



May 15, 2012

Guidance Directive 2012-02

Summer Work Travel: Implementation of May, 2012 Interim Final Rule

This Guidance Directive is issued to all sponsors conducting Summer Work Travel programs to provide guidance on the implementation of the 2012 Interim Final Rule (2012 IFR), published on May 11, 2012 in the Federal Register at 77 FR 27593-27612.

Cultural Component

On December 13, 2011, the Department issued Guidance Directive 2011-05 (*Summer Work Travel Program: A Cultural Experience*) that articulated our expectation that, starting with the summer 2012 season, sponsors could place participants only in jobs/locales that provided them with meaningful cultural experiences; a variety of opportunities to meet Americans; and chances to learn firsthand about American society, culture, and values.

The 2012 IFR now reiterates that cultural exposure that is solely work-based is insufficient. Sponsors must ensure that participants engage in non-work related activities that either acquaint them with recognized features of U.S. culture and history (e.g., national parks, state parks, historic sites, landmarks, scenic areas) or engage participants with the local communities in or near which they work and live. Sponsors are expected help identify for participants (and, as necessary, for employers) cultural offerings available near their work locations and in other parts of the country, and may organize specific cultural activities for participants. For instance, sponsor-organized offerings can include activities with local communities, lectures, films, nature outings, local sporting events, meals with Americans, visits to notable places nearby, exposure to American political or governmental institutions, as well as more traditional cultural activities.

While sponsors that think through and plan in advance the cultural component and offer suggestions and activities are more likely to succeed in creating a well-rounded cultural experience for their participants, the Department is aware that many participants will organize cultural activities on their own. Sponsors who wish to catalogue participant-driven activities as part of the required cultural exposure must record and document activities undertaken, and must ensure that those activities are truly cultural in nature. Sponsors should also be aware of the types of activities participants are organizing for themselves and provide suggestions of additional types of activities of which participants may not be aware. Sponsors are an important resource for participants for learning about and experiencing the local community and culture that may be otherwise out of the participants' reach or knowledge.

For participants in jobs where cultural offerings are more difficult to find or organize, or where participants are unable or unwilling to organize activities on their own, sponsors will need to make special efforts to orient and expose participants (and as necessary, employers) to cultural activities, offer suggestions, assist or organize and offer specific cultural activities for them. In areas where more participants are placed, sponsors may wish to benefit from economies of scale by working together and, as appropriate, with employers, to organize cultural programs.

Sponsors must be aware if participants are not engaging in cultural events sufficiently on their own, or under the sponsor's or employer's aegis, and ensure that participants have accumulated a number of cultural activity experiences before the end of the work portion of their program. To demonstrate their participants have fulfilled this cultural component requirement, sponsors must record and have supporting documentation of these activities.

Effective Date of Prohibited Jobs List

With respect to the effective date of the prohibited jobs list, participants *who obtained visas on or before May 11, 2012*, may fill the jobs identified on their associated Forms DS-2019, even if those jobs are on the prohibited job list. In addition, participants may work (or continue to work) in jobs in the North American Industrial Classification System (NAICS) Goods-Producing Industries supersectors/sectors 11 (Agriculture, Forestry, Fishing, and Hunting), 21 (Mining), 23 (Construction), 31 (Food Manufacturing), 32 (Wood Product Manufacturing), and 33 (Primary Metal

Manufacturing) through October 31, 2012. If any participants are working in such jobs on October 31, 2012, sponsors must have pre-arranged new, non-prohibited jobs for them effective November 1, or participants must end their programs on that day.

Enhanced Participant Orientation Information

The 2012 IFR requires sponsors to inform participants during orientation about certain program requirements with which participants must comply or sponsors will *terminate* – not *end* – their programs. Specifically, participants must contact their sponsors within ten (10) days after their arrival and within ten (10) days after they establish or change residences. They must timely respond to sponsors' monthly monitoring outreach efforts, and they may not start work at any job (i.e., initial, subsequent, or additional) until their sponsors have fully vetted such jobs. Sponsors must *terminate* the programs of participants who fail to comply with any of these three participant obligations. This means that sponsors must *terminate* the programs of participants who, e.g., contact their sponsor on the eleventh day after arrival in the United States, allow more than one month to elapse without contacting their sponsors (i.e., in response to monthly monitoring outreach), or start work at unvetted jobs. The Department expects sponsors both to maintain documentation demonstrating that participants completed their orientations and to exercise due diligence in alerting participants to these three obligations.

Monitoring Participants

Recognizing that allowing host employers to assist in monthly monitoring could deprive participants of neutral advocates, the 2012 IFR allows only sponsors to conduct this activity. It also clarifies that unanswered outreach efforts do not satisfy this requirement. As discussed above, sponsors are required to inform participants that their failure to respond to sponsors' monthly outreach will result in *termination* of their programs. Sponsors are encouraged to use these monthly monitoring contacts to remind participants of their obligation to participate in cultural events and to facilitate same; to inform them of upcoming opportunities for meeting this requirement; to determine their overall program satisfaction; to hear about and address problems or complaints; and to confirm that participants are engaging in cultural activities outside the workplace. Sponsors should scale up their monitoring efforts for participants who, due to timing of their visa issuance before the issuance of the 2012 IFR, will be working in prohibited jobs. Monthly monitoring activities should be fully documented,

including any efforts to counsel participants or to respond to their requests for assistance.

Other Matters

Please note that the published version of the 2012 IFR differs from the versions that have recently been posted on the ECA website. Although most changes involve formatting and headings changes, you are directed to work from and be guided by the official version published on May 11, 2012 in the Federal Register at 77 FR 27593-27612. Please submit additional questions regarding the 2012 IFR to SWTSponsor@state.gov. Remember that this address is for sponsor use, for agents of Summer Work Travel sponsors, and for employers of Summer Work Travel participants. This e-mail address is not to be shared outside of that limited group.

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In closing, the Department again thanks the sponsor community (and host employers, host communities, and foreign entities) for their on-going contributions to international exchange. We believe that the 2012 IFR provides necessary and beneficial adjustments to the Summer Work Travel Program model that will, in the long run, support a sustainable program that both protects the health, safety, and welfare of participants and achieves the goals of the Fulbright-Hays Act. With publication of this IFR, we have now completed this initial phase of the Summer Work Travel restructuring process. Other phases of this Summer Work Travel refinement process are anticipated, starting in the months to come. To help inform that process, the Department intends to evaluate closely comments filed in response to the recent 2012 IFR, before issuing a Notice of Proposed Rulemaking later in 2012, followed by a Final Rule in 2013. We look forward to continuing to work collaboratively with our sponsor partners as we complete this effort.



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