



**Australian Government**  
**Department of Immigration  
and Border Protection**

# Project agreements

Information about requesting and managing a  
project deed of agreement  
November 2016

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# Glossary

**ANZSCO:** The Australian and New Zealand Standard Classification of Occupations is a system developed to collect, publish and analyse occupation statistics across government agencies.

**Approved sponsor:** For the purposes of a project agreement, an approved sponsor is a person who is a party to a project labour agreement to sponsor overseas workers on a subclass 457 visa.

**AQF:** The Australian Qualifications Framework specifies the standards for educational qualifications in Australia.

**Australian:** means Australian citizen or permanent resident.

**Base rate of pay:** means the rate of pay payable to an employee for his or her full time ordinary hours of work, but not including any of the following:

- (a) incentive-based payments and bonuses;
- (b) loadings;
- (c) monetary allowances;
- (d) overtime or penalty rates;
- (e) any other separately identifiable amounts.

Ordinary hours of work is determined under the relevant state/territory or federal award.

Where there is no award, the full time ordinary hours are considered to be 38 hours per week.

**Capital expenditure:** means funds used by a project company to acquire or upgrade physical assets such as property, infrastructure or equipment.

**Commonwealth:** means the Commonwealth of Australia.

**Concession:** means any variations to the requirements prescribed in the Migration Act 1958 in relation to the skills, qualifications, employment background and level of English language proficiency required for the nomination and grant of a subclass 457 visa required for approval of a nomination.

**Deed of agreement:** A legal agreement between the Commonwealth and the project owner or company. A deed of agreement provides an overarching agreement outlining the occupations and key requirements for the recruitment of overseas workers under associated labour agreements.

**Employer:** an employer who is directly responsible for employing staff.

**IELTS:** means the International English Language Testing System test.

**Infrastructure:** Infrastructure is defined as the basic facilities, systems and services that are needed in order to support an economy, including energy, water, transport, distribution, communications, tourism and roads; and projects endorsed under Investment Facilitation Arrangements entered into by Australia. Infrastructure excludes real estate.

**Labour agreement:** A labour agreement is a formal arrangement negotiated between an Australian employer and the Commonwealth as represented by the Department of Immigration and Border Protection.

**Migration Act:** means the Migration Act 1958, as varied from time to time.

**Migration legislation:** means the Migration Act and/or the Migration Regulations.

**Migration Regulations:** means the Migration Regulations 1994 made under the Migration Act 1958, as varied from time to time.

**Minister:** means a reference to the Minister for Immigration and Border Protection and his or her authorised representative performing relevant functions as the Minister under the Migration Act or the Migration Regulations.

**Peak workforce:** the maximum number of workers working on a project at any one point in time.

**Project:** is a collaborative enterprise that is carefully planned to construct infrastructure within a defined geographic area.

**Project agreement:** means the project agreement programme, including both the deed of agreement and associated labour agreements.

**Project company:** An Australian legal entity responsible for the day-to-day oversight of the project, management of the vendors, or who initiates, finances and tender for the project. For the purposes of a project agreement, a prime contractor will also be considered as a project company.

**Registered training organisation:** A registered training organisation is a training provider registered by the Australian Skills Quality Authority (or, in some cases, a state regulator) to deliver vocational education and training services.

**Resource project:** is any individual energy, mining or metals project that is represented by an Australian registered business. The project should be at a single geographical location, although this may include the construction of any associated infrastructure that is connected to the project, for example, rail, road or port infrastructure.

**Semi-skilled occupations** – Semi-skilled occupations are those that are categorised as ANZSCO skill level 4 occupations.

**Sponsorship obligations:** are equivalent to the obligations required of all approved sponsors under the standard subclass 457 visa programme. A full list of sponsorship obligations can be found at: [www.border.gov.au/Visas/Pages/457.aspx](http://www.border.gov.au/Visas/Pages/457.aspx)

**Standard Business Sponsor (SBS):** means a standard business sponsor within the standard business sponsor arrangements for subclass 457 visas.

**Subclass 457:** temporary work visa allowing overseas workers to engage in paid employment in Australia as prescribed under the Migration Regulations.

**Temporary skilled migration income threshold (TSMIT)** – Is a minimum salary rate, defined in a legislative instrument, to ensure that temporary overseas workers sponsored under the subclass 457 programme have sufficient income to support themselves and their families in Australia. It is usually indexed annually in accordance with inflation or wage increases.

**The department:** means the Department of Immigration and Border Protection (DIBP).

# Programme overview

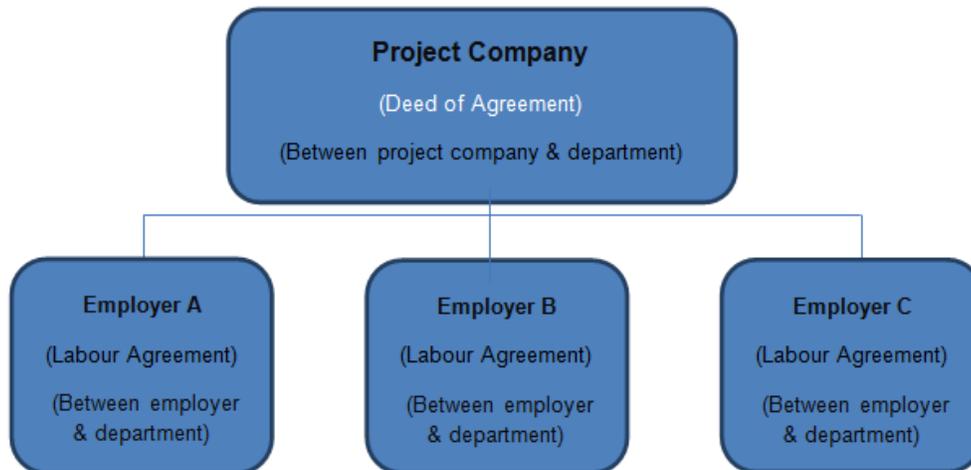
The project agreement programme allows infrastructure or resource development projects experiencing genuine skills or labour shortages access to temporary skilled and specialised semi-skilled temporary overseas workers through the subclass 457 visa. The project agreement programme is designed to complement existing Australian government initiatives to address skill and labour shortages by ensuring that shortages do not create constraints on major projects and jeopardise Australian jobs.

Construction of large resource or infrastructure projects may result in significant peak workforce demands which cannot be met by the local labour market. The need for a project agreement may be triggered where labour market conditions threaten the ability to attract sufficient skilled, qualified Australian workers during these peak periods. A project agreement provides confidence, early in project planning, that workforce needs can be met should these shortages eventuate. This provides investor certainty enabling projects to proceed, and in doing so may support job creation for Australian workers.

Employers seeking a project labour agreement must ensure Australians are provided first opportunity for employment, prior to the recruitment of overseas workers under associated labour agreements.

A project agreement has a two-tiered structure:

1. A project company representing employers within a project will enter into an overarching project deed of agreement with the department. This agreement will be in the form of a 'deed of agreement' and it will outline, among many matters, the occupations and any concessions agreed to, that will facilitate the recruitment of overseas workers on a project.
2. Under the overarching project deed of agreement, selected employers endorsed by the project company will enter into a labour agreement with the Commonwealth to sponsor overseas workers on the project under the terms and conditions agreed to in the overarching deed of agreement. A labour agreement will only be approved where suitably qualified Australians are not available.



As an approved sponsor, employers will be able to directly sponsor overseas workers in the approved occupations under the Temporary Work (Skilled) (Subclass 457) visa programme. The decision to enter into a project deed of agreement and associated labour agreements rests with the Minister.

## Eligibility requirements

A project deed of agreement is available to project companies which are Australian registered businesses that own or manage major resources or infrastructure development projects. They are designed to address situations where project companies are facing a genuine shortage of suitably skilled Australian workers during the construction phase of a major project. (Please refer to the glossary for definitions of project company, resource project and infrastructure project.)

Project agreements are best suited to projects involving a minimum peak workforce of 1000 workers.

If a project company is unsure whether a project agreement is the most suitable labour agreement pathway, they are encouraged to contact the department to discuss their requirements.

The Minister for Immigration and Border Protection retains full discretion to not approve a project agreement. Under policy, issues the Minister will have regard to include whether the project will have a positive impact on local workers and businesses, and whether the project will have a positive impact on the creation of jobs for Australians.

In approving a project agreement application, the Minister may impose additional conditions in work agreements – including a requirement for a minimum number of local workers to be employed and ceilings on the number of overseas workers to be employed.

## Duration of a project agreement

The duration of a project agreement will be contingent upon the period of peak workforce need. Activation of an agreement may be delayed by up to two years following date of execution or approval. An agreement is not expected to exceed three years from the date of activation.

For example, the Minister may approve a project agreement in November 2015 and the project company may not seek to use overseas workers under the project agreement until November 2016. In this situation, the project company could make a request to delay activation of the agreement until November 2016, at which time the agreement would commence.

Where a project company seeks to activate an agreement within 12 months from the date of execution, it will not be required to provide further updated labour market analysis. Project companies will, however, need to provide supplementary labour market analysis prior to activation if activation has been delayed for a period greater than 12 months. The supplementary labour market analysis must demonstrate that a skill or labour shortage in the approved occupations continues to exist.

## Contact details

If you have any questions or require further information about project agreement labour agreements, please contact the department.

Email: [labour.agreement.section@border.gov.au](mailto:labour.agreement.section@border.gov.au)

By post: The Director  
Labour Agreement Section  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2616

# Part 1: Objectives and principles

The project agreement programme has been developed to assist major resource and infrastructure projects access overseas workers to meet genuine skill and labour shortages during the construction phase of the project. The programme also provides project companies with certainty that they can access overseas workers to supplement their domestic workforce in the event of a shortage of suitably skilled Australian workers. This may be an important element in securing finance for major infrastructure projects.

The requirements and obligations of the project agreement programme are underpinned by the following principles:

## Opportunities for Australians first

Reliance on temporary overseas workers should be reduced by building capacity in the Australian labour market over the life of a project agreement. Australian workers are to be provided with the first opportunities through the provision of recruitment, training and employment opportunities. Where the minister approves the use of skilled or specialised semi-skilled overseas workers under a project agreement, they are required to be suitably qualified and experienced and be able to transfer their skills to less experienced Australian colleagues.

Approval of a project agreement is not a guarantee that employers will be approved to sponsor overseas workers. The Migration Amendment (Clarifying Subclass 457 Requirements) Regulation 2015 requires that the Minister be satisfied that employers have made recent and genuine efforts to recruit, employ and engage Australian citizens or Australian permanent residents. Employers will be required to demonstrate that they have met this requirement .

## Maintaining a fair work environment

Overseas workers must receive terms and conditions of employment no less favourable than an Australian worker. Terms and conditions of employment must be consistent with local remuneration practices for that occupation and meet applicable Australian workplace laws.

Employers who hold a labour agreement will be required to demonstrate that they have:

1. adopted a training plan setting out how it will train local workers to address skills shortages; and
2. adopted an overseas worker support plan showing how it will provide its overseas workers with workplace induction programmes, information on workplace entitlements and rights, information on OH&S regulations, and information on health, emergency, community and welfare services.

## Shared responsibilities and governance

Responsibilities and obligations associated with a project agreement will be shared between the department, project company and the approved sponsor, recognising sub-contracting is general industry practice.

Project companies will be required to comply with reporting and monitoring requirements. Project companies must also comply with all the terms and conditions outlined in their deed of agreement.

Approved sponsors will be required to comply with reporting, compliance and sponsorship obligations set out in their labour agreement.

The department will support the governance of each project agreement by monitoring compliance of both the project company and the approved sponsor and convening governance meetings with the project company at least once every 12 months.

## Supporting overseas workers

The appropriate settlement of overseas workers is an important element in enhancing their contribution to the area in which they will live, protecting them from exploitation and ensuring the long-term success of the project agreement programme. The project agreement programme requires that overseas workers are provided with adequate support to ensure their successful settlement into the local community, which may include providing visa holders with information on the local community, available services and their workplace rights following their arrival in Australia. The project company and the approved sponsor should demonstrate to the department how they will provide this information.

## Comprehensive consultation

The project agreement programme is underpinned by comprehensive stakeholder consultation which ensures employment and training opportunities for Australians remain the first priority and the recruitment of overseas workers under a project agreement will have a positive impact on local workers and businesses, and will have a positive impact on the creation of jobs for Australians.

The nature of the consultation process may vary depending on a range of factors including the occupations sought and the location of the project. A project company should therefore identify and consult with relevant stakeholders on the proposed request prior to requesting a project deed of agreement. Details of stakeholder consultation requirements are in Part 2 of this guide.

Following receipt of a project agreement request, the department may provide copies of it to relevant Commonwealth and state/territory government agencies to facilitate a wider government consultation process.

The department may request the project company to respond to questions or concerns raised during the government consultation process. The project company will need to respond with a written response within 14 days to the department from when the request was made.

# Part 2: Requesting a project agreement

## Requirements

The following information should be provided when making a request for a project agreement:

Requirement	Settings
<b>Eligibility</b>	Evidence that the project company is: <ul style="list-style-type: none"><li>• an Australian registered business; and</li><li>• Either:<ol style="list-style-type: none"><li>a. the project owner or prime contractor of a resources project; or</li><li>b. the project owner or prime contractor of an infrastructure project.</li></ol></li></ul>
<b>Industrial Arrangements</b>	Details of the relevant industrial or enterprise arrangements that will cover the project site(s). Links to websites containing the relevant industrial or enterprise arrangement is acceptable evidence.
<b>Project overview</b>	An overview of the project, including its industry sector, geographic boundaries, capital expenditure and key milestones and dates.
<b>Occupations</b>	A list of occupations requested which are likely to be in shortage. Occupations must be at ANZSCO skills levels 1 – 4 and be identified by its ANZSCO six digit code.  Once a deed of agreement has been signed only the occupations listed in the signed deed of agreement may be accessed for the duration of the agreement. If other occupations are required during the agreement, the project company may request to the department to vary the deed of agreement.
<b>Supporting business case</b>	A strong business case supporting the request for occupations, and in particular for the inclusion of skill level 4 occupations. It is expected that a project company will demonstrate an understanding of the Australian labour market and where skill or labour shortages are like to occur.  The business case should include: <ul style="list-style-type: none"><li>• projected workforce plan showing size of workforce by occupation, highlighting peak workforce needs; and</li><li>• robust labour market analysis of current and projected labour needs highlighting the skills in the requested occupations. This may include: research, reports and data illustrating the skills shortages in the proposed occupation/s and locations for which access to overseas workers is requested.</li></ul>

Requirement	Settings
	<ul style="list-style-type: none"> <li>An explanation of how the project will have a positive impact on local workers and businesses, and whether the project will have a positive impact on the creation of jobs for Australians.</li> </ul> <p>Where the activation of a project deed of agreement has been delayed by more than 12 months (from the date the Minister approves the agreement), the project company is required to update their labour market analysis.</p>
<b>Project workforce strategy</b>	<p>A workforce strategy for the project outlining how it, and its sub-contractors, are making (or intend to make) genuine efforts to source workers locally before any overseas workers will be requested. The project company must provide information on whether any relevant Commonwealth or state/territory government strategies to assist unemployed, retrenched or disadvantaged Australians have been considered.</p> <p>The project workforce strategy must also outline how the project is intending to reduce reliance on overseas workers over the duration of the project and what measures will be put in place to achieve this.</p> <p>Project companies must clearly demonstrate that the recruitment of overseas workers is only intended to supplement the Australian workforce, and that a project agreement will not undermine employment or training opportunities for Australians.</p>
<b>Employer and overseas worker support</b>	<p>Details of how the project company proposes to support employers and facilitate the integration of overseas workers in their local communities. Supporting employers and overseas workers is important to ensuring the integrity and success of the project agreement programme. This should include the provision of information on workplace rights; basic services in the local area such as health; emergency and educational services; community activities such as sporting groups and religious services; the promotion of departmental information to employers regarding their sponsorship obligations; and services which may assist in managing any identified risks.</p>
<b>Stakeholder consultation</b>	<p>Evidence of consultation with key stakeholders and the responses received. Relevant industrial stakeholders include:</p> <ol style="list-style-type: none"> <li>the industry body(ies) which best represents the interests of the employer;</li> <li>the union(s) which best represents the interest of the employee;</li> <li>any relevant Australian professional bodies and Australian federal, state and territory registration/licensing authorities.</li> <li>any other agency or community group that may be impacted, for example schools or health services; and</li> <li>State/territory and local governments</li> </ol>

Requirement	Settings
	<p><b>Note:</b> If assistance is required to identify or contact relevant unions in relation to the occupations being requested, the Australian Council of Trade Unions (ACTU) may be able to assist with contacts and/or coordination.</p> <p>In consulting with stakeholders the project company should provide, as a minimum, the following information:</p> <ul style="list-style-type: none"> <li>• the requested occupations of overseas workers under the proposed agreement;</li> <li>• the locations where the overseas workers will be placed;</li> <li>• details of any concessions to the standard subclass 457 programme sought by the business—for example, concessions relating to English language or skill level; and</li> <li>• any other relevant information.</li> </ul> <p>Stakeholder responses should be provided back to the project company in writing within 28 days of the receipt of the request for comment on the project agreement proposal. The project company must submit written evidence of its consultation in its request, including any responses.</p> <p>Please note that if no response or acknowledgement is received from the relevant stakeholder, this will not affect the department’s consideration of the request.</p> <p>If stakeholder feedback is negative, this will not automatically result in a negative assessment of the project agreement request.</p>
<p><b>English language</b></p>	<p>All subclass 457 visa holders nominated under a project labour agreement are required to have a level of proficiency in the English language to allow them to perform their work duties and engage in the wider community.</p> <p>The department will accept the English language requirement applicable to the standard subclass 457 visa programme which requires overseas skilled workers to:</p> <ul style="list-style-type: none"> <li>• have achieved an overall test score of at least 5.0 in an International English Language Testing System (IELTS), with a score of at least 4.5 in each of the four test components; or</li> <li>• have achieved an Occupational English Test (OET) score of at least ‘B’ in each of the four components; or</li> <li>• have achieved a total score of at least 36 in a Test of English as a Foreign Language internet-based (TOEFL iBT), with a score of at least 3 for each of the test components of listening and reading, and a score of at least 12 for each of the test components of writing and speaking; or</li> <li>• have achieved an overall test score of at least 36 in a Pearson Test of English (PTE) Academic, with a score of at least 30 in each of the four test components; or</li> </ul>

Requirement	Settings
	<ul style="list-style-type: none"> <li>• have achieved an overall test score of 154 in a Cambridge English: Advanced (CAE) test conducted on or after 1 January 2015, with a score of at least 147 in each of the four test components; or</li> <li>• be a current passport holder of a passport of any of the following countries: <ul style="list-style-type: none"> <li>○ Canada</li> <li>○ New Zealand</li> <li>○ The Republic of Ireland</li> <li>○ The United Kingdom</li> <li>○ The United States of America; or</li> </ul> </li> <li>• has completed at least five (5) cumulative years of full-time study in a secondary and/or higher education institution where instruction was conducted in English; or</li> <li>• the visa holder will be paid a salary that is more than the English language requirement exempt amount (see <a href="http://www.comlaw.gov.au/Details/F2015L00563">www.comlaw.gov.au/Details/F2015L00563</a> for more information on the English language requirement exempt amount).</li> </ul> <p>Concessions may only be considered in unique and compelling circumstances. Any requests for concessions below the standard subclass 457 visa requirements must be supported by a strong business case, including appropriate arrangements to manage workplace risk. In these circumstances, evidence of satisfactory workplace risk mitigation strategies must be provided.</p> <p><b>Note:</b> where Australian registration, licensing or certifications prescribe a higher level of English proficiency than is required for migration purposes, the higher level must be satisfied.</p>
<p><b>Salary</b></p>	<p>Details of any salary requirements.</p> <p>All overseas employees under a project labour agreement must be employed under terms and conditions of employment no less favourable than the employer's Australian workforce working at the same location.</p> <p>It is expected that the base rate of pay on major resource or infrastructure projects will also meet or exceed the Temporary Skilled Migration Income Threshold (TSMIT).</p> <p>In rare cases where the base rate of pay is less than the TSMIT, employers would still be expected to pay the TSMIT threshold. Some concessions may be considered in the calculation of the terms and conditions of the TSMIT (eg. taking into account additional guaranteed monetary benefits provided to employees). A strong business case must be demonstrated.</p>

Requirement	Settings
<b>Skills and experience</b>	<p>Information on qualifications and experience.</p> <p>As part of the broader skilled migration programme, applicants are expected to meet AQF Certificate III (or higher where required by ANZSCO) as assessed by a registered training organisation plus three years' relevant work experience.</p> <p>While concessions may be considered in unique and compelling circumstances, overseas workers will be expected, nevertheless, to meet or exceed ANZSCO requirements and be able to transfer skills to Australian workers. Registration and licensing requirements will continue to apply</p>
<b>Governance</b>	<p>Agreement to participate in meetings (at least once every 12 months during the period of agreement activation) with the department to discuss issues, track progress and report against agreed risk mitigation strategies.</p>

## Making a request for a project agreement

The project company must provide a request to the department providing information in support of meeting the requirements. The request and supporting documentation should not exceed 100 pages and must be submitted electronically to: [project.agreements@border.gov.au](mailto:project.agreements@border.gov.au). This will assist in providing a streamlined and efficient assessment process. Requests must be made using the proforma included in these guidelines. Incomplete requests, or requests not made using the proforma, may be returned.

A project company intending to make a request for a project agreement should consider whether the project meets the programme's eligibility criteria. The project company may wish to discuss its requirements with the department.

The department will provide a copy of the request to relevant Commonwealth and state/territory government stakeholders for their views on the request.

Project companies that are considering the use of a migration agent are advised to ensure that the migration agent is registered with the Office of the Migration Agents Registration Authority.

Further information on the use of registered migration agents is available at:

[www.border.gov.au/Trav/Visa/Usin/Using-a-migration-agent-in-Australia](http://www.border.gov.au/Trav/Visa/Usin/Using-a-migration-agent-in-Australia) and [www.mara.gov.au/](http://www.mara.gov.au/).

If the services of a migration agent or other third party representative are being used, a completed **Form 956** must be included with the request.

Please note that there are no priority processing arrangements for requests made using a registered migration agent.

## What is the outcome of successful request?

A project deed of agreement will be executed in the form of a deed of agreement, which is an overarching agreement recording the occupations of overseas workers and the terms of engagement. The project deed of agreement will also record obligations agreed to by the Commonwealth and project company.

Once the project deed of agreement is in place employers endorsed by the project company or owner can obtain a labour agreement to sponsor and nominate overseas workers to occupations provided for within the project deed of agreement. Approved sponsors under a project labour agreement will need to comply with sponsorship obligations associated with their labour agreement.

## Part 3: Managing project agreements

### How does an employer access a project agreement?

Before an employer can access an associated labour agreement, they must be endorsed by the project company of an approved and activated project deed of agreement.

The project company may also enter into a labour agreement where they are a direct employer.

Details of how employers may enter into a labour agreement under a project deed of agreement are outlined in [Information for employers - requesting a labour agreement](#).

### Access to concessions for employers under labour agreements

Employers endorsed under a project agreement will have access to concessions approved under the overarching deed of agreement.

### Endorsement requirements

The project company must endorse an employer before it can request a labour agreement and nominate overseas workers.

The project company will need to provide the department with a letter of endorsement for an employer to become an approved sponsor. The letter of endorsement must provide confirmation:

- that the employer has been contracted to provide certain services to the project
- of the type of services being provided
- of the duration of the contract
- that the request for overseas workers is consistent with the contract
- that the project company has monitored the labour market and the requested number of overseas workers in the occupations is reasonable in regard to the current labour market conditions in that location.

If the department approves the request, the employer will become an approved sponsor. The department and the approved sponsor will enter into a labour agreement approving access to overseas workers to be employed on the project under the agreed terms of the project labour agreement.

The labour agreement will outline the number, location and occupation of the overseas workers the employer may access under the labour agreement as well as any concessions. The employer may only nominate the number of overseas workers and occupations listed in the signed labour agreement.

### Nominating an overseas worker

Before an approved sponsor can employ an overseas worker, it should first nominate the position the worker will occupy.

As part of the subclass 457 nomination application, the approved sponsor will be required to demonstrate they meet the conditions set out in their labour agreement for nominating an overseas worker.

See employer *Project Agreements – Information for employers – requesting a project labour agreement* for more information.

## Visa grant

Following the successful nomination of a position, overseas workers should lodge applications for a subclass 457 visa with the department. The visa application process is identical to the process under the standard subclass 457 programme allowing for a visa validity period consistent with the contract of employment in relation to the project, up to a maximum of four years.

See employer *Project Agreements – Information for employers – requesting a project labour agreement* for more information.

## Permanent Residency

There is no permanent residency pathway for overseas workers under a project agreement.

## Mobility

Approved sponsors under a project agreement are not able to transfer workers outside the project site(s), except in limited circumstances. This restriction prevents the misuse of a project agreement as a backdoor entry for concessional overseas workers intended for employment in other areas.

Overseas workers are able to travel outside the project site(s) for work related reasons for short periods of time, where their work is consistent with the declared duties of their position. Employers should seek the approval of the department if an overseas worker will be working outside the project site(s) for more than three out of the previous twelve months.

## Part 4: Governance

The project company must comply with the reporting and monitoring requirements of the agreement.

### Governance meetings

The department supports governance of each project agreement by convening meetings with the project company at least once every 12 months to discuss issues, track progress and report against agreed risk mitigation strategies. Where necessary, more frequent meetings may be required.

### Monitoring

The department takes a collaborative approach to programme integrity. While the department has a legislative requirement to monitor approved sponsors, it encourages a project company to support departmental monitoring. Should a project company have any concerns that an approved sponsor is not meeting its sponsorship obligations under the terms of the agreement the department encourages the project company to inform the department.

### Reporting and provision of information

The project company will be required to report annually to the department on the progress of the project and ongoing need for overseas workers.

The report must be provided to the department within 30 days following each anniversary of activation of the deed of agreement. The report should include the following information:

- progress of the project, including whether there remains an ongoing labour market need for overseas workers, and
- details of any significant changes to the project that could impact on the need for overseas workers to supplement the local labour force.

The department may also request information at any time, for example where there be a significant change in the labour market.

### Terminating or suspending labour agreements

The department takes failure to comply with the terms of a project deed of agreement very seriously.

Consequences for breaching the terms and conditions of a project deed of agreement may include termination or suspension of the agreement or other sanctions under the Migration Act 1958. The minister may also terminate, suspend or vary the terms of a project deed of agreement or associated labour agreement at any time. The termination of an overarching project deed of agreement may result in the termination of any associated labour agreements.

In the event that an associated labour agreement is terminated, the project company should, where possible, assist overseas workers to find new sponsors.

### Confidentiality and disclosure

The Commonwealth appreciates that project agreement requests may contain sensitive information. The Commonwealth takes these matters seriously and will protect the confidentiality of such information to the extent the law allows and to the extent that it does not contradict the Commonwealth's disclosure obligations.

The Commonwealth expects the confidentiality of any information provided by the project company to an external stakeholder as part of any project agreement consultation process will be respected. Either party may request that the confidentiality of the information exchanged between the parties be formalised through a confidentiality deed. Any such arrangement should not limit the ability of stakeholders to provide genuine and frank advice on the matters proposed in the project agreement.

Project companies should also allow the release of information provided where it is required for Commonwealth disclosure obligations. Instances where disclosure is required include:

- the department's annual report
- parliamentary committees
- where required under legislation or Commonwealth policy, including privacy legislation, and
- court cases.

## Variations

If a project company seeks to vary a deed of agreement, the request must be in writing and sent to the department via email to: [project.agreements@border.gov.au](mailto:project.agreements@border.gov.au)

Any variation to the deed of agreement will need to be signed by both parties to the deed of agreement.

# Attachment A - Request for a Project Agreement

## To be completed by the project company

Key details of the proposed project agreement

### 1. Company details

Please provide details of the project company:

Organisation name	
Contact name	
Contact address	
Contact telephone	
Contact email	

### 2. Project details

Please provide details of the project:

Description	
Geographic boundaries	
Peak workforce	
Capital expenditure	
Key project milestones	

### 3. Labour or skills shortage details

Provide a summary of the factors contributing to the labour or skills shortage in the project area(s).

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## 4. Occupations and concessions

Provide details of proposed occupations and whether a concession is requested.

ANZSCO	Occupation description	Concessions	
		English	Qualifications and experience.
		Yes / No	Yes / No
		Yes/ No	Yes / No

## 5. Occupations

Provide details of, and business case for, inclusion of requested occupations. Attach supporting labour market analysis and project workforce plan showing size of workforce by occupation over the course of the project. The workforce plan should highlight periods of peak employment.

## 6. English language

Provide details of, and business case for, any concession to the English language requirement.

## 7. Qualifications and experience

The standard project agreement requirement is a minimum of AQF certificate III (or higher qualification where required by ANZSCO), assessed by a registered training authority, plus 3 years relevant experience. Provide details of, and business case for, any concession to this requirement.

## 8. Salary

Will the base rate of pay for all occupations requested meet or exceed the Temporary Skilled Migration Income Threshold? Yes / No

If no, please provide details:

## Additional information

10. Provide an overview of the project's industrial arrangements (attach details).

11. Provide a summary of the project's workforce strategy outlining how you, and your sub-contractors, will source workers locally before any overseas workers will be requested (attach details).

12. Give details of any support that will be provided to employers and overseas workers (attach details).

13. List stakeholders consulted. (Attach a copy of your request for consultation and responses).

14. Provide any other information you wish to be considered.

## Attestation by the project company

I attest:

- that the information provided in this form is true and correct
- the project area(s) are experiencing skills and labour shortages in the proposed occupations
- the recruitment of overseas workers is only intended to supplement the Australian workforce within the project area(s) and that the proposed project agreement will not undermine employment and training opportunities for Australians
- relevant Commonwealth or state/territory government strategies to assist unemployed, retrenched and disadvantaged Australian have been considered
- relevant union, local/state government, business and community stakeholders have been consulted on the details of the project agreement and their responses have been attached
- I will participate in all operational meetings on the project agreement with the department
- I will report to the department on the progress of the project within 30 days following each anniversary of activation of the deed of agreement.

Name of authorised official: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_