



Australian Government

Department of Immigration and Citizenship

**Subclass 457 - Business (Long Stay) Visa
Sponsorship Application Checklist
(Standard Business Sponsorship)**

This checklist is designed to assist you in submitting a complete Standard Business Sponsorship application which will help to minimise processing times. Please ensure the documents you submit cover your particular circumstances.

The onus is on the applicant to provide a complete application. The Department of Immigration and Citizenship is not required to request additional information and may make a decision based on information provided in your application.

The Subclass 457 - Business (Long Stay) visa is designed for people who wish to work temporarily in Australia. This visa allows applicants to work between three months and four years for a sponsoring employer. The Subclass 457 - Business (Long Stay) visa is restricted to people employed in skilled occupations. There are three stages: **sponsorship**, nomination and visa application.

Sponsorship - The employer applies for approval as a business sponsor

To obtain approval as a business sponsor from the department, an applicant must demonstrate all of the following:

- That the business is of good standing, including sufficient financial ability to undertake sponsorship obligations.
- How Australia will benefit from the employment of overseas personnel.
- The company's past record of, or future commitment to, training Australian citizens or permanent residents, or introducing new technology or business skills.

Note: It is a serious offence under the *Migration Act 1958* to present false or forged documents or to make a false or misleading statement in connection with the entry or stay in Australia of a non-citizen. The penalty is imprisonment for 10 years or 1,000 penalty units (\$110 per unit), or both.

| Requirements | Supporting documents | Attached | |
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| Application for approval as a standard business sponsor | <ul style="list-style-type: none"> Form 1196, <i>Sponsoring overseas employees to work temporarily in Australia</i>, Part A (all questions must be answered) <p>or</p> <ul style="list-style-type: none"> Form 1196 Internet. | | |
| | <ul style="list-style-type: none"> Fee: You must have paid the correct sponsorship application fee. See: http://www.immi.gov.au/allforms/990i/employer-sponsored-temporary.htm | | |
| Lawfully and actively operating in Australia | Sole proprietor | <ul style="list-style-type: none"> Certificate of registration for tax purposes (ABN). Business Names Extract (if operating under a trading name). | |
| | Partnership | <ul style="list-style-type: none"> Certificate of registration for tax purposes (ABN). Business Names Extract (if operating under a trading name). | |
| | Company | <ul style="list-style-type: none"> Certificate of registration for tax purposes (ABN). Business Names Extract (if operating under a trading name). ASIC Historical Company Extract (registration with ASIC). | |
| | Operation under a trust structure | <ul style="list-style-type: none"> Certificate of registration for tax purposes (ABN) - for the trust. Relevant pages of the Trust Deed - pages listing parties to the trust and signature page. ASIC Historical Company Extract (where trustee is a company). Business Names Extract (if operating under a trading name). | |
| | Operation under a franchise (in addition to relevant documentation relating to the business entity) | <ul style="list-style-type: none"> Relevant pages of the franchise agreement - pages listing parties in the franchise agreement and signature page. | |
| | Start-up business | <ul style="list-style-type: none"> Documentation as described in Note A. | |

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| Direct employer and related body corporate | <ul style="list-style-type: none"> • A statement or evidence of the relationship between the sponsor and proposed employee (e.g. employment contract). | | |
| | <p>Where nominees are to be placed with a related body corporate</p> <ul style="list-style-type: none"> • ASIC Historical Company Extracts and other relevant documentation demonstrating the relationship between the sponsor and the second entity. | | |
| <p>New or improved business skills or technology</p> <p>or</p> <p>Record of, or commitment to, training</p> | <p>New or improved business skills or technology Please see Note B</p> | <ul style="list-style-type: none"> • Registration of patents/trademarks. | |
| | | <ul style="list-style-type: none"> • Detailed technical literature including industry/market assessments. | |
| | | <ul style="list-style-type: none"> • Evidence of success of the technology overseas and its adaptability to the Australian workplace – including endorsement of clients. | |
| | <p>Record of training must relate to training provided to employees who are Australian citizens or permanent residents</p> | <ul style="list-style-type: none"> • Evidence of employing a qualified in-house trainer – employment contract, PAYG payment summary. | |
| | | <ul style="list-style-type: none"> • Evidence of employing apprentices (within two years of lodgement of application) – relevant apprenticeship records. | |
| | | <ul style="list-style-type: none"> • Evidence of employment of trainees or recent graduates (within two years of lodgement of application) – employment contract, PAYG payment summaries. | |
| | | <ul style="list-style-type: none"> • Evidence of having paid for external courses including studies assistance for employees – expenditure shown on profit and loss statement, receipts, certificates of attainment. | |
| <ul style="list-style-type: none"> • Evidence of having paid for courses of study for TAFE or University students • Evidence of having funded scholarships under the AQF framework for TAFE or University students • Evidence of having contributed to an industry training fund (at least 1 to 2% of payroll) | | | |
| <ul style="list-style-type: none"> • Fully documented evidence of in-house training which must include: <ul style="list-style-type: none"> ○ date/s of training/duration ○ details of attendees ○ content of training/material used, and ○ details of trainer/their qualifications. <p>Start-up businesses and businesses that are unable to demonstrate a past record of training may demonstrate a firm future commitment to providing training for the Australian staff. Please see Note C.</p> | | | |

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| Compliance with Immigration laws | <ul style="list-style-type: none"> • Provide information relating to your employment over the last 12 months of any person who is not an Australian citizen or permanent resident. | |
| Able to comply with undertakings listed on Form 1196 or 1196 internet | <ul style="list-style-type: none"> • Profit and loss statements (Statement of Performance) and Balance Sheet (Statement of Position) for the most recently concluded fiscal year (with comparative figures for previous fiscal year) <p>or</p> <ul style="list-style-type: none"> • Tax returns for the most recently concluded fiscal year. <ul style="list-style-type: none"> • Where the fiscal period to which the financial statements or tax returns submitted relate ended more than three months before date of lodgement of the application – Business Activity Statements (BAS) for each complete quarter between end of fiscal period and date of lodgement of application (in addition to Profit and Loss statements, Balance Sheets or Tax returns) <p>or</p> <ul style="list-style-type: none"> • Letter of support from the accountant to the business. Please see Note D. <p>Where the business is operated under a trust structure, the above documentation must relate to the trust (i.e.. to the trustee in their capacity as trustee to the trust).</p> | |
| No adverse information is known about the business and its principals | <ul style="list-style-type: none"> • Provide any information relating to action that has been taken against the business by any Australian state or territory government agency in the preceding 12-month period even if it did not result in a criminal or civil penalty being imposed. This should include any breach notices or infringement notices issued to the business. | |
| Benefit to Australia | <ul style="list-style-type: none"> • Evidence of how employing nominees will be of benefit to Australia by meeting at least one of four criteria. Please see Note E. • Information on nature and types of positions you wish to nominate as a sponsor • At visa stage it may be required that you provide information that employing nominees continues to meet the Benefit to Australia criteria | |
| Non-discriminatory work practices | <ul style="list-style-type: none"> • You must provide an attestation. <p>See: Attestation Frequently Asked Questions</p> | |

NOTES

Note A - New or Start-up business (a business that has operated for less than 12 months) Evidence of active operation and ability to comply with sponsorship undertakings

A combination of the following documentation may be submitted, depending on the specific circumstances:

- Detailed Business Plan.
- Contract of Sale relating to the purchase of the business.
- Lease agreement relating to business premises.
- Evidence of lease or purchase of machinery, equipment, furniture, etc.
- Contracts to provide services.
- Evidence of employment of staff
- Business Activity Statements (BAS) for each complete quarter from commencement of operations to date of lodgement
- Business bank statements covering the period of operation.

Note B - New or improved technology or business skills

Businesses operating in highly technological and rapidly developing industries may, under exceptional circumstances, satisfy the alternative legislative requirements of the introduction of new or improved technology or business skills into Australia.

New or improved technology refers to the introduction of new or improved machinery, systems, tools or equipment into Australia. To qualify, the technology concerned must be 'leading edge'. New or improved business skills may include new management, training, communication or marketing techniques and improved work techniques.

Documentation that may be submitted will depend on the facts of the case. To be acceptable, the technology or skills claimed must be unique and must be making entry to Australia for the first time.

Note C - Commitment to training

The commitment to training must relate to the business operations as a whole, and not just a few aspects of the business operations. The extent of the commitment must be reasonable in relation to the size and characteristics of the business.

A quantifiable commitment to training for the next two years may be demonstrated by a combination of the following:

- Definite commitment to employ a qualified in-house trainer – Profile of trainer and time frame must be specified.
- Definite commitment to employ a stated number of apprentices, trainees or graduates within a specified time frame.
- Commitment to pay for external courses, including studies assistance for employees. Expenditure committed must be specified and courses planned/employees to benefit identified.
- Fully documented plans for in-house training. Documented details for each program must include:
 - dates(s) of training/duration
 - details of proposed attendees
 - content of training material to be used
 - details of trainer and their qualifications.
- As part of the organisational training strategy, commitment to:
 - Pay for relevant courses of study for TAFE or University students
 - Fund scholarships for courses under the AQF framework for TAFE or University students
 - Contribute to an industry training fund (at least 1 to 2 pct of payroll)

Attempts by established businesses that have previously failed to provide satisfactory training for their Australian workforce, to demonstrate a future commitment to training, will generally not be considered favourably. Any claims made in these circumstances will need to indicate a strong commitment to changing past practices in regard to training and be supported by acceptable documentary evidence of the commitment to future training.

Note D - Letter of support from accountant

The accountant providing the letter of support must stipulate that he/she is the external accountant to the business and specify the period of the relationship. They must be registered as a Chartered Accountant (CA), Certified Practising Accountant (CPA), Professional National Accountant (PNA) or Fellow Professional National Accountant (FPNA).

The letter of support must provide:

- a summary of the nature of business activity and period of active operation;
- an unqualified statement that clearly outlines the ability of the proposed sponsor to meet the financial responsibilities specified in the sponsorship undertakings, in relation to the number of nominations proposed; and
- the following information in regard to the most recently concluded fiscal period:
 - turnover
 - net profit
 - expenditure on wages/salaries
 - expenditure on training
 - net current assets
 - balance sheet size (total assets).

Note E – Benefit to Australia

Details of how sponsoring employees from overseas will:

- create or maintain employment for citizens and/or permanent residents
 - requires evidence of net maintenance or growth of employment for citizens and/or permanent residents
 - requires evidence that workforce has not recently been reduced in comparable occupations
- expand trade
 - in times of increasing unemployment, this requires evidence that Australian trade in goods and/or services will increase as a direct result of the employment of a foreign worker
- develop/improve links with international markets
 - requires evidence that foreign worker has specialist knowledge of a foreign market
- improve competitiveness
 - in times of increasing unemployment, this requires evidence that foreign worker has a demonstrably higher level of skill than that which can be found in Australia.