

North Carolina Law Life

Are Your Company's H-1B Public Access Files Ready for Inspection?

By: Oliver Branch. *This was posted Sunday, December 6th, 2009*

With an escalation in employer inspections by [United States Immigration and Citizenship Services \(USCIS\)](#), [Immigration and Customs Enforcement \(ICE\)](#), and the [Department of Labor \(DOL\)](#), it has become vital that employers with H-1B employees have their H-1B Public Access Files in order.

What Documents Should be in a H-1B Public Access File?

To avoid potential costly fines, payment of back wages and/or disbarment from participation in key immigration programs, it is our recommendation that employers keep the following documents within each H-1B applicant's separate public access file:

- A copy of the relevant certified [Labor Condition Application \(LCA\)](#) including all pages and cover sheet;
- Documentation which provides the wage rate to be paid to the non-immigrant (updated when/if wage rate increases/decreases);
- A clear explanation of the system use by the employer to set the "actual wage" the employer has paid or will pay workers in the occupation;
- Documentation which the employer used to establish the "prevailing wage" for the occupation sought;
- A copy of the notice of posting including dates of posting, and a statement identifying the two posting locations;
- A statement confirming that a copy of the approved LCA was provided to the H-1B worker;

We work closely with H-1B employers to ensure that their H-1B Public Access Files are created and maintained correctly to avoid liability. If you have questions about H-1B Public Access Files, or any other immigration or employment related issue, please contact [our offices](#).

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