

Fact Sheet #62X: What are the requirements to participate in the H-1B1 program?

This fact sheet provides general information concerning the temporary employment of foreign nationals from Chile and Singapore in specialty occupations under the H-1B1 program. The H-1B1 visa classification is limited to 1,400 nationals of Chile and 5,400 nationals of Singapore. The period of employment is one year. Extensions may be obtained twice but only in one year increments. Further extensions can be obtained only with the filing of a new Labor Condition Application (LCA).

All employers who employ an H-1B1 nonimmigrant must comply with the following:

- Maintain an LCA (Form ETA 9035 and/or ETA 9035E) with true and accurate information for each permanent work site;
- Pay the H-1B1 worker the “required wage rate” applicable to each permanent work site;
- Offer the H-1B1 worker the same working conditions and fringe benefits as are offered to similarly employed U.S. workers;
- Attest that the employer does not employ an H-1B1 worker where there is a strike/lockout in progress in the worker’s occupation;
- Notify workers or their bargaining representative of the intent to employ an H-1B1 worker at any location where other workers are in the same occupational classification for which an H-1B1 worker is sought or placed;
- Provide a copy of the applicable LCA to each H-1B1 worker;
- Maintain and make available for public examination the LCA and other required documents;
- Must not allow the H-1B1 worker to pay the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS) petition filing fee. The petition fee is \$1,500 for each petition filed by an employer with more than 25 full-time equivalent employees, and \$750 for each petition filed by an employer with fewer than 25 full-time equivalent employees employed in the United States;
- Must not allow the H-1B1 worker to pay the \$500 fraud prevention and detection fee;
- Must not allow the H-1B1 worker to pay any early cessation penalty (see [WH Fact Sheet #62H](#));
- Must not retaliate or discriminate against any worker (a) who discloses information that (the worker believes) shows a violation of this program or (b) cooperates with any proceeding concerning the employer’s compliance with this program (see [WH Fact Sheet #62R](#));
- Must provide the H-1B1 worker with payment for all work-related expenses;

- Must notify the USCIS of any changes in the H-1B1 nonimmigrant's work status (e.g., wherever the Department of Labor requires a new LCA, or when the work is terminated for whatever reason); and
- Portability provisions are inapplicable to H-1B1 nonimmigrants (see [WH Fact Sheet #62W](#)).

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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