

§ 656.50

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and/or applied research, or a U.S. Government entity whose primary mission is the performance or promotion of basic and/or applied research. Basic research is general research to gain more comprehensive knowledge or understanding of the subject under study, without specific applications in mind. Basic research is also research that advances scientific knowledge, but does not have specific immediate commercial objectives although it may be in fields of present or potential commercial interest. It may include research and investigation in the sciences, social sciences, or humanities. Applied research is research to gain knowledge or understanding to determine the means by which a specific, recognized need may be met. Applied research includes investigations oriented to discovering new scientific knowledge that has specific commercial objectives with respect to products, processes, or services. It may include research and investigation in the sciences, social sciences, or humanities.

(2) A *nonprofit organization or entity* within the meaning of this paragraph is one that is qualified as a tax exempt organization under Section 501(c)(3), (c)(4) or (c)(6) of the Internal Revenue Code of 1986, 26 U.S.C. 510(c)(3), (c)(4) or (c)(6), and has received approval as a tax exempt organization from the Internal Revenue Service, as it relates to research or educational purposes.

(d) With respect to a *professional athlete* as defined in section 212(a)(5)(A)(iii)(II) of the Immigration and Nationality Act, when the job opportunity is covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered the prevailing wage. Section 212(a)(5)(A)(iii)(II), 8 U.S.C. 1182(a)(5)(A)(iii)(II) (1999), defines a professional athlete as an individual who is employed as an athlete by—

(1) A team that is a member of an association of six or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

(2) Any minor league team that is affiliated with such an association.

(e) A prevailing wage determination for labor certification purposes made pursuant to this section shall not permit an employer to pay a wage lower than that required under any other Federal, State or local law.

[45 FR 83933, Dec. 19, 1980, as amended at 63 FR 13767, Mar. 20, 1998; 65 FR 80238, Dec. 20, 2000]

Subpart E—Petitioning Process for Federal Research Agencies

SOURCE: 63 FR 13767, Mar. 20, 1998, unless otherwise noted.

§ 656.50 Petitioning process.

(a) Federal research agencies seeking to have prevailing wages determined in accordance with § 656.40(c)(2) shall file a petition with the Director, U.S. Employment Service.

(b) The procedures and information to be included in the petition shall be in accordance with administrative directives issued by ETA that will specify the procedures to be followed and information that shall be filed in support of the petition by the requesting agency.

(c) The Director shall make a determination either to grant or deny the petition on the basis of whether the petitioning agency is a Federal research agency, whether most researchers at the petitioning agency have a close relationship with teaching as well as research, and whether the employment environment for researchers at the petitioning agency provides significant intangible and nonpecuniary incentives of the nature found at colleges and universities.

(d) Denials of agency petitions may be appealed to the Board of Alien Labor Certification Appeals.

(1) The request for review shall be in writing and shall be mailed by certified mail to the Director, U.S. Employment Service, within 35 calendar days of the date of the determination, that is by the date specified in the Director's determination; shall set forth the particular grounds for the request; and shall include all the documents which

accompanied the Director's determination.

(2) Failure to file a request for review in a timely manner shall constitute a failure to exhaust available administrative remedies.

(e) Upon a request for review, the Director shall immediately assemble an indexed Appeal File.

(1) The Appeal File shall be in chronological order, shall have the index on top followed by the most recent document. The Appeal File shall contain the request for review, the complete petition file, and copies of all the written material upon which the denial was based.

(2) The Director shall send the Appeal File to the Board of Alien Labor Certification Appeals.

(f) In considering requests for review of denied petitions, the Board of Alien Labor Certification Appeals shall be guided by § 656.27.

Subpart F—Addresses

§ 656.60 Addresses of Department of Labor regional offices.

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont): Room 1707, J. F. Kennedy Federal Building, Government Center, Boston, MA 02203.

Region II (New York, New Jersey, Puerto Rico, and the Virgin Islands): 201 Varick Street, room 775, New York, NY 10014.

Region III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia): P.O. Box 8796, Philadelphia, PA 19101 (3535 Market Street. Do not use street address for mailing purposes.)

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee): Room 405, 1371 Peachtree Street, NE., Atlanta, GA 30309.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin): 230 S. Dearborn Street, Chicago, IL 60604.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas): Room 317, 525 Griffin Square Building, Griffin and Young Streets, Dallas, TX 75202.

Region VII (Iowa, Kansas, Missouri, and Nebraska): Room 1000, Federal

Building, 911 Walnut Street, Kansas City, MO 64106.

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming): 1961 Stout Street, Denver, CO 80202.

Region IX (Arizona, California, Guam, Hawaii, and Nevada): 71 Stevenson Street, room 830, San Francisco, CA 94119.

Region X (Alaska, Idaho, Oregon, and Washington): Room 1145 Federal Office Building, 909 First Avenue, Seattle, WA 98174.

Virgin Islands—First National City Bank Building, Veterans Drive, St. Thomas, V.I. 00801.

[45 FR 83933, Dec. 19, 1980, amended at 56 FR 54930, Oct. 23, 1991]

§ 656.62 Locations of Immigration and Naturalization Service Offices.

For the purposes of §§ 656.21a(b) and 656.22, the locations of INS offices in the United States are listed at 8 CFR 100.4.

PART 657—PROVISIONS GOVERNING GRANTS TO STATE AGENCIES FOR EMPLOYMENT SERVICES ACTIVITIES [RESERVED]

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE JOB SERVICE SYSTEM

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Subpart E—Job Service Complaint System

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STATE AGENCY JS COMPLAINT SYSTEM

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