client in writing, preferably starting with the retainer agreement.

e) VERIFY OFFER OF EMPLOYMENT AND DOCUMENTS

The provinces and visa offices processing PV2 applications generally do not experience high incidents of fraud; however, that which does occur usually involves offers of low skilled employment, past qualifications (education and experience) and source of funds documents.¹² The highest incidents of fraud that the MPNP has dealt with recently relate to fraudulent education credentials, IELTS scores and employment reference letters.

No assumptions should be made as to the authenticity of a document, especially when originating from regions with high incidents of fraud. A lawyer should undertake reasonable steps to verify document origin with special attention to education, foreign work experience, Canadian work experience, and LMO non-compliance.¹³

f) TEMPORARY RESIDENT VISAS

The BC PNP visa office outreach program consists typically of teams of two to three PNP representatives attending in person at visa offices approximately five or six times per year to speak with visa officers as well as management. The BC PNP has found its outreach to be highly effective, resulting in greater consistency in TRV decisions. The MPNP also works with visa posts regularly.

Nevertheless, visa offices are apparently cautious in issuing temporary resident visas for potential nominees to attend selection interviews. In 2009, Beijing had a 31.2% interview TRV refusal rate and six TRV holders made refugee claims while in Canada for their selection interviews.¹⁴

Practitioners should communicate to clients in writing that genuine temporary or dual intent is required, and the intention to claim refugee status would necessarily result in a misrepresentation on the temporary resident visa application.

¹² [Lexbase](#), Volume 22, Issue 1

¹³ [Lexbase](#), Volume 22, Issue 1 and Volume 21, Issue 11

¹⁴ [Lexbase](#), Volume 22, Issue 3

The BC PNP reports none of its interview invitees or WPSL letter recipients has ever claimed refugee status.

The SINP will communicate with visa offices if a nominee has been refused a temporary resident visa. It has also begun an outreach program with visa offices, completing one visa office visit last year and scheduling more this year.

g) LMO REFUSALS

From the BC PNP perspective, an LMO refusal could negatively affect a strategic occupation application, especially in the instance of significant deviations from the prevailing wage and/or insufficient recruitment. The BC PNP is not interested in whether the employer strictly adhered to Service Canada's particular advertising and recruiting; however, it is interested in evidence of genuine, reasonable, and sufficient recruitment. It is noteworthy that the BC PNP will look at the employer's history with its program. If the employer has a pattern of employees leaving after gaining permanent residence, then recruitment claims may be suspect.

Practitioners should address the bases of any LMO refusal. The prevailing wage should be met or at least compelling labour market research for deviating wages submitted. Consider whether recruitment submissions should include research on industry/occupation standards.

The SINP is likewise concerned with LMO refusals and will examine the reason, with special attention to the wage and bona fides of the employment offer. The SINP does not adhere as strictly to the prevailing wage statistics as Service Canada, and will look at the employment offer as a whole in determining if the wage is adequate.

The AINP requires that a candidate or nominee hold a valid work permit during the processing of the AINP application. Changes to the employment relationship with the sponsoring employer can have a significant impact on the processing of the AINP nomination application. If an employee is unable to obtain an extension to their work permit at the pre-nomination stage, either through a failure to obtain a new LMO or a loss or change of employment, this will in most cases result in a refusal of the nomination application. If there is a loss of employment or other change in the employment relationship post-nomination, while the application is in process at the consulate, each nomination is dealt with on a case-by-case basis. If the application is nearing approval at the consulate, the AINP has the discretion to allow or disallow the application to continue forward.