

U.S. Department of Labor
Employment and Training Administration
OFFICE OF FOREIGN LABOR CERTIFICATION

2010 H-2A Program FAQs

Round 13: Newspaper Advertisements

October 13, 2017

POSITIVE RECRUITMENT AND HIRING OF U.S. WORKERS

Newspaper Advertisements in the Area of Intended Employment (20 CFR 655.151)

- 1. The *Notice of Acceptance* instructs me to place a newspaper advertisement on two separate days, including a Sunday, in a local newspaper of general circulation which serves the area of intended employment. Do I have the option of using the newspaper's online or electronic edition of its classified advertisements to satisfy this requirement?**

No, the regulation requires the use of print advertising in newspapers. 75 Fed. Reg. 6884, 6928 (Feb. 12, 2010). The employer must place the mandatory local newspaper advertisement on two separate days in the print edition of the newspaper. Similarly, if the job opportunity is located in a rural area that does not have a newspaper with a Sunday print edition; the employer must place the required advertisement in the daily print edition of the newspaper with the widest circulation in the area of intended employment.

Reminder: The advertisement must appear in a newspaper of general circulation in the area of intended employment that is appropriate for the occupation and the workers likely to apply for the job opportunity.

Additional Positive Recruitment (20 CFR 655.154)

- 2. If the *Notice of Acceptance* (NOA) instructs me to "publish" a newspaper advertisement in additional States as required by 20 CFR 655.154, for each additional State identified in the NOA, do I have the option of using the newspaper's online or electronic edition of its classified advertisements to satisfy this requirement?**

Yes, the rule related to additional positive recruitment permits some flexibility. The regulation allows the Certifying Officer (CO) to determine the location(s) and method(s) of the additional positive recruitment activities necessary to satisfy statutory and regulatory requirements for positive recruitment within a multi-state region of traditional or expected labor supply States. Therefore, newspaper

advertisements in a print edition may not always be required. See 8 U.S.C. 1188(b)(4); 20 CFR 655.154. As a result, if the CO uses the generic term “publish” with regard to additional newspaper advertisements in the NOA, and does not specify the method or format to be used for publication (e.g., “print advertisement”), the employer has the option of placing the required additional advertisement(s) in either the newspaper’s print or electronic edition.

Whether published in print or electronically, the advertisement must appear in a newspaper of general circulation in the identified State that is appropriate for the occupation and the workers likely to apply for the job opportunity.

Reminder: Under 20 C.F.R. 655.167, the employer must maintain proof of publication in its file for a period of 3 years from the date of certification and be prepared to submit such documentation if requested (e.g., during audit):

- Proof of publication for a print advertisement is the original, or a clear and accurate copy of, tear sheets of the publication in which the advertisements appeared showing the date of publication, or other proof of publication furnished by the newspaper containing the text of the print advertisements and the date of publication.
- Proof of publication for an electronic advertisement is a print-out, reflecting the date of publication, of the advertisement as it appeared on the newspaper’s Web site and proof of payment to the newspaper, or other proof of publication furnished by the newspaper containing the text of the print advertisements and the date of publication.