

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.