

§ 656.20

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and as to the translator's competency to translate.

§ 656.20 Audit procedures.

(a) Review of the labor certification application may lead to an audit of the application. Additionally, certain applications may be selected randomly for audit and quality control purposes. If an application is selected for audit, the Certifying Officer shall issue an audit letter. The audit letter will:

- (1) State the documentation that must be submitted by the employer;
- (2) Specify a date, 30 days from the date of the audit letter, by which the required documentation must be submitted; and
- (3) Advise that if the required documentation has not been sent by the date specified the application will be denied.

(i) Failure to provide documentation in a timely manner constitutes a refusal to exhaust available administrative remedies; and

(ii) The administrative-judicial review procedure provided in §656.26 is not available.

(b) A substantial failure by the employer to provide required documentation will result in that application being denied §656.24 under and may result in a determination by the Certifying Officer pursuant to §656.24 to require the employer to conduct supervised recruitment under §656.21 in future filings of labor certification applications for up to 2 years.

(c) The Certifying Officer may in his or her discretion provide one extension, of up to 30 days, to the 30 days specified in paragraph (a)(2) of this section.

(d) Before making a final determination in accordance with the standards in §656.24, whether in course of an audit or otherwise, the Certifying Officer may:

- (1) Request supplemental information and/or documentation; or
- (2) Require the employer to conduct supervised recruitment under §656.21.

§ 656.21 Supervised recruitment.

(a) *Supervised recruitment.* Where the Certifying Officer determines it appropriate, post-filing supervised recruitment may be required of the employer

for the pending application or future applications pursuant to §656.20(b).

(b) *Requirements.* Supervised recruitment shall consist of advertising for the job opportunity by placing an advertisement in a newspaper of general circulation or in a professional, trade, or ethnic publication, and any other measures required by the CO. If placed in a newspaper of general circulation, the advertisement must be published for 3 consecutive days, one of which must be a Sunday; or, if placed in a professional, trade, or ethnic publication, the advertisement must be published in the next available published edition. The advertisement must be approved by the Certifying Officer before publication, and the CO will direct where the advertisement is to be placed.

(1) The employer must supply a draft advertisement to the CO for review and approval within 30 days of being notified that supervised recruitment is required.

(2) The advertisement must:

- (i) Direct applicants to send resumes or applications for the job opportunity to the CO for referral to the employer;
- (ii) Include an identification number and an address designated by the Certifying Officer;
- (iii) Describe the job opportunity;
- (iv) Not contain a wage rate lower than the prevailing wage rate;
- (v) Summarize the employer's minimum job requirements, which can not exceed any of the requirements entered on the application form by the employer;
- (vi) Offer training if the job opportunity is the type for which employers normally provide training; and
- (vii) Offer wages, terms and conditions of employment no less favorable than those offered to the alien.

(c) *Timing of advertisement.* (1) The advertisement shall be placed in accordance with the guidance provided by the CO.

(2) The employer will notify the CO when the advertisement will be placed.

(d) *Additional or substitute recruitment.* The Certifying Officer may designate other appropriate sources of workers from which the employer must recruit