



Australian Government

Department of Immigration
and Citizenship

Application for approval as a Professional Development Sponsor

Form

1226

Please ensure all questions on this form are answered and all requested information attached.

The Department of Immigration and Citizenship (the department) may decide your application on the basis of the information provided in this application alone.

Important – Please read this information carefully before you complete your application. Once you have completed your application we strongly advise that you keep a copy for your records.

ALL forms are available from the department's website www.immi.gov.au/allforms/ or from the nearest office of the department.

Who should use this form?

This form should be used by organisations in Australia applying for approval as a Professional Development Sponsor.

The Migration Regulations 1994 (the Migration Regulations) require that only an Australian organisation¹ or government agency² may be approved as a Professional Development Sponsor.

Note: the word 'organisation' is used throughout the remainder of this form and should be read as a reference to both an Australian organisation and a government agency.

How to apply

There are 3 stages to the Professional Development visa:

Step 1 – a Professional Development Agreement is established between an organisation in Australia and an overseas employer;

Step 2 – the organisation in Australia applies to be a Professional Development Sponsor; and

Step 3 – the approved Professional Development Sponsor lodges visa applications for the overseas participants.

Integrity of application

The department is committed to maintaining the integrity of the visa and citizenship programs. Please be aware that if you provide us with fraudulent documents or claims, this may result in processing delays and possibly your application being refused.

Step 1 – Professional Development Agreement

A Professional Development Agreement is a binding agreement between the Australian organisation and the overseas employer that employs the overseas participants³. Refer to **Part B** Question 24 for a list of items that the agreement must have. A template for a Professional Development Agreement can be provided by sending an e-mail request to profdev@immi.gov.au

Step 2 – Sponsorship

Approval as a Professional Development Sponsor enables organisations in Australia to sponsor overseas foreign nationals who are professionals, managers or government officials to undertake professional development training in Australia.

The criteria to be approved as a Professional Development Sponsor includes that the organisation must:

- be party to a Professional Development Agreement that meets the regulatory requirements (outlined at **Part B** Question 24) and that is in force at the time the application is assessed;
- be offering to conduct a Professional Development Program that meets the regulatory requirements outlined at *Step 2 – Professional Development Program* on page 2;
- have demonstrated an overall capacity to conduct a Professional Development Program involving sponsored overseas participants;
- have the capacity to meet its financial commitments and all other parties to the agreement also have the capacity to meet their financial commitments;
- have paid a security bond if requested; and
- not have any adverse information known about them or a person associated with the organisation (for example, adverse information may include debts to the Commonwealth and the organisation's history of compliance with Immigration laws of Australia).

Organisations approved as Professional Development Sponsors must lodge Professional Development visa applications on behalf of the visa applicant.

Obligations

Sponsors have certain obligations relating to their own behaviour and relevantly, the conduct of each overseas participant³ they sponsor. It is important that sponsors carefully assess the genuineness of their nominated visa applicants and closely monitor the conduct of their sponsored visa holders while in Australia. This will support sponsors to comply with their sponsorship obligations and report information to the department when required. **Part F** lists the obligations the sponsors must meet.

¹ 'Australian organisation' means a body corporate or an unincorporated association (other than an individual or a sole trader) or partnership that is lawfully established in Australia.

² 'Government Agency' means an agency of the Commonwealth or of a state or territory.

³ 'Overseas participant' means:

- a person who holds a subclass 470 (Professional Development) visa; or
- a person:
 - who is in Australia; and
 - who does not hold a substantive visa; and
 - whose last substantive visa was a subclass 470 (Professional Development) visa.

Sanctions

If a Professional Development Sponsor fails to satisfy a sponsorship obligation, the Minister may take one or more of the following actions:

- barring the sponsor, for a specified period, from sponsoring more people under the terms of one or more existing approvals as a sponsor for different kinds of visas; or
- barring the sponsor, for a specified period, from making future applications for approval as a sponsor in relation to one or more classes of sponsor; or
- cancelling one or all of the sponsor's existing approvals as a sponsor; or
- applying to a court for a civil penalty order of up to AUD33,000 for a corporation and AUD6,600 for an individual for each failure; or
- issuing an infringement notice of up to AUD6,600 for a body corporate and AUD1,320 for an individual for each failure; or
- enforcing the security already taken at the time the sponsor was approved; or
- requiring and taking an additional security.

There are a number of other circumstances (besides failure to satisfy a sponsorship obligation) in which the Minister may take administrative actions to bar or cancel a Professional Development Sponsor. These circumstances are if the sponsor:

- has provided false or misleading information to the department or the Migration Review Tribunal;
- no longer satisfies the criteria for approval as a Professional Development Sponsor;
- has made an unapproved change to the Professional Development Program;
- has been found by a court of competent authority to have contravened a Commonwealth, state or territory law;
- has not paid a request for additional security.

Forfeiture

Forfeiture of amounts from a security bond can only be imposed against those sponsors that were required to lodge a security bond. Any forfeiture from a bond will require timely replacement of the forfeited amount. For sponsoring organisations that were not required to lodge a security bond, all non-financial sanctions still apply.

Cancelling approval as a sponsor

Under s.140M of the Act, the Minister has discretion to:

- cancel the approval of a sponsor as a Professional Development Sponsor s.140M(1)(a); or
- cancel the approval of a sponsor as a sponsor for all classes to which the sponsor belongs s.140M(1)(b).

Responses to bars and cancellations

Where a decision is made to impose a bar, a sponsor may:

- apply to the Minister to have the bar waived; and/or
- apply for merits review of the decision by the Migration Review Tribunal.

Where a decision is made to cancel approval as a sponsor, the sponsor may apply for merits review of the decision by the Migration Review Tribunal.

Monitoring

If you are approved as a sponsor you must comply with the sponsorship obligations. The department will monitor compliance with the sponsorship obligations and whether associated visa holders are abiding by their visa conditions.

Routine monitoring is conducted from time to time and monitoring may also be initiated based on information provided to the department. This may take place during the approved sponsorship period and for up to 5 years after the sponsorship ceases.

The department conducts monitoring in 3 main ways:

- exchanging information with other Commonwealth, state and territory government agencies, including the Department of Education, Employment and Workplace Relations and the Australian Taxation Office;
- written requests to the sponsor to provide information in accordance with the obligation to provide records and information;
- site visits, usually to the sponsored business premises, with or without notice.

Monitoring may include investigations being conducted by Commonwealth officers called inspectors. Inspectors have certain investigative powers under the *Migration Act 1958*. Failure to cooperate with inspectors is a breach of the sponsorship obligations and the department may take action against the sponsor. For details on the actions the department may take refer to *Sanctions* on this form.

All written communication about the department's monitoring requirements will be sent directly to you, unless you have authorised another person, including migration agents, to act and receive information on your behalf. The sponsorship obligations (including the obligations to cooperate and provide information to the department) will remain with you as the sponsor even if you have authorised another person to act and receive information on your behalf.

Security bond

The department may require a Professional Development Sponsor applicant to lodge a security bond for each Professional Development Program that it establishes. The security bond is not required if the sponsor is a Commonwealth department or agency nor if the participants are nationals of an Electronic Travel Authority eligible country. To check if a country is an eligible country, see a list of countries included on the department's website

www.immi.gov.au/visitors/tourist/976/eligibility.htm and www.immi.gov.au/skilled/business/956-977/eligibility.htm

The security bond will be requested after all other checks in respect of the sponsor application have been obtained. The purpose of the security bond is to:

- encourage the sponsor to carefully pre-assess the genuineness and the intentions of the visa applicant and overseas employer(s); and
- meet the potential costs incurred relating to breaches of obligations (eg. location and removal costs).

The security bond is AUD15,000 and it may take the form of:

- a bank guarantee/term deposit/bank cheque;
- a cash deposit with the department; or
- a money order.

Professional Development Program

The Professional Development Program must:

- be relevant to, and consistent with, the development of the skills of the proposed managers or professionals, or both, that will participate in the program;
- provide skills and expertise relevant to and consistent with, the business and business background of the overseas employer;
- not exceed 18 months in length (except in approved exceptional circumstances); and
- be primarily face-to-face teaching in a classroom or similar environment.

Practical components can be included in a Professional Development Program but must not be the primary content of the program.

Any practical component of the program must:

- not exceed 7 hours in any day and 35 hours in any week;
- not adversely impact on the Australian labour market; and
- require or involve the payment of remuneration to overseas participants only by the overseas employer.

Overseas employer

The organisation applying to be a Professional Development Sponsor must have a Professional Development Agreement with an overseas employer of the proposed overseas participants (as outlined at *Step 1 – Professional Development Agreement* on page 1).

The Migration Regulations define an overseas employer to mean:

- a body corporate or an unincorporated association (other than an individual or sole trader) that:
 - conducts activities under the auspices of the government of a foreign country or a province, territory or state of a foreign country; and
 - has agreed to the proposed or approved Professional Development Sponsor, lodging a visa application on behalf of the overseas participants; or
- a multilateral agency that:
 - is operating and has operated for a continuous period of one year before the date of the application; and
 - has agreed to the proposed or approved Professional Development Sponsor, lodging a visa application on behalf of the overseas participants; or
- a registered business that:
 - is conducted by a body corporate or unincorporated association (other than an individual or sole trader) outside Australia; and
 - is actively and lawfully operating outside Australia; and
 - has actively and lawfully operated outside Australia for a continuous period of one year before the date of application; and
 - employs the overseas participants.

A Professional Development Program may involve more than one overseas employer provided that:

- all overseas employers to be involved in the program are party to the Professional Development Agreement and are listed on the application made by the organisation for approval as a Professional Development Sponsor; and
- the same program is to be delivered to the overseas participants employed by all of the overseas employers.

If any of the overseas employers that are a party to the Professional Development Agreement have previously been required to comply with the immigration laws of Australia, it is required that they have a satisfactory record of compliance. This compliance by all overseas employers is required for the organisation to be approved as a Professional Development Sponsor.

Step 3 – Professional Development visa applications

The Professional Development visa applicant:

- must be employed or invited by an overseas employer that is party to the Professional Development Agreement;
- must have managerial or other professional skills relevant to the Professional Development Program;
- must be sponsored by an approved Professional Development Sponsor that has not withdrawn from the Professional Development Agreement and that is not the subject of a bar;
- must have a genuine intention to undertake the training;
- must have a genuine intention to comply with the visa conditions and depart Australia at the end of the visa period; and
- will be required to meet general health and character requirements.

Charges

When applying for sponsorship approval, you will be required to pay a prescribed charge when you lodge the application unless you are an Australian Government department or agency. Payment of the charge does not guarantee an approval of the sponsorship and is generally not refundable.

Fees may be subject to adjustment at any time. Visa Application Charges may be subject to adjustment on 1 July each year. This may increase the cost of a visa.

To check the application charge, see form 990i *Charges* available from the department's website

www.immi.gov.au/allforms/990i.htm or check with the nearest office of the department.

Method of payment

In Australia

To make a payment, please pay by credit card, debit card, bank cheque or money order made payable to the Department of Immigration and Citizenship. Debit card and credit card are the preferred methods of payment.

Outside Australia

Before making a payment outside Australia, please check with the Australian Government office where you intend to lodge your application as to what methods of payment and currencies they can accept and to whom the payment should be made payable.

Applying for approval as a sponsor

Australian organisations need to lodge a completed and signed form 1226 *Application for approval as a Professional Development Sponsor*.

The completed form, together with the appropriate application charge (unless an Australian Government department or agency) and any relevant additional information requested in this form, can be lodged at one of the following addresses:

by courier:

Hobart Professional Development visa Processing Centre
Level 14
188 Collins Street
HOBART TAS 7000

by mail:

Hobart Professional Development visa Processing Centre
GPO Box 1623
HOBART TAS 7000

by fax: (03) 6281 9454

When applying by fax the appropriate application charge must be paid by credit card. This can be done by completing the payment details on page 11 of this form.

You will be advised in writing whether you have been approved as a Professional Development Sponsor. If approved, the department will provide you with a unique Professional Development Program code that you are to quote when lodging sponsored visa applications. If your application to be a Professional Development Sponsor is not approved, you will be given the reason for the decision, as well as information about your review rights.

Once approved as a Professional Development Sponsor, you may sponsor visa applicants employed by an overseas business or employed/nominated by a foreign government agency or employed/nominated by a multilateral agency to undertake the approved Professional Development Program. There is no limit on the number of valid sponsor approvals an organisation may hold concurrently or the number of overseas participants who may be sponsored under each sponsor approval.

Approval as a sponsor will be valid for a maximum of 3 years, or the duration of the agreement between the sponsor and the overseas employer (whichever is shorter).

Should you wish to sponsor people to undertake different Professional Development Programs, a new sponsor application will be required to cover each program. Material changes to approved Professional Development Programs will also require a new sponsor application.

Options for receiving written communications

You may authorise another person to receive all communications, both written and electronic, about your application with the department. You will be taken to have received any documents sent to that person as if they had been sent to you.

To do this you will need to complete **Part D Options for receiving written communications** and form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*. For an explanation of what a migration agent, exempt agent or authorised recipient can do please read the sections below.

To change or end the appointment of your migration agent, exempt agent or authorised recipient you must promptly advise the department in writing. You can do this by using form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*.

Authorised recipient information

An authorised recipient is someone you appoint to receive written communications about your application with the department.

All written communication about your application will be sent to your authorised recipient, unless you indicate that you wish to have health and/or character information sent directly to you.

The department will communicate with the most recently appointed authorised recipient as you may only appoint one authorised recipient at any time for a particular application.

Authorisation of a migration agent to act on behalf of the sponsor

A migration agent is someone who can:

- advise you on visas and sponsorship;
- tell you the documents you need to submit with your sponsorship application;
- help you fill in the sponsorship application and submit it;
- receive written communications about your sponsorship application with the department; and
- discuss your sponsorship application with the department.

You are not required to use a migration agent. However, if you use a migration agent, the department encourages you to use a registered migration agent. Registered agents are bound by the Migration Agents Code of Conduct, which requires them to act professionally in their clients' lawful best interests.

To change or end the appointment of your migration agent you must promptly advise the department in writing. You can do this by using form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*.

Immigration assistance

In Australia a person may only lawfully give immigration assistance if he or she is a registered migration agent or is exempt from being registered. Only registered migration agents may receive a fee or reward for providing immigration assistance.

If an unregistered person in Australia, who is not exempt from registration, gives you immigration assistance they are committing a criminal offence and may be prosecuted.

Sponsors of applicants for Professional Development visas are exempt from the requirements to be registered as a migration agent in order to assist applicants in relation to Professional Development visas.

Migration agents in Australia

Migration agents in Australia must be registered with the Office of the Migration Agents Registration Authority (Office of the MARA) unless they are exempt from registration.

Migration agents outside Australia

Migration agents who operate outside Australia do not have to be registered. The department may give some overseas agents an ID number. This number does not mean that they are registered.

Note: Some Australian registered migration agents operate overseas.

Exempt agents

The following people do not have to be a registered migration agent in order to provide immigration assistance, but they must not charge a fee for their service:

- a close family member (spouse, de facto partner, child, parent, brother or sister);
- a sponsor or nominator for this visa application;
- a member of parliament or their staff;
- an official whose duties include providing immigration assistance (eg. a Legal Aid provider);
- a member of a diplomatic mission, consular post or international organisation.

Further information on migration agents

Information on migration agents, including a list of registered migration agents, is available on the Office of the MARA website www.themara.com.au

You can also access information about migration agents on the department's website www.immi.gov.au

About the information you give

The department is authorised to collect information provided on this form under Part 2 of the *Migration Act 1958* 'Control of Arrival and Presence of Non-Citizens'.

The information provided will be used for assessing your eligibility to be a Professional Development Sponsor and for other purposes relating to the administration of the Migration Act.

The information provided will be disclosed to agencies who are authorised to receive information relating to border control, employment conditions, education, health assessment, health insurance, health services, law enforcement, review of decisions and registration of migration agents.

Information may also be disclosed to the following parties:

- AusAID and the Department of Education, Employment and Workplace Relations (DEEWR) to assist those seeking to undertake training in Australia;
- DEEWR to monitor educational institutions' compliance with the *Education Services for Overseas Students Act 2000*;
- DEEWR to determine any impact of a proposed workplace component on the Australian labour market.

The collection, access, storage, use and disclosure by the department of the information you provide in this form is governed by the *Privacy Act 1988* and, in particular, by the 11 Information Privacy Principles. The information form 993i *Safeguarding your personal information*, available from offices of the department, gives details of agencies to which your personal information might be disclosed.

Consent to communicate electronically

The department may use a range of means to communicate with you. However, electronic means such as fax or e-mail will only be used if you indicate your agreement to receive communication in this way.

To process your application, the department may need to communicate with you about sensitive information, for example, financial viability. Electronic communications, unless adequately encrypted, are not secure and may be viewed by others or interfered with. If you agree to the department communicating with you by electronic means, the details you provide will only be used by the department for the purpose for which you have provided them, unless there is a legal obligation or necessity to use them for another purpose, or you have consented to use for another purpose. They will not be added to any mailing list.

The Australian Government accepts no responsibility for the security or integrity of any information sent to the department over the internet or by other electronic means.

Professional Development visa helpdesk

For clarification on matters related to the Professional Development visa e-mail your enquiries to profdev@immi.gov.au

Home page

www.immi.gov.au

General enquiry line

Telephone **131 881** during business hours in Australia to speak to an operator (recorded information available outside these hours). If you are outside Australia, please contact your nearest Australian mission.

Please keep these information pages for your reference

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Please use a pen, and write neatly in English using BLOCK LETTERS.

Tick where applicable

Part A – Sponsor applicant's details

1 Company name (if a registered company) and trading name. Otherwise provide details of the organisation in Australia.

2 How long has the company been operating?

3 Australian Business Number (ABN)

4 Australian Company Number (ACN)
 if appropriate

5 Australian Registered Body Number (ARBN)
 if appropriate

6 Postal address

 POSTCODE

7 Street address

 POSTCODE

8 Contact officer for enquiries

Contact name

Telephone number AREA CODE NUMBER

9 Do you agree to the department communicating with you by fax, e-mail or other electronic means?

No

Yes Provide details

Fax number AREA CODE NUMBER

E-mail address

Note: If this application is refused, you will be notified in writing

10 Have you or any of your organisation's close business associates previously been refused an application to have a sponsorship approved?

No

Yes Give details

Note: The term 'close business associates' includes office holders and managers within the organisation

11 Have you or any of your organisation's close business associates previously sponsored visa applicants for a Professional Development visa whose application has been refused?

No

Yes Give details

12 Have you or any of your organisation's close business associates previously had a sanction imposed on you as a Professional Development Sponsor?

No

Yes Give details

13 Do you or any of your organisation's close business associates have any outstanding debts in relation to a sponsored person?

No

Yes Give details

Sponsored person	Amount
	AUD
	AUD
	AUD

14 Provide information to demonstrate your organisation's capacity to deliver training programs. Attach supporting documents if required

- if the sponsor is a company – any of the following:
 - an administrator is appointed for the company under Part 5.3A of the Corporations Act 2001;
 - the company resolves by special resolution to be wound up voluntarily under subsection 491 (1) of the Corporations Act 2001;
 - a court has ordered that the company be wound up in insolvency under Part 5.4, or on other grounds under Part 5.4A, of the Corporations Act 2001;
 - a court has appointed an official liquidator to be the provisional liquidator of the company under Part 5.4B of the Corporations Act 2001;
 - a court has approved a compromise or arrangement proposed by the company under Part 5.1 of the Corporations Act 2001;
 - the property of the company becomes subject to a receiver or other controller under Part 5.2 of the Corporations Act 2001;
 - procedures are initiated for the deregistration of the company under Part 5A.1 of the Corporations Act 2001;
 - if the sponsor is a partner of a partnership, or a member of a managing committee for an unincorporated association – any of the events of the kind mentioned in the above dot points for a sponsor that is a natural person or a company;
 - a sponsored overseas participant is unable to participate in the Professional Development Program;
 - a sponsored overseas participant has ceased participation in the Professional Development Program prior to the ending of the Professional Development Program;
 - a sponsored overseas participant has failed to attend the Professional Development Program, and this absence was not authorised by the Professional Development Sponsor; and
- (e) to secure an offer (or offers) of accommodation for sponsored overseas participants that will provide for a reasonable standard of accommodation and will ensure that the overseas participant has accommodation during the entire period of participation in the Professional Development Program.

Enforceability of obligations

- *Obligation (a) – is enforceable from the day the sponsor is approved as a Professional Development Sponsor and ends 5 years after the day the sponsor ceases to be a Professional Development Sponsor.*
- *Obligation (b) – is enforceable from the day the sponsored overseas participant becomes an unlawful non-citizen and ends 5 years after the overseas participant leaves Australia. However, the sponsor will only be liable for costs incurred by the Commonwealth up to the point when the person leaves Australia.*
- *Obligations (c) and (d) – are enforceable from the day the sponsor is approved as a Professional Development Sponsor and ends 2 years after the concurrence of both the sponsor ceasing to be a Professional Development Sponsor and there being no sponsored overseas participants in relation to the sponsor.*
- *Obligation (e) – is enforceable from the day the sponsor is approved as a Professional Development Sponsor and ends after the first day on which occurs the concurrence of both the sponsor ceasing to be a Professional Development Sponsor and there being no sponsored overseas participants in relation to the sponsor. This obligation must be satisfied every time a specified event occurs and within 10 days of the event occurring.*
- *Obligation (f) – is enforceable from the day on which the overseas participant is granted the Professional Development (subclass 470) visa and ends on the earliest of:*
 - *the day on which the overseas participant is granted a further substantive visa that is in effect and not a Professional Development (subclass 470) visa; and*
 - *the first day on which each of the following occur concurrently:*
 - *the overseas participant has left Australia; and*
 - *the Professional Development (subclass 470) visa has ceased to be in effect; and*
 - *if the overseas participant held a Bridging B (subclass 020) visa when they left Australia, and their last substantive visa held was a Professional Development (subclass 470) visa - the bridging visa has ceased to be in effect.*

**Signature of
duly authorised
person**

Date

DAY	MONTH	YEAR
/	/	

Full name (BLOCK LETTERS)

Name of organisation

Position in the organisation

We strongly advise that you keep a copy of your application and all attachments for your records.