

Foreign Labor Certification

MEAL CHARGES AND TRAVEL SUBSISTENCE

ALLOWABLE MEAL CHARGES AND REIMBURSEMENTS FOR DAILY SUBSISTENCE

Effective on or after [March 21, 2018]

March 22, 2018. *Federal Register* Notice. Labor Certification Process for the Temporary Employment of H-2A and H-2B Foreign Workers in the United States: Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging

The Employment and Training Administration (ETA) of the Department of Labor has issued a Notice to announce the annual update to the allowable charges that employers seeking H-2A workers in occupations other than range herding may charge their workers when the employer provides three meals a day and the maximum travel subsistence meal reimbursement that a worker with receipts may claim under the H-2A and H-2B programs. The [“Notice”](#) also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence.

Allowable Meal Charge to Workers

In its job offer to U.S and H-2A workers, the employer either must state that it will provide each worker with three (3) meals a day *or* furnish free and convenient cooking and kitchen facilities to the workers that will enable the workers to prepare their own meals. If the employer is going to provide the meals to the workers, the job offer must state the charge, if any, to the worker for such meals.

Until the Department publishes a new amount or approves a higher amount based on a request from an employer, the job offer must not charge a worker more than the following amount for meals:

Maximum Meal Charge: \$ 12.26 per day

Daily Subsistence Amounts for Workers Traveling

In its job offer to U.S. and H-2A workers, the employer must state the minimum and maximum amounts of money that workers will receive for daily subsistence when traveling to and from the place of employment. For workers who complete 50 percent or more of the work contract period, the employer must pay workers for subsistence expenses incurred traveling from the place the worker came to the place of employment. If the worker either completes the work contract period or is terminated without cause, and the worker has no immediate subsequent H-2A employment,

the employer must pay workers for subsistence expenses incurred traveling from the place of employment back to the place the worker came from to work for the employer.

Until the Department publishes a new amount, the job offer must state that the worker will receive the following amount(s) for daily subsistence while traveling:

Minimum: \$ 12.26 per day⁽¹⁾

Maximum: \$ 51.00 per day⁽²⁾ (with documentation of actual expenses)

The employer must also provide or pay the reasonable costs for lodging where lodging is necessary. If not provided by the employer, the amount an employer must pay for transportation and, where necessary, lodging must be no less than (and is not required to be more than) the most economical and reasonable costs.

Important Notes:

(1) Under the regulations, the amount of money that a worker can receive for daily subsistence must be at least as much as the allowable meal charge while employed with the employer.

(2) The maximum daily rate is based on the standard rate for the Continental United States (CONUS) covering meals and incidental expenses as published by General Services Administration (GSA) at <http://www.gsa.gov/perdiem>

(3) The employer is responsible for those costs necessary for the worker to travel to the worksite if the worker completes 50 percent of the work contract period, but is not responsible for unauthorized detours or unnecessary costs

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