U.S. Department of Labor
Wage and Hour Division

U.S. Wage and Hour Division

(Revised July 2008)

Fact Sheet #62K: What is the short-term placement option?

This fact sheet provides general information concerning short-term placement under the H-1B program.

An employer who needs to temporarily place an H-1B nonimmigrant worker in a place of employment (see WH Fact Sheet #62J) that is not listed on an existing certified Labor Condition Application (LCA) (Form ETA 9035 and/or ETA 9035E) may do so under the short-term placement provision without filing a new LCA for the temporary geographic area of employment.

This provision may only be used for an H-1B nonimmigrant worker who is already in the United States and working for the employer.

What are the employer's obligations when utilizing the short-term placement option?

For every day the H-1B worker is placed in the new (unlisted) area of employment, the employer must pay that worker:

- The required wage rate (applicable to the permanent work site on the supporting LCA);
- The actual cost of lodging (for each workday and non-workday); and
- The actual cost of travel, meals, and incidental or miscellaneous expenses (for each workday and non-workday).

Are there limitations for using the short-term placement option?

Yes. An employer may place an H-1B worker in short-term placement only if all of the following conditions are met:

- There is no strike/lockout in progress in the H-1B worker's occupation at the short-term location;
- The employer does not already have an LCA on file for the geographic area of employment; and
- Placement of the individual H-1B worker at any site in an area of employment does not exceed 30 workdays (consecutive or non-consecutive) within a one-year period. Such placement may be for an additional 30 workdays, but for no more than 60 workdays, in a one year period, where the employer is able to show that the H-1B nonimmigrant maintains ties to the home worksite (e.g., a dedicated workstation at the permanent worksite; the employee's abode is located near that worksite), and the worker spends a substantial amount of time at the permanent worksite.

What happens on the 31st day (or the 61st day, if applicable)?

If the employer still has no LCA on file for the geographic area of employment, the employer must remove the H-1B worker from the temporary worksite. If any worker exceeds the 30- 60- day work limits, the employer may no longer use the short-term placement option in that geographic area of employment.

What is a workday under the short-term placement provisions?

A workday is any day in which an H-1B worker performs any work (at least one hour) at any worksite within the geographic area of employment.

If the employer has an LCA for a location for 10 workers, can the employer use the short-term placement option to place additional H-1B workers in the geographic area of employment?

No. This short-term placement option is not available where there is an LCA on file.

What can an employer do if it finds the short-term placement requirements do not meet its needs?

The employer may, at any time, file a new LCA for the new geographic area of employment and perform all actions required in connection with that filing (e.g., determine the prevailing wage and post the notice). Once the LCA is certified, the short-term placement restrictions no longer apply.

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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