

Could skilled migration help your business?



Small Business Commissioner

Many employers find it hard to recruit people with the skills they need.

Australia's Skilled Migration Program is designed to attract migrants who make a significant contribution to the Australian economy, and fill positions where no Australian workers are available.

While the program has the potential to assist small businesses, a recent NSW Small Business Commission survey found that over half of businesses that considered sponsoring a skilled migrant didn't know where to start or found the process confusing.

This guide provides an overview of the process involved and factors to consider before deciding to go down this path. This guide is not a substitute for your own independent legal advice and depending on your business's needs and circumstances, you may benefit from seeking expert advice, such as from a licensed migration agent.



Only 13%

of businesses who need additional staff previously **applied for a skilled migrant visa**



1 in 3

businesses that need staff did not consider sponsoring a skilled migrant because **they didn't know where to start**



3 out of 4

businesses that went through the process **successfully hired a skilled migrant**



An overview of sponsoring a skilled migrant

If you have attempted to fill a vacancy with a local candidate and were unable to, you can consider sponsoring a skilled migrant if your circumstances satisfy certain eligibility requirements.

The process of skilled migration can be more complex than other forms of recruitment and can be more time consuming and expensive.

The steps on the next page are a general overview of how your business would sponsor a skilled migrant. Keep in mind that some visa types, such as Working Holiday and Student visas, are not part of Australia's Skilled Migration Program and you do not need to go through the same steps. The exact requirements, processes and costs will vary depending on the occupation you want to fill and which visa option you pursue.

Steps for sponsoring a skilled migrant:

- 1. Satisfy yourself that you cannot fulfill the vacancy with someone already permitted to work in Australia**

Start by considering whether there are any other ways to hire locally. Recruiting locally is less complex and you may need to demonstrate you have undertaken suitable efforts (see Labour Market Testing below).
- 2. Check the occupation you need is on the list of eligible skilled occupations**

For a worker to be eligible under the Skilled Migration Program, their occupation must be included in the Skilled Occupation List. The list outlines both the occupations and the types of visa connected to that worker: immi.homeaffairs.gov.au/visas/working-in-australia/skill-occupation-list
- 3. Choose the visa that suits the employee and your needs**

The Skilled Occupation List outlines visa options available for each occupation. Different visa options have different timeframes and requirements. For a comparison of the visa options for skilled sponsored workers, please visit the following: immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring/visa-options
- 4. Demonstrate you can't find a person in Australia to fill your vacancy**

The process of proving you can't find a local person to fill the role is called Labour Market Testing. Generally, this involves demonstrating you have made a good faith attempt to hire locally. For more details see: immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing
- 5. Apply to be a Sponsor**

In most cases, a business will need to apply to be a sponsor. There are several options to choose from, but the most common is becoming a Standard Business Sponsor. Further information can be found at: immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/becoming-a-sponsor
- 6. Nominate the position**

Nomination is the process of requesting a position to be filled by a skilled migrant. Before you submit a nomination, you must have completed any required labour market testing (see stage 4 above) and demonstrate you meet the associated salary and employment requirements. More information can be found at: immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/overview
- 7. Complete the visa application**

This step is the responsibility of the nominated skilled migrant. However, to ensure the process runs as smoothly as possible, you may wish to confirm with the nominee that they meet the eligibility criteria of the chosen visa before starting the process.

The eligibility criteria, associated costs and processing timeframes are outlined in the visa list at immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing.

Am I eligible to be a sponsor?

If your business is legally established and operating, you can apply to be a sponsor. There are several forms of sponsoring that a business can apply for, with the most common being a Standard Business Sponsor. This is outlined in more detail at immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/learn-about-sponsoring.

How much will it cost?

The application costs and associated levies will depend on the specific visa option you choose and whether you require services from a migration agent or other professional advice. Costs may vary, however they will typically include:

- Applying to be an **approved sponsor** (\$420 as at October 2022)
- Nominating a **skilled migrant** (\$330 to \$540 as at October 2022)
- One or more contributions to the **Skilling Australians Fund levy**, which will depend on the size of your business, the proposed period of stay for the sponsored worker and your chosen visa (for most small businesses the levy contribution will either be a one-off contribution of \$3,000 or an annual contribution of \$1,200, depending on the visa, as at October 2022).

The potential skilled migrant will also incur costs related to their application. The costs involved with preparing and lodging the visa can be paid by either you or the visa applicant and will vary depending on the specific visa type, but will typically range from around \$1,300 to \$4,200 (based on fees as at September 2022).

For up to date costs for visa applications, please visit the Department of Home Affairs website at immi.homeaffairs.gov.au/visas/getting-a-visa/fees-and-charges/current-visa-pricing/work.

*All costs in Australian Dollars.

How do I prove I attempted to hire locally?

For many visa types, a business must be able to demonstrate that they can't find a suitable local worker. For these visas, a business must test the local labour market in strict accordance with immigration department guidelines before nominating a migrant worker.

Labour market testing (LMT) involves advertising the position in Australia. The purpose of LMT is to demonstrate you have made a good faith attempt to hire locally first. The exact requirements for LMT are robust and essential for a successful application. For detail on the specific requirements for LMT, please visit immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/sponsoring-workers/nominating-a-position/labour-market-testing.

How do I choose a visa?

The Skilled Occupation List outlines which visas are eligible for your needed occupation. Once you have identified an occupation on the list, you can look up the details, cost and estimated timeframes of the visas at immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing.

What are my obligations to a sponsored worker?

Because the skilled migration program is only intended to fill genuine gaps in the Australian labour market, your obligations to a sponsored worker will be the same or higher than they would be for a local hire.

You must provide sponsored workers with minimum entitlements as laid out by the National Employment Standards (<https://www.fairwork.gov.au/employment-conditions/national-employment-standards>) and you may be subject to other obligations (immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/existing-sponsors/standard-business-accredited-obligations) that help protect migrant workers from exploitation



Who can I sponsor to work in Australia?

As an approved sponsor, you can sponsor a skilled worker:

- living overseas
- already in Australia on another type of visa which does not allow them to work
- already living and working on another visa in Australia.

You can also take over the sponsorship of people currently holding a Temporary Skill Shortage visa (subclass 482). The process to take over a sponsorship will still require you to perform all the steps listed above.

What if I want to hire someone on a working holiday or student visa?

Working Holiday and Student visas provide their holders limited working rights while they are in Australia. This is not part of the skilled migration program and you can hire them directly without going through the process outlined above. You can also choose to sponsor someone currently on a working holiday or student visa as a skilled migrant.

Further information can be found at:

Working Holiday Program - immi.homeaffairs.gov.au/what-we-do/whm-program/overview

Student Visa - immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500

I've decided I want to proceed, what should I do first?

Sponsoring skilled workers can be complex. While migration agents are not strictly necessary, they can assist you to navigate the process and avoid mistakes.

If you are considering engaging a migration agent, you should ensure they are registered with the Office of the Migration Agents Registration Authority (OMARA). This registration demonstrates they have sufficient expertise and are a fit and proper person to provide immigration assistance. The OMARA registrar can be found at portal.mara.gov.au/search-the-register-of-migration-agents/. It is recommended that you look up a migration agent to ensure they are on the registrar before engaging their services.

Whether you use a migrant agent or not, you should ensure you are properly informed and understand what is required.

2 in 3



businesses that successfully **hired a skilled migrant engaged a migration agent, with most finding it to be helpful**

Source: *Small Business Commission's October 2022 Business Momentum Survey*

