U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

(Revised July 2008)

Fact Sheet #62F: What records must an H-1B employer make available to the public?

This fact sheet provides general information concerning an H-1B employer's public access records that must be maintained and made available under the H-1B program. Special attestations applicable to H-1B-dependent and willful violator employers sunset on October 1, 2003, but were restored effective March 8, 2005 by the H-1B Visa Reform Act of 2004.

H-1B employers must make the following materials available to the public within one working day of filing the Labor Condition Application (LCA) (Form ETA 9035 and/or ETA 9035E) with the Department of Labor:

1. The LCA;
2. Rate of pay for the H-1B worker;
3. Description or summary of the actual wage system;
4. Prevailing wage rate and its source;
5. Documentation that the notice requirement was satisfied;
6. Summary of benefits offered to U.S. workers and H-1B workers;
7. List of entities included as a "single employer"; and
8. In the event of corporate change:
    a. Sworn or notarized statement by successor entity accepting all liabilities of predecessor entity;
    b. List of H-1B workers transferred to successor entity;
    c. Each affected LCA number and effective date;
    d. A description of successor entity's actual wage system; and
    e. Successor entity's employer identification number.

What additional records must H-1B-dependent or willful violator employers make available to the public?

1. List of "exempt" H-1B nonimmigrant workers; and
2. Summary of recruitment methods, if employer hired any "non-exempt" H-1B nonimmigrant workers.

All requirements listed above can be found in 20 CFR § 655 Subparts H & I and the Immigration and Nationality Act § 212(n).

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243). This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
Contact Us

AILA InfoNet Doc. No. 09120432. (Posted 12/04/09).