



# Compliance Checklist



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For some US visas like the H-1b and H-3 employment visas, employers are required to fulfil employer obligations as part of having access and using the H-1b program.

With increased scrutiny from the USCIS, it is even more important to meet compliance requirements once an H-1B visa is issued.

## LCA Compliance

Make sure you are complying with the following:

- ✔ Terms of the underlying Labor Condition Applications (LCAs) that you have filed with the U.S. Department of Labor (DOL)
- ✔ Location of employment is the same as mentioned in the LCA
- ✔ Prevailing wage rate of similarly employed individuals, mentioned in the LCA
- ✔ Wages paid to the visa holder as mentioned in the LCA
- ✔ Post a notice (physically or electronically) to all employees at worksites identified in the LCA before filing the LCA.

## Public Access Files Checklist

Make sure to include these in your PAF

- ✔ Signed ETA Form 9035 Labor Condition Application
- ✔ ETA Form 9035 Cover Page Instructions
- ✔ Notice of Filing Confirmation (showing the employer has complied with the LCA notice requirement)
- ✔ Prevailing Wage Documentation
- ✔ Actual Wage Statement
- ✔ Summary of Benefits
- ✔ Summary of Corporate Change (if there is a qualifying corporate change during the employment, please contact your Meltzer Hellrung attorney)
- ✔ Additional Attestations and Documentation for “Dependent Employer” and “Willful Violators”.

## Private Access File Checklist

The private access file should contain:

- ✔ Proof of the employer posting the labor condition application for ten business days in two locations at the worksite.
- ✔ Written acknowledgement or other proof that the beneficiary received a copy of the labor condition application no later than the first day of work.
- ✔ The specific salary data the employer used to calculate the actual wages.
- ✔ Do NOT allow any member of the public to view these documents or reveal their existence. It needs to be submitted only to the DOL or USCIS in case of an audit.

## I-9 Form Checklist

It is mandatory to maintain I-9 forms for all H-1B employees.

High level Form I-9 – Audit Checklist:

- ✔ Current employee list
- ✔ List of employees terminated in the last three years
- ✔ Electronic or physical copies of all I-9 forms
- ✔ Copy of the current version of Form I-9
- ✔ Separate bundles of correct and completed forms and the ones that were corrected
- ✔ Complete the audit log by documenting steps taken to find and fix errors

## Section 1

- ✔ Enter Name (Including other last names used, past or present), address and date of birth
- ✔ Enter Social Security number if employer participates in the E-Verify program.
- ✔ Check appropriate citizen/immigration status box.
- ✔ Lawful permanent residents must provide their seven- to nine-digit Alien Registration Number (A-Number) or USCIS Number.
- ✔ Aliens must provide an Alien Registration Number/USCIS Number or Form I-94 Admission Number or Foreign Passport Number.
- ✔ Employee must sign and date the form no later than the first day of employment.
- ✔ Preparer or translator section must be completed if someone other than the employee completed Section 1 on behalf of the employee.

## Section 2

- ✔ Enter Employee's name as it appears in Section 1.
- ✔ The number entered correlates with the citizenship or immigration status box the employee selected in Section 1.
- ✔ One document from List A is listed and completed, or a combination of one document EACH from List B and List C are listed and completed.
- ✔ Documents must be entered into the correct section (e.g., List B item is, in fact, listed under list B and not List C or List A).
- ✔ If photocopies of documents are kept, copies of documents are maintained for all employees.

- ✓ The employee's first day of employment is entered.
- ✓ All information in the certification section must be entered and a representative of the company must sign and print his or her name and date the form within three days of the employee's first day of employment.
- ✓ The business name and full address must be entered.

### Section 3

- ✓ Section 3 is completed if the employee's work authorization expired or if the employee was rehired within three years from the date the I-9 form was previously completed.
- ✓ If the employee's name has changed, the new name must be entered in block A.

## Compliance through



Imagility provides access to all elements, as required, for each visa program including LCA filing and posting, public & private access files, maintaining I-9 Forms and more.

### I-9 Compliance

**Imagility I-9**, is an intuitive Form I-9 compliance solution that can be directly accessed online or through an integration with your existing HR or payroll system. Imagility I-9 helps to ensure actual compliance with current employment eligibility legal requirements and helps to streamline your entire I-9 process for both onsite and remote employees.

## LCA Compliance

Imagility lets you easily post electronic LCAs for your H-1B, H-1B1 and E-3 hires, create corresponding electronic PAFs, and comply with U.S. Department of Labour regulations all in one place.

- ✔ Create and manage LCAs on the platform.
- ✔ Track availability of LCAs and posting acknowledgement.

## Public and Private Access Files

Imagility takes care of storing public access files (PAFs) and private access files securely in one place, with appropriate access controls, helping you always stay audit ready.

- ✔ **Public Access Files** includes all LCA details with related documents like wage determination, US Workforce notification etc.
- ✔ **Private Access Files** include lists of all Beneficiaries, Company, Visa, and Petition type details.

## Imagility covers FDNS Visits

Imagility covers FDNS information along with keeping track of FDNS visits, with any pending action items to be completed.

- ✔ **All supporting documentation** submitted with the petition available anytime
- ✔ **Any additional documents** or information needed can be collated from petitioner or beneficiary profiles
- ✔ **FAQs** that provide support to prepare for a FDNS visit
- ✔ **Visit details** can be entered by Beneficiary and petitioner. All pending items can be brought to closure.



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