

Determining Prevailing Wage Requirement for Visas of Domestic Workers

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TO ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE SUBJECT:
DETERMINING PREVAILING WAGE REQUIREMENT FOR VISAS
OF DOMESTIC EMPLOYEES REF: (A) 04 STATE 067428 (B) 9 FAM 41.21 N6.2
(C) 9 FAM 41.31 N6.3-2

1. The Department of Labor's prevailing wage statistics for alien labor certification requirements have been updated for 2005. The Department of State considers these prevailing wage statistics to most closely reflect a fair living wage for servants and personal employees, and instructs consular officers to rely upon these figures when determining whether employment contract provisions satisfy applicable prevailing wage requirements in Refs B and C for applicants of A-3, G-5, NATO-7 and B-1 visas for domestics. DOL maintains an Alien Labor Certification/Occupational Employment Survey (ALC-OES) database that breaks down prevailing wage statistics by occupation and metropolitan area. This information is available on the web at www.flcdatacenter.com.
2. The Level One hourly prevailing wage for 2005 in the ALC-OES database for "Maids and Housekeeping Cleaners" is \$9.86/hour in the New York City area, \$7.08/hour in the Washington, DC area, and \$6.07/hour in the Miami, FL area.
3. Consular officers should ensure that the terms of the contract are clear and that they conform to the requirements of 9 FAM 41.21 N6.2 and 41.22 N4.4, including in particular payment for time the employee is required to remain on premises after hours, employee's retention of passport, and employee's right to leave the premises when not on duty. At the time of interview, consular officers should inform all domestic workers that they will be subject to and protected by U.S. law while in the United States, that their contracts create obligations on the part of both employee and employer.
4. Domestic workers should be advised that the U.S. Government considers "involuntary servitude" of domestic workers, as defined under the Trafficking Victims

Protection Act (TVPA), to be a severe form of trafficking in persons (TIP) and a serious criminal offense; victims of involuntary servitude are offered protection under the TVPA. According to the TVPA "The term 'involuntary servitude' includes a condition of servitude induced by means of (A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraints; or (B) the abuse or threatened abuse of the legal process." Consular officers should also make domestic workers aware that the telephone number for police and emergency services is 911, and that the Department of Health and Human Services maintains a telephone hotline for reporting abuse of domestic employees and other TIP-related crimes, 1-888-3737-888.

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