Memorandum

Subject	Date
Interpretation Of The Term "Itinerary" Found In 8 CFR 214.2(h)(2)(i)(B) As It Relates To The H-1B Nonimmigrant Classification	DEC 29 1995

To

All District Directors
All Officers-in-Charge
All Service Center Directors
Director, Administrative Appeals Office
Office of Field Operations

From

Office of Adjudications
(HQADN)

The Service's regulations at 8 CFR 214.2(h)(2)(i)(B) provide that an H petition which requires services to be performed in more than one location must include an itinerary with the dates and locations of the services to be performed. The purpose of this particular regulation is to insure that alien beneficiaries accorded H status have an actual job offer and are not coming to the United States for speculative employment.

Since the purpose of the regulation is merely to insure that the alien has an actual job in the United States, the itinerary requirement in the case of an H-1B petition can be met in any number of ways. For example, the locations listed by the United States employer on the supporting labor condition application may, in some cases, suffice as an itinerary. In addition, in the case of an H-1B petition filed by an employment contractor, a general statement of the alien's proposed or possible employment is acceptable since the regulation does not require that the employer provide the Service with the exact dates and places of employment. As long as the officer is convinced of the bona fides of the petitioner's intentions with respect to the alien's employment, the itinerary requirement has been met. The itinerary does not have to be so specific as to list each and every day of the alien's employment in the United States. Service officers are encouraged to use discretion in determining whether the petitioner has met the burden of establishing that it has an actual employment opportunity for the alien.

In the case of an H-1B petition filed by an employment contractor, Service officers are reminded that all prospective H-1B employers have promised the Department of Labor through the labor condition application process that they will pay the alien the appropriate wage even during periods of time when the alien is on travel or between assignments. Since the contractor remains the employer and is paying the alien's salary, this constitutes employment for the purposes of the H-1B classification. If the contractor fails to comply with the provisions of the labor condition application with respect to the terms of the alien's employment, the Service may initiate revocation proceedings pursuant to 8 CFR 214.2(h)(11)(iii).

The petitioner's past hiring practices should also be considered in determining whether the petitioner has met the itinerary requirement as discussed in the regulation. Certainly a company's demonstrated past practice of employing H-1B nonimmigrants in conformity with the statute and regulation should be given significant weight in determining whether the itinerary requirement has been met.

Should you have any questions regarding the issue discussed in this memorandum, please contact Mr. John W. Brown at 202-514-3240.

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