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

U.S. Wage and Hour Division
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Fact Sheet #62P: When recruiting, must an employer use procedures that meet "industry-wide" standards?

This fact sheet provides general information concerning recruitment under the H-1B program. Special attestations applicable to H-1B-dependent and willful violator employers (e.g., recruitment) sunset on October 1, 2003, but were restored effective March 8, 2005 by the H-1B Visa Reform Act of 2004.

What does "industry" mean?

The term "industry" means the set of employers which primarily compete for the same types of workers that are being sought under a Labor Condition Application.

How are "industry-wide standards for recruitment" to be identified?

An employer may determine industry-wide recruiting standards by utilizing sources such as trade organization surveys, studies by consultant groups, or reports/statements from trade organizations. The recruitment must utilize methods and media which are normal, common, or prevailing in the industry, and have been shown to successfully recruit U.S. workers. Additionally, the employer's recruitment must include as a minimum:

- Both internal and external recruitment; and
- At least some active recruitment, whether internal (e.g., training the employer's U.S. workers for the positions) or external (e.g., use of recruitment agencies or college placement services).

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