

## **New USDOL Form 9035 for H-1B Visas Promulgated Consistent With Trump's "Buy American - Hire American (BAHA)" Initiatives.**

The US Department of Labor (DOL) announced revisions to Form ETA-9035, the Labor Condition Application (LCA) for H-1B, H-1B1, and E-3 employment. This was expected. We just did not know when the new Form was going to take effect.

Employers use the LCA to disclose and post information about wages and working conditions offered to professional temporary workers, as well as the prevailing wages for their occupation in the area of employment. The DOL has advised that a new Form incorporating these revisions will be fully implemented on November 19th, 2018.

The new LCA Form requires employers to indicate whether the H-1B, H-1B1 or E-3 worker will be placed at a third-party worksite and requires disclosure of the name and address of the third-party organization.

The revised Form requires employers to identify all intended places of employment and "estimate" the total number of foreign workers at each one of the disclosed worksites. The new LCA Form also mandates additional requirements for H-1B dependent employers and willful violators. The H-1B dependent employer designation is set to be in the Federal Regulations.

Of particular interest with the new LCA Form is that if a vendor supplies workers to the employer as a contractor, that employer's name will now be publicly disclosed by way of posting by the US Department of Labor. Employers who want this information to remain proprietary should carefully review their contractual arrangements with vendors who sponsor workers from abroad.

As of November 19th 2018, the new LCA form will become mandatory. This means that H-1B, H-1B1, and E-3 employers filing LCA Forms after November 19th must use the revised LCA and comply with the new third-party worksite disclosure requirements. The rule is not retroactive and certified LCAs submitted prior to November 19th will remain valid until expiration.

This revised LCA form marks the first time that the DOL has inquired in detail about third-party placements and required H-1B employers to disclose end-client or vendor names. DOL states that the additional requirements for H-1B third-party worksite petitions are consistent with the DOL's June 6th, 2017 News Release directing agencies to increase protections for American workers and "aggressively confront visa program fraud and abuse." The new initiative is also referenced as being consistent with the "Buy American - Hire American" initiatives of the Trump Administration.

If you should have any questions or need more information about the ways in which the U.S.

Immigration and Nationality Laws may impact you, your family, your friends or your colleagues, please feel free to contact [David Nachman, Esq.](#), one of the U.S. Immigration and Nationality Lawyers at the NPZ Law Group – VISASERVE – U.S. Immigration and Nationality Lawyers by e-mailing us at [info@visaserve.com](mailto:info@visaserve.com) or by calling us at 201-670-0006 (x107). You can also visit our Law Firm's website at [www.visaserve.com](http://www.visaserve.com)