

H-1B Rotational Employees and LCA Requirements

Companies often put their H-1B employees on rotation to work at different locations throughout the United States. Such a practice can create LCA filing requirements that differ from the typical H-1B single location filing. The satisfaction of these requirements can be accomplished by one of two methods.

If the different work locations are known in advance, it is advisable to disclose these on the initial LCA filing and H-1B application. The employer will be obligated to pay at least the prevailing wage rate in each of the geographical areas where the person will work. The employer also has the option to file a separate LCA for each location and submit all of them with the H-1B application. Such actions will eliminate the need to file a new LCA and go through the posting requirements every time that the employee moves to a new location. Keep in mind, however, that a multiple location LCA would also require that the company include an itinerary with the H-1B application.

If the different work locations are not known at the time of filing the LCA, a new LCA will need to be filed with each change of work location. The USCIS has indicated that as long as the LCA requirements have been met before the employee moves, a new H-1B application is not required. The LCA requirements are that a new LCA has been certified for the new location, the worksite posting has taken place, and the wage and hour obligations are met. As such, the employer would only need to file and complete the LCA requirements in order to move the employee.

If the employee must move before the LCA requirements can be fully satisfied, an amended H-1B petition should be filed as soon as possible. An amended petition would also be required if the change in location were accompanied by a material change in job duties.

Finally, all employees that change their place of residence must also file a Notice of Change of Address with the USCIS. The change of address can be submitted online at www.uscis.gov or via mail using form AR-11.

For assistance with your H-1B rotational employees and the LCA requirements, please contact attorney Myron Morales at info@mmoralespllc.com or visit our website at www.mmoralespllc.com.