

Recordkeeping Requirements for Labor Condition Applications

Purpose

This document describes the record keeping requirements operating locations need to comply when using the Labor Condition Application (LCA).

Background

The H-1B visa is used for the temporary employment of noncitizens in specialty occupations. The E-3 visa is used for nationals of Australia coming to the United States (U.S.) to perform services in a specialty occupation.

A prospective employer must submit a [Labor Condition Application \(Form ETA 9035\)](#) to the Department of Labor (DOL) and then petition the United States Citizenship and Immigration Services (USCIS) to classify the person as a temporary worker in either an H-1B or E-3 visa category. For more information, refer to the document, "Labor Condition Application (LCA) for H-1B and E-3 Nonimmigrants." The LCA and instructions for completing it are available on the [Department of Labor Web site](#).

For more information on H-1B and E-3 visas, refer to the documents "H-1B Visa Holder Employment (, https://www.rfsuny.org/media/RFSUNY/Procedures/per_h1b-visa-holder-employment_pro.htm)," "Labor Condition Application (LCA) for H-1B and E-3 Nonimmigrants," and "[E-3 Visa Holder Employment](#)."

Record Keeping Requirements

The Department of Labor (DOL) has established recordkeeping requirements regarding certified labor condition applications.

The following table identifies the records that must be retained and indicates how long they must be kept and whether they must be made available to the public. For more information on public access to records, see Public Examination of Records below.

Record	Retention Period	Must Be Made Available to Public?
A copy of the completed LCA. If it was faxed to the DOL, the form with the original signature must be kept in the public file.	1 year beyond expiration of LCA	Yes
Documentation that indicates the wage rate the visa holder will receive. This must include all documentation used to determine the actual and prevailing wages.	1 year beyond expiration of LCA	Yes

An explanation of the system used to set wages for all employees, including any periodic increases. A copy of the pay scale is acceptable. Note: Operating locations may use appropriate documents from the Salaries and Wages procedure group of the Employees: Personnel Administration business area, such as the Salary Plan and the Salary Schedules.	1 year beyond expiration of LCA	No
Copies of the documents used to satisfy notification requirements (either the postings, with an indication of the dates and places they were posted and the dates they were removed, or proof of notification to a bargaining representative), including proof of delivery of the certified LCA to the visa holder on or prior to the beginning date of employment.	1 year beyond expiration of LCA	Yes
Payroll records for the visa holder and all other employees in the same occupational classification.	3 years beyond expiration of LCA	No

Public Examination of Records

The DOL regulations require employers to make the LCA and supporting documentation available for public examination at the place of business or the place of employment within one working day after the filing of the LCA.

Employers must create a public file for each LCA.

Note: The DOL requests that information on the employees' wages be arranged by the assigned LCA case number.

For information on the records that must be made available, see Record Keeping Requirements above.

Change History

- **July 24, 2006** - Updated Immigration and Naturalization Service (INS) to United States Citizenship and Immigration Services (USCIS).
- **November 21, 2005** - Updated so instructions apply to both H-1B and E-3 visas.

Feedback

Was this document clear and easy to follow? Please send your feedback to webfeedback@rfsuny.org.

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