

To all HOLA Clients:

END OF YEAR REMINDER OF THE H-2B RULES!

PLEASE SEE BELOW AND ATTACHED DOCUMENTS

**THIS IS HIGHLY IMPORTANT
INFORMATION THAT YOU MUST READ,
UNDERSTAND AND ABIDE BY!!**

Please read this email and keep it on file for future reference.

PAY SPECIAL ATTENTION TO ITEMS IN RED, AND THE BIGGER AND REDDER THEY ARE, THE MORE IMPORTANT IT IS THAT YOU UNDERSTAND AND ABIDE BY THEM.

Since it is the end of most of our busy seasons, I thought I'd send out a reminder of what employers are responsible for under the H-2B program, and what you must do in case any workers leave early or are terminated.

REMEMBER:

YOU must keep copies of all H-2B documents, FOR A MINIMUM OF THREE YEARS, to prove you fulfilled your obligations.

NOT doing any of the things listed in this email could cost you future H-2b participation privileges and result in penalties and fines.

I AM ONLY PASSING ON WHAT WAS PASSED TO ME WITH THE INTENT THAT IT MIGHT HELP YOU.

NOTHING IN THIS EMAIL OR ON THE ATTACHED DOCUMENTS ARE TO BE CONSIDERED SUBSTITUTION FOR SOUND, LEGAL ADVICE. YOU SHOULD CONTACT A QUALIFIED ATTORNEY FOR THE MOST ACCURATE AND UP TO DATE LEGAL ADVISE.

Now that I've hopefully covered my backside,

FIRST, remember what you advertised in you help wanted ads and/or your internal job postings:

"If the worker completes 50% of the work contract period, employer will reimburse worker for transportation and subsistence from the place of recruitment to the place of work. Upon completion of the work contract or where the worker is dismissed earlier, employer provides or pays worker's reasonable costs of return transportation and subsistence back home or to the place the worker originally departed to work, except where the worker will not return due to subsequent employment with another employer. Amount of transportation payment or reimbursement will be equal to the most economical and reasonable common carrier for the distances involved. Daily subsistence will be provided at rate of \$12.07/day during travel to a maximum of \$51.00/day with receipts (Subject to change, LOOK AT YOUR NEWS AD). H-2B workers will be reimbursed in the first workweek for all visa, visa processing, border crossing, and other related fees, incurred by the worker, including those mandated by the government (excluding passport fees)."

**EVERY SINGLE WORD OF THE ABOVE
PARAGRAPH MUST BE UNDERSTOOD AND
CARRIED OUT BY YOU, THE EMPLOYER!**

THESE ARE THE RULES, NOT JUST SOME TECHNICALITY SO YOU CAN GET YOUR H-2B WORKERS.

NEXT, (Also see attached documents.)

NOTE:

1. On the H-2b rules (Attached), look at page 33 for information about when workers leave your employ early.
2. Concerning page 33 of the attached PDF, the part about "*Employer's obligation to guarantee three-fourths of the work...*" The DOL has been barred from using funds to enforce that rule, though they say that it is still a rule...

Use your own judgement, or get the advise of an attorney, on what to do with that one...

There are THREE important things, (Numbered 1, 2 and 3 below), you must do which are listed in this letter:

Employment-Related Notifications to USCIS

1. Petitioners of H-2B workers must notify USCIS within 2 workdays if any of the following occur:

- No show:** The H-2B worker fails to report to work within 5 work days of the latter of:

- The employment start date on the H-2B petition; or

- The start date established by the employer;

- Abscondment:** The H-2B worker leaves without notice and fails to report for work for a period of 5 consecutive workdays without the consent of the employer;

- Termination:** The H-2B worker is terminated before completing the H-2B labor or services for which he or she was hired; or

- Early Completion:** The H-2B worker finishes the labor or services for which he or she was hired more than 30 days earlier than the date specified in the H-2B petition.

- IMPORTANT NOTE:** The USDOL requires that you notify them even if the worker leaves ONE day early. 30 days is for USCIS/DHS ONLY.

- NEW:** I'm not sure HOW new this is, but I'm now being told that employers must notify if the employee leaves EVEN for a short visit back to his home country or EVEN to visit friends and relatives WITHIN the USA.

Petitioners must include the following information in the employment-related notification:

SEE SAMPLE LETTERS ATTACHED TO THIS EMAIL

- 1.The reason for the notification (for example, explain that the worker was either a “no show,” “absconder,” “termination,” or “early completion”);

- 2.The reason for untimely notification and evidence for good cause, if applicable; **This is to be done if you are late sending.**

- 3.The USCIS receipt number of the approved H-2B petition; **Found on your I-797 Approval notice You will also need your USDOL case number which will be found on your ETA 9142 form and also on all letters you received from the USDOL during the H-2B process.**

- 4.The petitioner’s information, including:

- Name

- Address

- Phone number

- Employer identification number (EIN)

- ETA case number (From DOL) and EAC number (From DHS/USCIS)

- 5.The employer’s information (if different from that of the petitioner):

- Name

- Address
- Phone number

6.The H-2B worker's information:

- Full Name
- Date of birth
- Place of birth
- Last known physical address and phone number

Additionally, to help USCIS identify the H-2B worker, submit the following for each H-2B worker, if available:

- Social Security number, and
- Visa number

Note: USCIS defers to DOL's definition of "workday." According to the Fair Labor Standards Act (FLSA), this generally means the period of time on any particular day when an employee begins and ends his or her "principal activities."

[Top](#)

How do I notify USCIS? (REMEMBER**, you must also contact the USDOL. See further below.)**

SEE SAMPLE LETTERS ATTACHED TO THIS EMAIL

NOTE: I only send emails.

Email or mail your notification to the USCIS Service Center that approved the I-129 petition. Although not required, email notification is strongly recommended to ensure timely notification.

California Service Center (Colorado and Michigan clients only for FY 2019**)**

By email: CSC-X.H-2BAbs@dhs.gov

By mail:

California Service Center
Attn: Div X/BCU ACD
P.O. Box 30050
Laguna Niguel, CA 92607-3004

Vermont Service Center (HOLA clients in all states except Colorado and Michigan for FY 2019**)**

By email: VSC.H2BABS@dhs.gov

By mail:

Vermont Service Center
Attn: BCU ACD
63 Lower Welden St.
St. Albans, VT 05479

How to contact USDOL:

(**REMEMBER**, you must also contact the USCIS / DHS. See above.)

SEE SAMPLE LETTER ATTACHED TO THIS EMAIL

By email: tlc.chicago@dol.gov

2. Attached is a letter you must give to each worker when they leave your employ that tells them that they must return to their home country and other pertinent information for both the employee and the employer.

3. Here are links to posters that you are required to post in your workplace containing information that both you and your employees must know:

<https://www.dol.gov/whd/posters/pdf/H2B-eng.pdf>

<https://www.dol.gov/whd/posters/pdf/H2B-span.pdf>