

Fact Sheet #62E: What additional records must be maintained by an H-1B-Dependent or Willful Violator employer?

This fact sheet provides general information concerning additional recordkeeping requirements for H-1B-dependent and willful violator employers 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.

In addition to the records generally maintained by all H-1B employers (see [WH Fact Sheet #62D](#)), any H-1B-dependent or willful violator employer must keep the following records:

1. Documentation of dependency calculation, if
 - A. dependency is not obvious or not stable; or
 - B. the employer attests that it is not dependent but does not meet the “*snap-shot*” test; or
 - C. the employer’s status changed from dependent to non-dependent; or
 - D. the employer utilizes the *snap-shot* or full calculation of status when claiming “single employer” or “group of businesses” status from the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS) (formerly the Immigration and Naturalization Service) (See [WH Fact Sheet #62C](#)).
2. List of entities forming “single employer”
3. List of “exempt” H-1B worker(s)
4. Documentation of recruiting:
 - A. Recruiting methods used;
 - B. Date and copy of advertisement/posting and compensation offered;
 - C. Any document created/received concerning worker recruitment and interviews; and
 - D. Offer to U.S. worker(s) and the applicant(s)’ response(s).
5. If operating as a contractor and arranging for an H-1B worker to work at another employer’s work site:
 - A. Written communication or contract language with secondary employer re: U.S. worker displacement; and/or
 - B. Contemporaneous written note of secondary employer’s oral statement re: U.S. worker displacement; and
6. Name, last-known address, personnel records, pay records, and anything created/received concerning U.S. worker hiring/firing/departing at or near the time of filing USCIS H-1B petition (See [WH Fact Sheet #62N](#)).

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.

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