

TITLE 8. INDUSTRIAL RELATIONS  
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS  
CHAPTER 6. DIVISION OF LABOR STANDARDS ENFORCEMENT  
SUBCHAPTER 14. FOREIGN LABOR CONTRACTOR REGISTRATION

The proposed changes to the text of the regulations is indicated by bold underlined text to identify additions (i.e., **added language**) and bold strikeout to identify deletions (i.e., ~~**deleted language**~~) made upon the original proposed text.

**Article 1. Scope, Coverage and Definitions**

§13850. Definitions.

In addition to the definitions provided in 9998.1 of the Business & Professions Code, the following apply to both Chapter 21.5 (commencing with section 9998 of the Business & Professions Code) and to this subchapter which regulates foreign labor contractors who solicit or recruit foreign workers to perform labor in this state.

- (a) “Recruiting” and “recruits” means any activity performed **or directed** by a person which entices, secures, persuades, hires, purports to hire, transports, or otherwise seeks to process or secure employment of a worker, or group of workers, **for labor, work, or services performed to perform labor which is related to a potential temporary or permanent employment opportunity** in California.
- (1) “Transports” means any person who coordinates or provides transportation specifically for the purpose of obtaining or accepting employment.
- (2) “Process” includes but is not limited to interviewing, testing, evaluating, screening for job qualifications, setting up visa appointments with consulate, and referring a worker to an employer for consideration for hire.
- (b) “Soliciting” and “solicits” means conducting or performing any communication, including but not limited to advertisements, distribution of information using any media or other person or entity which informs, offers, or purports to offer to a prospective worker, or group of workers, information regarding terms of **employment for labor, work, or services performed of work for the worker to consider or accept which is related to a temporary or permanent employment opportunity** in California.
- (c) “Foreign guest worker” means a foreign worker, as defined in Section 9998.1, who is recruited and/or solicited by a foreign labor contractor to perform temporary nonagricultural labor in California pursuant to Section ~~1101~~(a)(15)(H)(ii)(b) of the Federal Immigration and Nationality Act, commonly known as the ~~“H2b”~~ **“H-2B”** worker visa program.

Note: Authority: Section 9998.11, Business & Professions Code. Reference: Sections 9998, 9998.1, 9998.1.5, 9998.2.5, Business & Professions Code.

§ 13851. Coverage; Exemption for Business Directly Recruiting Workers; Non-Employee Agents as Foreign Labor Contractors

- (a) The requirements set forth in this subchapter shall apply to any person who performs as **a** Foreign Labor Contractor and who is not exempt from coverage pursuant to this subchapter or Chapter 21.5 of Division 3 (commencing with section 9998) of the Business and Professions Code.
- (b) A person is not required to be registered as a foreign labor contractor if the person who directly solicits or recruits a foreign worker for employment is:
  - (1) the actual business employer who will employ the foreign worker, or
  - (2) an employee of the business employer who meets all of the following requirements:
    - (A) The person is an employee of the employer no later than the first day of engagement in, and at all times during, soliciting or recruiting of foreign workers;
    - (B) The person provides soliciting or recruiting services directly to foreign workers without using the services of another person (who is not an employee of the employer) to perform a “foreign labor contracting activity,” as defined in B&P Code section 9998.1; and,
    - (C) The recruitment or solicitation activities performed by the person are solely to find workers for the employer’s own use.
- (c) Any person who acts as an agent on behalf of a business to directly solicit or recruit foreign workers and who is not an employee of the business employer pursuant to subdivision (b)(2) is a non-employee agent and required to be registered as a foreign labor contractor with the Labor Commissioner. A staffing agency who performs foreign labor contracting activities, as defined in B&P Code section 9998.1(b), by providing workers to an employer for compensation, is a non-employee agent of the business employer and is required to be registered regardless of whether the staffing agency is a joint employer pursuant to any applicable provision of the Labor Code or order of the Industrial Welfare Commission.
- (d) If an employer who uses an employee to solicit or recruit foreign workers and that employee subsequently uses the services of a non-employee agent to solicit or recruit workers, the non-employee agent is a foreign labor contractor of the employer and is required to be registered with the Labor Commissioner.
- (e) The use of a non-employee agent by an employer under subdivision (c) or (d) of this section shall result in the following:
  - (1) The non-employee agent shall be subject to all obligations of a foreign labor contractor, including but not limited to registration as a foreign labor contractor under the Act and this subchapter.
  - (2) Any employer using the agent is subject to the disclosure requirement in B&P Code 9998.2(b), and all other obligations **and liabilities** of an employer under the Act and this subchapter.

Note: Authority: Section 9998.11, Business & Professions Code. Reference: Sections 9998, 9998.1, 9998.1.5, 9998.2, 9998.2.5, 9998.8, and 9998.11, Business & Professions Code.

## Article 2. Registration

### § 13853. Application for Registration as a Foreign Labor Contractor

To register as a Foreign Labor Contractor, the applicant shall complete, sign and submit a written physical application for registration (DLSE 701) and provide the items and documents pursuant to the respective registration requirements as specified in this article **by mail** to: Labor Commissioner, Licensing & Registrations Unit-FnLC, 1515 Clay Street, ~~4<sup>th</sup> Floor~~ **Suite 401**, Oakland, CA 94612, **or by email at [foreignlaborcon@dir.ca.gov](mailto:foreignlaborcon@dir.ca.gov)**. The applicant shall certify under penalty of perjury that the information provided on the registration form, any supplementary documents, and any other information submitted by the applicant in support of the registration is true and correct. If the place of execution is outside California, the certification must be sworn before a notary public or other officer authorized to take oaths and affirmations. **The Labor Commissioner may make an online application available.**

- (a) The application for registration (DLSE 701) shall indicate whether the application is for a new (initial) registration or a renewal application and shall further contain the following information to be provided by the applicant:
- (1) The full legal name, identity of the legal form or type of ownership of the foreign labor contractor business (individual/sole proprietor, partnership, corporation, limited liability company, or other business entity).
  - (2) All names under which the applicant is doing business as or has done business as within the previous three years.
  - (3) Current physical business address (number, street, city or town, county, state, zip code) and preferred mailing address if different than physical business address, preferred email address, and designation of an agent for service of process, if applicable, including physical address and business telephone number and mobile telephone number of the designated agent for service of process. If applicable, a foreign business' main physical address shall similarly provide full information regarding the applicant's physical location in a foreign country, business telephone number, and, mobile telephone number.
  - (4) If the current contact information subsequently changes, the applicant must immediately, but no later than ten (10) days thereafter, advise the Labor Commissioner of the change.
  - (5) Domestic and international locations where applicant is doing business (city, state, and country).**
  - ~~(5)~~**(6)** The following information identifying and providing contact information of individuals who have financial interests in the applicant's business:
    - (A) If the applicant is an individual (sole proprietor), that individual's full name, date of birth, driver's license number, Social Security number or Taxpayer Identification number, physical home address, mailing address, if different (include foreign address **and identification number**, if applicable), business telephone and mobile telephone number.
    - (B) If applicant is a corporation, the date of incorporation and the name, date of birth, driver's license number, Social Security number or Taxpayer Identification number, physical ~~main business~~ **home** address, mailing address, if different (include foreign address **and identification number**, if applicable), business telephone and mobile telephone number of each corporate officer, and ownership percentage, if any, of each officer. If a foreign corporation incorporated or organized outside of California, also

- provide the date a Statement and Designation by Foreign Corporation (Form ~~S&DC-STK/NPS~~S&DC-S/N) was filed with the Secretary of State.
- (C) If applicant is a partnership, the date the partnership was created and the name, date of birth, driver's license number Social Security number or Taxpayer Identification number, physical home address, mailing address, if different (include foreign address and identification number, if applicable), business telephone and mobile telephone number, and ownership percentage of each partner.
- (D) If applicant is a limited liability company (LLC), the date of filing the articles of organization, and the name, date of birth, driver's license number, Social Security number or Taxpayer Identification number, physical home address, mailing address, if different (include foreign address and identification number, if applicable), business telephone and mobile telephone number, and ownership percentage of each member.
- ~~(6)~~(7) Indicate whether the applicant will utilize the services of any other registered foreign labor contractor to recruit or solicit foreign workers.
- (A) If yes, state for each individual or entity who will perform any of these activities (i) the person or other entity's name, current physical address (include foreign address, if applicable) and telephone number, Social Security number or Tax Identification number, and foreign labor contractor registration number;
- (B) If no, state any other individual or entity who will perform these activities on applicant's behalf which includes, but is not limited to, employees of the applicant and provide the information listed in subdivision (A) for each identified person or entity.
- ~~(7)~~(8) The names and physical addresses, mailing address, if different (include foreign address, if applicable), email address, business telephone and mobile telephone number of all businesses with whom the applicant plans to contract in the next twelve (12) months and, if applying for registration renewal, with whom the applicant has contracted during the past two years.
- ~~(8)~~(9) Indicate whether the applicant's foreign labor contracting operation will be conducted in connection with any other business, and, if so, the type of business and name, physical addresses, mailing address, if different (include foreign address, if applicable), email address, business telephone and mobile telephone number of the other business.
- ~~(9)~~(10) Indicate any license, registration, or permit issued pursuant to any state or federal law, or law of a foreign country, that any person or entity identified under subdivisions (a)(1), (a)(2), and (a)(6) of this section has obtained within the last 5 years.
- ~~(11)~~(A) Indicate whether any person or entity identified under subdivisions (a)(1), (a)(2), and ~~(a)(5)~~(6) of this section, within the last 5 years:
- (i) owes payroll taxes, personal, partnership or corporate income taxes, Social Security taxes, or disability insurance taxes;
- (ii) has plead guilty or nolo contendere to or been convicted of a crime involving fraud or misrepresentation, either misdemeanor or felony. The term convicted includes instances in which there was a suspension of sentence and probation granted and where judicial dismissal proceedings under Penal Code section 1203.4 et seq. were undertaken;

(iii) has had any license, registration, or permit issued pursuant to any state or federal law, or law of a foreign country that was suspended, revoked or denied, or has had any disciplinary action ~~of any nature~~ whatsoever of any nature imposed upon him, her, or it in connection with the holding of a license or permit;

(B) If any person or entity identified in subdivision (A) above falls within subdivisions (i) through (iii) ~~(vi)~~, the applicant shall submit an explanation regarding the incident and documentation supporting the explanation, including but not limited to, description of the violation or charge, date of incident, court or agency name (federal, state, local, or foreign country), and the disposition, if any, of the matter.

~~(10)~~(12) Indicate the total number of employees the applicant will employ, if applicable, and provide state and federal tax employer identification numbers, or similar employer identification number required by a taxing authority in a foreign country.

~~(11)~~(13) Total gross annual receipts for the applicant which amount shall not account for any deductions for expenses, as specified in Section 13857(b).

~~(12)~~(14) The name, address, business telephone number and mobile telephone number of an agent or representative designated by the applicant to speak on behalf of the applicant for purposes of communicating with DLSE personnel.

~~(13)~~(15) Attest to express certification statements regarding obligations which are acknowledged and made when submitting an application that the applicant:

(A) Agrees to comply with Labor Code section 3700, if applicable, which requires every employer to be insured against liability for workers' compensation.

(B) Is aware of and agrees to comply with the provisions of Business and Professions Code section 9998.1.5(b)(3)(A) to deposit a surety bond with the Labor Commissioner and maintain an effective bond at all times during the period of registration.

(C) Agrees, as a condition of being registered as a foreign labor contractor by the Labor Commissioner, to keep the Commissioner informed of any change in the registrant's address and other contact information within ten (10) days of any change.

(D) Consents, pursuant to Business and Professions Code section 9998.1.5(b)(1)(C), to the designation of the Labor Commissioner by an appropriate civil court of the Commissioner as the registrant's agent to accept service of summons in any action against a registrant in the event that applicant has left the jurisdiction in which the action is commenced or otherwise become unavailable to accept service.

(E) Is aware of the responsibilities as registrant and agrees to operate as a foreign labor contractor in compliance with all applicable provisions of law, including the Business and Professions Code and applicable regulations; and specifically, certifies that the applicant has not been found by a court, the Secretary of Labor, or the Labor Commissioner to have violated provisions of any of the following:

(i) The federal Trafficking Victims Protection Act of 2000 (Division A, Public Law 106-386), as amended.

(ii) Requirements under Labor Code sections 1682 through 1699, inclusive, which and apply to persons subject to farm labor contractor license laws, including the prerequisites to obtaining a license;

(iii) Penal Code section 236.1, relating to human trafficking, which prohibits false imprisonment.

(iv) Requirements of any federal guest worker program.

- (F) Certifies that applicant has provided all facts required by the Labor Commissioner to make its determination to register a foreign labor contractor as to the applicant's character, competency, responsibility, and the manner and means in which the applicant proposes to conduct operations.
  - (G) Is aware of the provisions of the Business and Professions Code and applicable regulations regarding grounds for revocation, suspension, refusal to renew, or grant registration to operate as a foreign labor contractor, and that a violation for failure to comply with all registration requirements applicable to foreign labor contractors will subject a registrant to denial of an application (initial or renewal), revocation, suspension.
  - (H) Is aware that any material misrepresentation **or omission** made in connection with the information provided on the application or other documents submitted relating to the application is grounds for denial or subsequent revocation of registration.
- (b) The applicant shall provide to the Labor Commissioner the following items and documents along with the application for registration:
- (1) Fees: Registration fee of \$95 pursuant to Business and Professions Code section 9998.1.5(b)(4). All fees may be paid online by accessing <http://www.dir.ca.gov/dlse/Online.Payment>, or by submission of a certified check, cashier's check, or money order to the "Labor Commissioner's Office" or "Division of Labor Standards Enforcement."
  - (2) If applicant is a corporation, a copy of the Articles of Incorporation and the most recent Statement of Information (form **SI-200 SI-550**) filed with the Secretary of State. If the applicant is an LLC, a copy of the Articles of Organization and most recent Statement of Information (form LLC-12); and if a partnership, a copy of the written partnership agreement, if any. If the applicant is a corporate or similar entity in a foreign country, a copy of the registration or other certificate from the applicable foreign governmental agency which authorizes the business entity to exist or otherwise act as a lawful business entity.
  - (3) An original Foreign Labor Contractor Bond (DLSE 702) which complies with the requirements of Business and Professions Code section 9998.1.5(b)(3).
  - (4) Live scan fingerprint images for a sole proprietor, all partners of a partnership, all corporate officers of a corporation, each member of a limited liability company, as applicable.
  - (5) A copy of driver's license or other photo identification card with photograph, or passport photo for a sole proprietor, all partners of a partnership, all corporate officers of a corporation, each member of a limited liability company, as applicable.
- (c) **The Labor Commissioner may request any additional supporting documentation as proof of statements made in response to the application questions and to complete any investigation to the Labor Commissioner's satisfaction as to the character, competency and responsibility of the applicant.**

Note: Authority: Section 9998.11, Business & Professions Code. Reference: Sections 9998, 9998.1, 9998.1.5, Business & Professions Code.

§ 13855. Character, Competency and Responsibility

- (a) In determining whether an applicant possesses satisfactory character, competency and responsibility, the Labor Commissioner shall consider all information submitted in connection with the application or otherwise obtained by the Labor Commissioner during the review of an application. Information regarding past conduct, including criminal history, substantially related to soliciting or recruiting activities, as defined in section 13850, shall be examined to determine an applicant's character, competency, and responsibility. Conduct or conviction of a crime is substantially related to soliciting or recruiting activities if it evidences present or potential unfitness of an applicant to perform the functions authorized by the registration in a manner consistent with the requirements of the Business and Professions Code. The conduct or convictions considered substantially related to soliciting or recruiting shall include, but not be limited to, the following:
- (1) Any final determination regarding a violation of a provision of the Business and Professions Code or applicable regulations regulating any occupation which requires a permit, registration, or license;
  - (2) Any criminal or civil violations of the federal Trafficking Victims Protection Act of 2000, farm labor contractor laws under Labor Code sections 1682 through 1699, and Penal Code section 236.1;
  - (3) Any crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;
  - (4) Any crimes or acts involving physical violence or threats of physical violence, against persons; physical or psychological force, coercion, trickery, or seizure of a person's documents.
- (b) When considering whether an applicant who falls within subdivision (a) has the character, competency and responsibility to be licensed as a foreign labor contractor, the Labor Commissioner shall consider whether the applicant has been rehabilitated. When considering whether the applicant has been rehabilitated, the Labor Commissioner will consider the following criteria:
- (1) For a felony conviction that is substantially related to the qualifications, functions, or duties of a licensee, seven (7) years have passed from the time of release from incarceration or completion of probation without the occurrence of additional criminal activity.
  - (2) For misdemeanor convictions that are substantially related to the qualifications, functions, or duties of a licensee, three (3) years have passed from the time of release from incarceration or completion of probation without the occurrence of additional criminal activity.
  - (3) For other act(s) that are substantially related to the qualifications, functions, or duties of a licensee, three (3) years have passed from the time of commission of the act(s), without the occurrence of additional act(s) substantially related to the qualifications, functions, or duties of a registrant.
  - (4) The amount of time needed to demonstrate rehabilitation under this subdivision may be increased or decreased by taking into account the following:
    - (A) The nature and severity of the crime(s) or act(s) that are under consideration;
    - (B) Evidence of any crime(s) or act(s) committed subsequent to the crime(s) or act(s)

that are under consideration as, or that were, the grounds for denial, suspension, or revocation, which also could be considered as grounds for denial, suspension, or revocation.

- (C) Evidence that applicant has successfully completed the period of parole or probation and complied with its restitution terms and all other sanctions lawfully imposed against the applicant.
- (D) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, subsequent to the time of commission of the act(s).
- (E) Documents or testimony from credible individuals who have personal knowledge of the applicant's life and activities subsequent to the time of commission of the crime(s) or act(s) who can attest to the applicant's or registrant's present fitness for registration.
- (F) Other relevant evidence, if any, of rehabilitation submitted by the applicant or licensee. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion program if the crime(s) or act(s) related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s) or act(s) demonstrated the applicant's or registrant's inability to control one's temper.

Note: Authority Section 9998.11, Business and Professions Code. Reference: Sections 9998.1.5, 9998.11, Business and Professions Code.

#### § 13856. Registration Certificate

- (a) Upon a determination by the Labor Commissioner that the applicant has complied with all of the requirements set forth in sections 13853, 13855, and 13857 of this subchapter, the Labor Commissioner shall issue a Registration Certificate. The Labor Commissioner will inform the registrant of the issuance of the Registration Certificate by email, and a copy of the Registration Certificate will be mailed to the registrant.
- (b) A Registration Certificate shall expire two (2) years from the date of issuance.
- (c) The following information will be included on the Registration Certificate:
  - (1) Registrant name.
  - (2) Registrant physical address and mailing address if different, and business telephone number, as provided by applicant pursuant to section 13853(a)(3)-(4) of this subchapter.
  - (3) Registration Number.
  - (4) Dates of validity.
- (d) The Registration Certificate is non-transferable.
- (e) In addition to updating the Labor Commissioner of changes in information provided in the application for registration pursuant to Section 13853(a)(4), the registrant shall notify the Labor Commissioner in writing within ten (10) days of any change to the contact information specified on the Registration Certificate. Following receipt of written notice from a registrant, the Labor Commissioner shall, without additional cost, issue an amended certificate.



- (f) In the event a registrant loses the Registration Certificate and is unable to obtain another copy on the website, the Labor Commissioner shall, upon written request and without additional cost, issue a duplicate certificate and mail it to the registrant.
- (g) The Labor Commissioner shall maintain an online registry of registrants accessible at the department's website which contains the following information:
  - (1) Registrants' information as indicated on the registration certificate pursuant to subdivision (c) of this section.
  - (2) List of employees and other registered contractors who perform foreign labor contracting activities for each registrant.
  - (3) The registration status indicating whether a person or entity is registered, denied registration, suspended, or revoked which includes a date of action affecting the status. The Labor Commissioner may provide a separate list of registrations on the department's website which have been denied, suspended, or revoked.

Note: Authority cited: Section 9998.11, Business and Professions Code. Reference: Section 9998.1.5, 9998.11, Business and Professions Code.

#### § 13857. Surety Bond; Establishing Gross Income Receipts

- (a) The applicant shall file with the Labor Commissioner a bond issued by a surety company duly authorized to do business in the State of California. The bond shall be on a form provided by the Labor Commissioner (DLSE 702) issued by a surety company authorized to issue bonds in California which complies with the requirements of Business and Professions Code section 9998.1.5(b)(3).
- (b) Amount of Bond.
  - (1) In determining the amount of the bond, the foreign labor contractor shall provide to the Labor Commissioner the total amount of gross receipts for the twelve (12) months prior to filing the application.
  - (2) For the purpose of this section, "gross receipts" means all amounts of income received by the applicant, in the form of money, promissory notes, credit, or any other items of value, for the sale or transfer of goods, or for services provided by the applicant or its employees. In determining gross receipts, the applicant shall not deduct from income receipts or adjust income receipts for any expenses, including but not limited to the cost of material, labor, services, storage, transportation, rent, utilities, interest on loans, insurance, taxes, and any business losses.
  - (3) An applicant shall, within a reasonable time and in no event more than fifteen (15) days from the date of a request, provide any documents deemed necessary by the Labor Commissioner for verifying gross income receipts. Failure to provide the requested documentation or providing any false and misleading information concerning gross income receipts shall constitute grounds for denial of the application or renewal of registration.
- (c) If the Labor Commissioner, a foreign worker or a foreign worker's representative, proceeds against the surety bond and payment is made therefrom to the Labor Commissioner or to the foreign worker or foreign worker's representative, within 60

days the registrant shall take all steps and actions necessary to ensure that a surety bond which meets all of the requirements set forth in subdivision (a) of this section, including the required principal sum, is continuously in place so that there is not a break at any time in the continuity of the protection afforded by the bond. If the registrant at any time fails to provide a surety bond that meets all of the requirements of subdivision (a) of this section, the Labor Commissioner shall suspend and may revoke the registrant's registration, or deny an application to renew registration.

- (d) In the event a contractor closes its business and ceases operating as a foreign labor contractor, the Labor Commissioner will retain the bond in his or her possession for no more than six months after the employer ceases engaging in the business in order to provide for claims arising prior to the closure of the business.

Note: Authority cited: Section 9998.11, Business and Professions Code. Reference: Sections 9998, 9998.1.5, 9998.2.5, 9998.3, 9998.4, 9998.5, 9998.6, 9998.7 and 9998.11, Business and Professions Code.

### **Article 3. Denial of Registration; Suspension and Revocation**

#### § 13858. Actions on Applications and Registrations

- (a) An applicant for registration who fails to qualify for a registration pursuant to the terms specified in Article 2 is subject to denial of their application for registration by the Labor Commissioner.
- (b) A registrant who violates or fails to comply with the provisions of Chapter 21.5 of Division 3 of the Business and Professions Code (commencing with section 9998) or this subchapter applicable to registrants, including the duties of contractors specified in this subchapter, is subject to suspension or revocation of their registration.

Note: Authority cited: Section 9998.11, Business and Professions Code. Reference: Sections 9998.1.5 and 9998.11, Business and Professions Code.

#### § 13859. Notice of Denial, Suspension or Revocation; Notice of Defense

- (a) Denial of an application for registration and revocation or suspension of registration shall be upon proper notice and upon hearing, if appealed. The appeal shall be directed to the Labor Commissioner who shall assign the matter to a hearing officer for hearing. The hearing shall be conducted according to the rules set forth in this article, and except as specifically provided herein, the provisions of Title 2, Division 3, Part 1, Chapter 5 of the Government Code (commencing with Government code section 11500) shall not apply to these proceedings.
  - (1) Proceedings to determine whether a registration shall be revoked, suspended or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which set forth in ordinary and concise language the acts or omissions with which the registrant is charged, and shall specify the statutes or rules which the registrant is alleged to have violated. The accusation shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the Labor

Commissioner's Office (Division of Labor Standards Enforcement).

- (2) Proceedings to determine whether an initial or renewal application for registration shall be denied shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the applicant must show compliance by producing proof at the hearing and, in addition, any particular matters that have come to the attention of the initiating party that would authorize a denial of the application for registration. The statement of issues shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the Labor Commissioner's Office (Division of Labor Standards Enforcement).
- (b) Upon the filing of an accusation or statement of issues, the Labor Commissioner shall serve a copy thereof on the registrant or applicant in a manner provided by Government Code section 11505(c). The copy of the accusation or statement of issues shall include or be accompanied by:
  - (1) a statement that the respondent may request a hearing by filing a notice of defense within 15 days after service upon the respondent of the accusation or statement of issues, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and
  - (2) a form entitled notice of defense which, when signed by or on behalf of the respondent and returned to the Labor Commissioner, will constitute a request for a hearing.
- (c) Within 15 days after service of the accusation or statement of issues, the respondent may file with the Labor Commissioner a notice of defense in which the respondent may:
  - (1) Request a hearing;
  - (2) Object to the accusation or statement of issues on the ground that it does not state acts or omissions upon which the Labor Commissioner may proceed;
  - (3) Object to the form of the accusation or statement of issues on the ground that it is so indefinite or uncertain that the respondent cannot prepare a defense;
  - (4) Admit the accusation or statement of issues in whole or in part; or
  - (5) Present new matter by way of a defense.
- (d) Failure to file a timely notice of defense shall constitute a waiver of respondent's right to a hearing, but the Labor Commissioner, in his or her discretion, may nevertheless grant a hearing.

Note: Authority cited: Section 9998.11, Business and Professions Code. Reference: Sections 9998.1.5 and 9998.11, Business and Professions Code.

§ 13860. Failure to File Notice of Defense; Discovery; Notice of Hearing

- (a) The respondent shall be entitled to a hearing on the merits if the respondent files a timely notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation or statement of issues not expressly admitted.
- (b) If the respondent either fails to file a notice of defense or to appear at the hearing, the Labor Commissioner may take action based upon the respondent's express admissions or upon other evidence, and declarations may be used as evidence without any notice to respondent; and where the burden of proof is on the respondent to establish that the respondent is entitled to the issuance or renewal of a registration, the Labor Commissioner may proceed by default without scheduling a hearing or taking evidence.

- (c) The provisions of Government Code section 11507.6 provide the exclusive right to and method of discovery as to any proceeding to deny an application for registration or to revoke or suspend a registration. A party shall have 20 days from the date of the mailing of the request for discovery to provide the requested discovery to the requesting party. Any party claiming non-compliance with a discovery request made under this section may file with the hearing officer a motion to compel discovery. Any such motion shall be served upon the party from whom discovery is sought within 15 days of that party's failure or refusal to provide the discovery. The party against whom discovery is sought may file a written response to the motion by filing such response within 10 days of service of the motion. The motion may be decided with or without a hearing, at the discretion of the hearing officer. The order denying the motion, or granting the motion in whole or in part, shall be in writing.
- (d) The Labor Commissioner shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing. The notice of hearing shall be in substantially the same form as set forth at Government Code section 11509, and shall include notice of the right to request an interpreter for a party or witness who cannot proficiently speak or understand English.

Note: Authority: Sections 9998.11, Business and Professions Code. Reference: Sections 9998.1.5 and 9998.11, Business and Professions Code; Sections 11425.50, 11505(c), 11514 and 11507.6, Government Code.

#### § 13861. Conduct of Hearing; Rules of Evidence; Role of Hearing Officer

- (a) The hearing shall be presided over by a hearing officer appointed by the Labor Commissioner. A contested hearing shall be conducted in accordance with the procedures set forth in sections 13860 through 13862, inclusive, of this subchapter.
- (b) The hearing need not be conducted according to the technical rules of evidence relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions, except that the rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.
- (c) Hearsay evidence may be used to supplement or explain other evidence, but shall not of itself be sufficient to support a finding. An objection is timely if made before submission of the case.
- (d) The hearing officer appointed by the Labor Commissioner who presides over the hearing, in exercising sound discretion, may control the order of presentation of evidence at the hearing; keep out repetitive and cumulative evidence; and otherwise rule out evidence.

Note: Authority: Section 9998.11, Business and Professions Code. Reference: Section 9998.11, Business and Professions Code.

§ 13862. Rights of Parties at Hearing; Taking of Evidence; Rules of Procedure

- (a) Each party to a hearing shall have the right to appear in person and by counsel; to call and examine witnesses and cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; to rebut evidence; and to introduce documentary exhibits and other evidence.
- (b) Oral evidence shall be taken only on oath and affirmation.
- (c) Declarations may be admitted into evidence at a contested hearing in accordance with the procedure for admitting affidavits set forth at Government Code section 11514.
- (d) The hearing proceedings shall be electronically recorded. In lieu of or supplemental to an electronic recording, the hearing officer shall allow a party to have the proceedings transcribed by a court reporter, provided that the court reporter furnish the Labor Commissioner with a certified copy of the transcript as soon as it is prepared, and that the party requesting that the proceedings be transcribed pay the cost of all transcripts.
- (e) At any time before the matter is submitted for decision, the Labor Commissioner may file or permit the filing of an amended or supplemental accusation or statement of issues. If the amended or supplemental accusation or statement of issues presents new charges, the Labor Commissioner shall afford the respondent a reasonable opportunity to prepare a defense thereto. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or statement of issues may be made orally during the hearing.

Note: Authority: Section 9998.11, Business and Professions Code. Reference: Section 9998.11, Business and Professions Code; Section 11514 of the Government Code.

§ 13863. Proposed Decision; Decision of Labor Commissioner; Judicial Review

- (a) The hearing officer shall prepare a written proposed decision based on the record of the proceedings, including the hearing, which shall contain a statement of the factual and legal basis of the decision, as provided in Government Code section 11425.50. Within 45 days of the conclusion of the hearing, the hearing officer shall transmit the proposed decision to the Labor Commissioner, or his or her designee, who may either:
  - (1) Adopt the proposed decision in its entirety, or
  - (2) Modify any part of the proposed decision, including the order, or
  - (3) Remand the case to the hearing officer for further proceedings. Within 60 days of the conclusion of the hearing, copies of the Labor Commissioner's decision, and the hearing officer's proposed decision attached thereto, shall be delivered to the parties personally or sent to them by certified mail. The decision shall become effective 30 days after it is delivered or mailed to the respondent, unless the decision provides for an earlier date, or a stay of execution has been granted by the Labor Commissioner. A stay of execution may be included in the decision or granted by the Labor Commissioner at any time before the decision becomes effective, and may be accompanied by an express condition that the respondent comply with specified conditions or terms of probation.
- (b) An applicant or registrant aggrieved by a decision issued pursuant to subdivision (a) may seek review of the decision made after a hearing held pursuant to this article by filing a petition for

writ of mandate to the appropriate superior court pursuant to section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition is timely filed with the appropriate superior court, the decision shall be the final administrative order.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Section 9998.11, Business and Professions Code.

#### Section 13864. Periods of Suspension or Revocation

- (a) The Labor Commissioner may in his or her discretion determine whether a registration will be suspended or revoked based on a review of the circumstances related to a registration. Unless there is a specific determination that the circumstances justify a different period, the following periods may be imposed.
- (b) Suspension periods shall be between 30 to 90 days if one of the violations or grounds for disqualification or discipline relates to the failure to disclose required information to a worker or the Labor Commissioner; 3-6 months if two of the violations or grounds relate to the failure to disclose required information to a worker or the Labor Commissioner and 6 months to 1 year if three or more of the violations or grounds relate to the failure to disclose required information to a worker or the Labor Commissioner.
- (c) Revocation shall be between 6 months to 2 years if the contractor is found to have committed fraud toward a worker in connection **with** performing any foreign labor contracting activity or made a material misrepresentation in connection with an application.
- (d) A contractor whose registration is revoked under this section may apply for a new registration upon expiration of a revocation which is for a specified period. An application for new registration shall be denied unless all judgments and settlement agreements related to any failure to comply with laws applicable to foreign labor contractors are satisfied.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1.5, 9998.2.5, 9998.3, 9998.7, and 9998.11, Business and Professions Code.

#### **Article 4. Disclosure to Labor Commissioner of Use of Foreign Labor Contractor**

##### § 13865. Employer Disclosure to Labor Commissioner of Use of Foreign Labor Contractor

- (a) Any person who knows or should have known that he, she, or it is using the services of a person who performs foreign labor contracting activities pursuant to Business and Professions Code 9998.1(b) shall make the disclosures required in this article. Evidence of an employing person's knowledge of a foreign labor contractor's registration status includes but is not limited to, the foreign labor contractor's actual registration status during the period of the contract, as reflected on the registry list at DLSE's website.
- (b) Definitions. For purposes of this article:
  - (1) A person "knows" of the use of services of a foreign labor contractor<sup>22</sup> within the meaning of B&P Code section 9998.2(a) if the person willfully or intentionally uses another person to solicit or recruit a foreign worker ~~(as defined in B&P Code section~~

~~9998.1(c)~~ for employment and the foreign worker was not recruited or solicited by the employing person or an employee of the employing person. A person who employs or otherwise compensates a foreign worker for their labor but did not directly, or through an authorized employee, solicit or recruit a foreign worker, is deemed to have willfully or intentionally used a contractor for purposes of requiring disclosure under this section.

- (2) A person “should have known” of the use of services of a foreign labor contractor within the meaning of B&P Code section 9998.2(a) if the person satisfies any of the following:
  - (A) Fails to exercise reasonable diligence in determining the registration status of any other person who solicited or recruited a foreign worker who is offered or promised employment by the employing person or an authorized employee of the employing person.
  - (B) Employs or otherwise compensates a foreign worker for their labor where the worker was solicited or recruited by another person who is not the employing person or an employee of the employing person and a reasonable prudent person undertaking a regulated activity under the circumstances could ascertain the role of another person who solicited or recruited the foreign worker.
- (3) A person who uses the services of a foreign labor contractor for the purpose set forth in subdivision (b)(1) of this section is the employing person. “Employing person” means the person who is an “employer” within the meaning of B&P **Code §9998.1(b)** who will employ or otherwise compensate a foreign worker for labor services.
- (c) To make the required disclosure, the employer’s designated agent pursuant to Business and Professions Code §9998.2(b)(1) shall complete and submit form DLSE 704 to the Labor Commissioner by email at [foreignlaborcon@dir.ca.gov](mailto:foreignlaborcon@dir.ca.gov) or by mail to: Labor Commissioner, Licensing & Registrations Unit-FnLC, 1515 Clay Street, **4<sup>th</sup> Floor Suite 401**, Oakland, CA 94612. The disclosure shall contain the following information to be provided by the employing person who will use a foreign labor contractor:
  - (1) Identifying information regarding the employing person.
    - (A) The employing person’s full legal name
    - (B) All names under which the employing person is doing business as, or has done business as, within the previous three years;
    - (C) Current physical business address (number, street, city or town, county, state, zip code) and preferred mailing address if different than physical business address, preferred email address, and home physical address of the employing person (if a sole proprietor), ~~for each partner in a partnership, each member of an LLC, or each corporate officer of a corporation.~~ Include foreign address, if applicable. If the current address information subsequently changes, the employing person must immediately, but no later than ten (10) days thereafter, advise the Labor Commissioner of the change;
    - (D) Main business telephone number and mobile telephone number used in conducting business, and preferred email address;
  - (2) Information regarding the foreign labor contractor and employment of foreign workers.
    - (A) Name, current physical business address (number, street, city or town, county, state, zip code) and preferred mailing address if different than physical business address,

- preferred email address, main business telephone number and mobile phone number of person designated by employing person to work with the foreign labor contractor.
- (B) Type of business operated by employing person, specifying the industry and function, goods and/or services provided by employing person.
- (C) The following employment information, current as of the date of disclosure, shall be provided:
- (i) Physical address (number, street, city or town, county, state, zip code) of locations of business operations where foreign workers will work in California.
  - (ii) Number of foreign guest workers that will perform labor for the employing person.
  - (iii) Start and end dates of the time period during which foreign workers will perform labor for the employing person.
  - (iv) Federal visa classification/program authorizing foreign workers who will perform labor for employing person.
  - (v) Name and brief description of positions to be filled by the foreign workers who will be performing labor for employing person.
  - (vi) Number of foreign labor contractors the employing person will use to solicit or recruit foreign labor.
- (3) Name, current business address (number, street, city or town, county, state, zip code) and mailing address if different than physical business address, email address, main business telephone number and mobile phone number of each foreign labor contractor who will provide soliciting or recruiting services for the employing person for each operation identified in subdivision (2)(C).
- (4) Consent, by an express certification statement and pursuant to Business and Professions Code section 9998.1.5(b)(2), to the designation of the Labor Commissioner by an appropriate civil court of the Commissioner as the employing person's agent to accept service of summons in any action against a employing person in the event that employing person has left the jurisdiction in which the action is commenced or otherwise become unavailable to accept service.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1.5, 9998.2, 9998.2.5, and 9998.11, Business and Professions Code.

#### § 13866. Validity and Duration of Disclosure

Disclosure made pursuant to section 13865 of this article shall be valid for one year from the date of disclosure, absent any changes to the information previously provided pursuant to section 13865(c) of this article, which shall be reported by amendment pursuant to section 13867.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.2 and 9998.11, Business and Professions Code.



§ 13867. Amended Disclosure

- (a) If any of the information disclosed pursuant to sections 13865(c)(1) through (c)(3), inclusive, changes following the submission of an initial disclosure, the employing person shall complete, sign and submit an amended disclosure (DLSE 704 A) to the Labor Commissioner by email at [foreignlaborcon@dir.ca.gov](mailto:foreignlaborcon@dir.ca.gov) or by mail to: California Labor Commissioner, Licensing & Registrations-FnLC, 1515 Clay Street, **Suite 401 4<sup>th</sup> Floor**, Oakland, CA 94612, within fifteen (15) days of the change.
- (b) The amended disclosure (DLSE 704 A) shall identify the name of the employer (legal and “doing business as” names, if different), the date on the initial or previous disclosure submitted, indicate what information provided pursuant to section 13865(c) of this subchapter has changed, and shall provide updated information for each identified category of information that has changed.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.2 and 9998.11, Business and Professions Code.

§ 13868. Contracting with an Unregistered Foreign Labor Contractor

It shall be unlawful for an employing person to knowingly, directly or indirectly, enter into an agreement to recruit or solicit foreign guest workers with a foreign labor contractor who has not registered with the Labor Commissioner pursuant to the regulations set forth in this subchapter. Knowledge may be established where the employing person (employer) has actual knowledge that the contractor is not registered or where the person should have known that the contractor was **not** registered under particular circumstances which includes, but is not limited to, a failure by the person or employee of the person to reasonably exercise due diligence in view of the contractor registration requirement and the prohibited use of an unregistered contractor.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.2, 9998.8 and 9998.11, Business and Professions Code.

**Article 5. Prohibited Fees & Costs; Post-Hire Costs and Expenses;  
Disclosures to Foreign Worker by Contractor**

§ 13870. Unlawful Recruitment Fees

- (a) “Recruitment fee” **and** means any fee, charge, cost, expense, assessment or other financial obligation, regardless of the manner or timing of their imposition, requested or demanded upon a **prospective** foreign worker **by a contractor** which relates to any foreign labor contracting activity, as defined in B&P Code section 9998.1(b), including “soliciting” or “recruiting” activities, as defined in Section 13850 of this subchapter. Any fee, charge, cost, assessment or other financial obligation is a fee regardless of whether it is deducted from wages, a wage or benefit concession, kickback, bribe, or tribute, remitted in connection with recruitment which is subsequently collected by an employer or third party, including but not

limited to agents, recruiters, staffing firms (private employment or placement businesses), subsidiaries or affiliates of the employer and any agent or employee of the employer.

(1) Recruitment fees include, but are not limited to payments or indebtedness in any form for the following:

- (A) Applications, including making recommendations, reserving, committing, considering, interviewing, referring, **placing**, retaining, transferring, selecting;
- (B) Pre-departure or post-arrival skills testing, training, or orientation, including, but not limited to, testing of competency or skill level in foreign languages, strength, or machinery use;
- (C) Advertising;
- (D) Certifying labor applications;
- (E) Processing petitions;
- (F) Visa **Processing and visa processing fees**, including fees for appointments, applications, exit clearances or certificates;
- (G) Work permits, residence certificates, and security clearances, including renewals;
- (H) Border crossing and other sending, transit, or receiving country government-mandated fees, levies, and insurance;
- (I) Procuring photographs and identity documentation, including any nongovernmental passport fees;
- (J) Notarization, translation, and any other documentation services;
- (K) Medical examinations and immunizations required to apply for job opportunity;
- (L) Medical examinations or vaccinations in sending country
- (M) Background, reference and security clearance checks and examinations;
- (N) Gratuities, bribes, and tributes;
- (O) Security deposits and bonds;
- (P) Employer's agent **or third party** fees for recruiter, **labor broker**, attorneys, notaries and other legal fees;
- (Q) Contributions to worker benefits programs provided by sending country government;
- (R) Transportation and subsistence costs while in transit from the sending to receiving country, including, but not limited to, airfare or costs of other international transportation, terminal fees, travel taxes and return journey;
- (S) Transportation and subsistence costs from airport or disembarkation point to worksite;
- (T) Collateral requirements, such as land deeds;**
- (U) Fees to secure future employment opportunities.**

(2) Amounts which are added to, or padded upon, expenses authorized under the applicable federal visa program pursuant to federal rules and regulations which are beyond actual amounts for a specifically authorized expense may constitute a recruitment fee if it is for collection for items specified in, or subject to, this section.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1, 9998.2.5, 9998.8 and 9998.11, Business and Professions Code.

§ 13871. Recruitment Fees and Costs Prohibited

A foreign labor contractor, on their own behalf or on behalf of an employer or any other third party, shall not, either directly or indirectly, charge, assess, collect, request, or demand any amount which constitutes a recruitment fee, as defined in Section 13870, or otherwise create, request, or demand any financial obligation or indebtedness upon a **prospective** foreign worker which relates to any foreign labor contracting activity, as defined in B&P Code section 9998.1(b) which includes “soliciting” or “recruiting” activities, as defined in Section 13850 of this subchapter.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1, 9998.2.5, and 9998.11, Business and Professions Code.

§ 13872. Other Fees, Costs, and Expenses Prohibited **Post-Hire/Selection**

~~(a) A foreign labor contractor, or agent or employee of a contractor shall not, directly nor indirectly, charge, assess, collect, request, or demand any fee to a foreign worker which relates to:~~

~~(1) A foreign worker’s visa.~~

~~(2) Processing of any requirements imposed by an employer or any third party, including labor broker services.~~

~~(3) Transportation.~~

~~(4) Legal expenses.~~

~~(5) Worker placement.~~

~~(6) Other costs for conducting foreign labor contractor activities which are incurred directly by the labor contractor or incurred on behalf of an employer.~~

~~(b) A foreign worker hired or selected to work for an employer in California shall not be charged or otherwise be required to pay any costs or expenses prior to commencement of work. Nor shall a worker be required to pay any costs or expenses which are not customarily assessed against workers similarly employed in the United States.~~

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1, 9998.2.5, and 9998.11, Business and Professions Code.

§ 13873. **Potentially** Allowable Post-Hire Costs and Expenses to be Itemized and Disclosed

(a) A contractor shall identify and disclose to a worker in the manner specified in Section 13874, any and all costs or expenses, including amounts, if any, charged to the worker while working in the state, **including for items listed in B&P Code section 9998.2.5, as long as these costs, expenses, or deductions are customarily assessed against similarly-employed workers in the United States and permitted under governing state and federal law, for the following:**

~~(1) Housing or living accommodation that is limited to market rate for similar housing~~

~~(2) Transportation to and from work~~

~~(3) Meals~~

~~(4) Medical examinations~~

~~(5) Healthcare~~

~~(6) Safety equipment costs~~

~~(7) Education or training to be provided or is otherwise required~~

(b) If there is no amount to ~~any of the items in subsection (a)~~ **be charged**, the disclosure shall indicate "none."

~~(c) Any other costs, expenses, or deductions to be charged the worker which is not a fee or cost prohibited under Sections 13871 and 13872, shall be identified and disclosed to a worker, including the amount.~~

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1, 9998.2.5, **9998.8(e)**, and 9998.11, Business and Professions Code.

§ 13874. Disclosure by Contractor to Worker

- (a) At the time of recruitment, ~~but in no event later than the time for applying for a work visa~~, a contractor shall disclose to each worker in writing on a form (DLSE 703) the information specified in subsection (b). Within 7 days of disclosure to the worker, the labor contractor shall transmit to the Labor Commissioner, by email at [foreignlaborcon@dir.ca.gov](mailto:foreignlaborcon@dir.ca.gov) or by mail to: California Labor Commissioner, Licensing & Registrations Unit-FnLC, 1515 Clay Street, ~~4<sup>th</sup> Floor~~ **Suite 401**, Oakland, CA 94612, the full disclosure form executed by the contractor along with a separate list of workers who received the same work contract. A separate disclosure is required for different work contracts.
- (b) The disclosure to be provided to a worker when conducting a recruiting activity shall include:
- (1) Name of the prospective worker who is provided the form.
  - (2) Employer information pertaining to the prospective employment opportunity for which the labor contractor is recruiting.
    - (A) Employer's full name and any fictitious (doing business as) names used by the **contractor employer**.
    - (B) Employer's business address (physical address and phone number).
  - (3) Foreign labor contractor information pertaining to each person (each contractor and, if any, each subcontractor or agent) who is performing solicitation and/or recruitment activities.
    - (A) Labor Contractor's full name and any fictitious (doing business as) names used by the labor contractor.
    - (B) Labor Contractor's phone number.
    - (C) Registration number issued by the Labor Commissioner along with a statement that only recruiters who are registered by the Labor Commissioner may recruit workers for employment in California.
  - (4) Type of federal visa, length of time for visa, indicate who will be responsible for renewing visa, and a statement that any other expenses associated with renewing the visa shall be paid by the employer.
  - (5) Training. A statement that the person shall not be charged for training relating to the prospective employment and indicate whether or not training is a condition of

employment and whether it will be provided, the time period of training, and the rate of pay during training.

- (6) Attach to the disclosure a copy of an employer signed work contract detailing all assurances and terms and conditions of employment. The work contract shall contain the following required information and the contractor shall indicate on the form whether the item is included in the contract. If a particular category of information does not apply, it must be so stated in the contract. A job order signed by the employer and submitted to the U.S. Department of Labor for purposes of obtaining foreign labor certification which contains all of the information in this subsection may be used to satisfy this requirement if it contains the same information as the actual work contract with the foreign worker.
- (A) Salary or wage rate, **including any production standards**
  - (B) Itemized withholdings and deductions
  - (C) Other compensation (e.g. paid sick leave, paid vacation, health insurance, dental insurance, disability insurance, life insurance)
  - (D) Place (address) of employment
  - (E) Accessible by public transportation (yes or no)
  - (F) Start and end dates of employment
  - (G) Position or job title
  - (H) Job duties
  - ~~(I) Full-time or part-time~~
  - ~~(J) (I) Weekly schedule~~
  - ~~(K) (J) Any guarantee~~ **Guarantee** that employer will offer work for hours equal to at least three-fourths of the workdays in each 12-week period **(or 6-week period for employment periods lasting less than 120 days)**
  - ~~(L) (K) Any penalties~~ **Penalties** for terminating employment, **to the extent that such penalties do not violate governing state or federal law**
  - ~~(M) (L) Notice~~ that employer will provide workers with all tools, supplies, and equipment necessary to perform the job at no cost to the employee.
- (7) A statement that no additional requirements may be added or any other changes made to the work contract unless the worker is:
- (A) Given 48 hours to review and consider the additional requirements or changes, and
  - (B) Gives specific consent, voluntarily and without threat of penalty to each additional requirement or change to the work contract.
- (8) Prohibited costs, expenses, or fees.
- (A) A statement that no costs, expenses or fees may be charged prior to commencing work and the cost of any tools, supplies or equipment necessary to perform the job shall be paid by the employer.
  - (B) List of prohibited recruitment fees which include items specified in Section 13870 **and 13872.**
- (9) Itemized allowable post-hire costs, expenses, or fees as specified in Section 13873.
- (10) Contains the following statements regarding rights of a prospective or hired foreign worker, **and** enforcement instructions which substantially states the following, **and includes as an attachment the Department of Industrial Relations flyer, All Workers in California Have Rights (or a subsequent worker rights flyer with updated information):**

- You are protected by both California and federal law (California Business and Professions Code **Division 3, Chapter 21.5, Section 9998 and** the federal Trafficking Victims Protection Act of 2000 (Division A, Public Law 106-386), **and federal H-2B regulations at 20 C.F.R. Part 655 and 29 C.F.R. Part 503**).
  - The foreign labor contractor who recruited you must register and post a surety bond with the state, and must comply with all of the prohibitions and requirements detailed above.
  - Your employer may only use registered foreign labor contractors to recruit foreign guest workers, and must notify the California Labor Commissioner that it is employing foreign guest workers.
  - Your employer must comply with all applicable state laws, including minimum wage and all of the prohibitions and requirements detailed above. **The attached flyer describes your rights as a worker under California law.**
  - The foreign labor contractor and the employer may not intimidate, threaten, restrain, coerce, fire, ~~or demote,~~ **or discriminate against you or your family in retaliation for** you ~~for exercising enforcing~~ any of your rights as a foreign guest worker.
  - If a foreign labor contractor violates the registration law, the foreign labor contractor may be fined by the state, and you or the state may sue the foreign labor contractor for injunctive relief (to stop the violation) or damages (money).
  - If a foreign labor contractor violates the registration law, or your employer does not comply with requirements or prohibitions stated in this disclosure, including workplace laws, you may call {toll free number} **1-844 LABOR-DIR (or 1-844-522-6734)** or contact the nearest office of the California Labor Commissioner (list attached) to report the violation. Spanish-speaking workers may call 1-877-552-9832 (1-877-55AYUDA) for assistance.
  - If you feel you are being forced to perform labor against your will, contact the National Human Trafficking Resource Center: Call 1-888-373-7888 –or- Text HELP to 233733.
- (11) The labor contractor shall execute a declaration, under penalty of perjury that the information included in the disclosure and attached work contract are true and complete and provided to the prospective or hired worker. Any material misrepresentation is grounds for denial, suspension, or revocation of the labor contractor’s registration by the Labor Commissioner.
- (c) The disclosure of the information required under (a) and (b) shall be in English and in the primary language of the worker who is being recruited. The contractor or employer is responsible for translating the disclosure form and work contract which is provided to the worker and Labor Commissioner. A worker may not be directly or indirectly charged or otherwise made responsible for translating the disclosure to/from English to/from another language. The Labor Commissioner, in his or her discretion, may request a certification of any translation of the disclosure and work contract from a contractor who shall respond within 10 days of the request. The Labor Commissioner may also provide translation of the disclosure form alone (not including work contract) in languages more commonly used based on actual use in the foreign worker programs and, if so, will make such translated forms available on the Labor Commissioner’s website.

Note: Authority: Section 9998.11, Business and Professions Code; Reference: Sections 9998.1, 9998.1.5, 9998.2.5, 9998.3, 9998.6, 9998.7, and 9998.11, Business and Professions Code.