

POSTING TIMEFRAME

May I post a Notice of Filing for a permanent labor certification indefinitely?

Yes, an employer may post a Notice of Filing indefinitely, provided that at the time of filing the permanent labor certification application, the Notice of Filing was posted for at least 10 consecutive business days and those 10 consecutive business days all fell within 30 to 180 days prior to filing the application. In addition, the Notice of Filing must contain the correct prevailing wage information, the correct job description and must comply with all other Department of Labor regulatory requirements.

POSTING QUANTITY

I have multiple positions available for the same occupation and job classifications and at the same rate of pay. May I post a Notice of Filing for the same occupation and job classifications with a single posting?

Yes, an employer can satisfy Notice of Filing requirements with respect to several positions in each of these job classifications with a single Notice of Filing posting, as long as the single posting complies with the Department of Labor's regulation for each application (e.g. contains the appropriate prevailing wage information and the Notice of Filing must be posted for 10 consecutive business days during the 30 to 180 day time window prior to filing the application). For instance, separate notices would have to be posted for an attending nurse and a supervisory nurse (e.g. nurses containing different job duties).

NOTE: At the time of filing the labor certification, the prevailing wage information must not have changed, the job opportunity must remain the same and all other Department of Labor regulatory requirements must be followed.

POSTING LOCATION

Where must I post a Notice of Filing for a permanent labor certification for roving employees?

If the employer knows where the Schedule A employee will be placed, the employer must post the notice at that work-site(s) where the employee will perform the work and publish the notice internally using in-house media--whether electronic or print--in accordance with the normal internal procedures used by the employer to notify its employees of employment opportunities in the occupation in question. The prevailing wage indicated in the notice will be the wage applicable to the area of intended employment where the worksite is located.

If the employer does not know where the Schedule A employee will be placed, the employer must post the notice at that work-site(s) of all of its current clients, and publish the notice of filing internally using electronic and print media according to the normal internal procedures used by the employer to notify its employees of employment opportunities in the occupation in question. The prevailing wage will be derived from the area of the staffing agencies' headquarters.

If the work-site(s) is unknown and the staffing agency has no clients, the application would be denied based on the fact that this circumstance indicates no bona-fide job opportunity exists. The employer cannot establish an actual job opportunity under this circumstance. A denial is consistent with established policy in other foreign labor certification programs where certification is not granted for jobs that do not exist at the time of application.

USCIS POSTING SAMPLE

The United States Citizenship and Immigration Services (USCIS) has posted, or will soon post, a sample of a Notice of Filing for a Schedule A permanent labor certification on their website. Will the Department of Labor accept/honor such a posting as sufficient proof of the Notice of Filing for a non-Schedule A permanent labor certification?

Yes, an employer may use the posting sample of a Notice of Filing issued by the USCIS and such a posting will be honored by the Department of Labor (DOL) provided that the Notice of Filing complies with all Department of Labor regulatory requirements. DOL worked with USCIS to develop the sample posting as a customer service convenience. DOL will honor the use of the sample, but is not requiring use of the sample. Employers may use other forms as long as they comply with the regulations.