

The Secretary of State presents his compliments to the Heads of International Organizations and has the honor to refer to the Department's previous circular diplomatic notes that set forth the legal requirements and Department of State policy regarding the employment of foreign domestic workers by international organization personnel. The Department has emphasized to the Heads of International Organizations that it places a high priority on the fair and equitable treatment of domestic workers, and that the Department looks to them to provide oversight of personnel who employ these workers.

The Department wishes to inform that the employment of nonimmigrant domestic workers by international organization personnel has been designated a benefit under the Foreign Missions Act. This benefit shall be provided on such terms and conditions as the Department of State may approve. As before, international organization personnel who sponsor domestic workers must abide by all requirements of the Domestic Worker Program, including new requirements (enclosed). From this date forward, if such requirements are not fully met, the Department may suspend participation in the program by declining to accept pre-notification requests of upcoming domestic workers for the mission member, or for all members of the mission if warranted by the circumstances.

DIPLOMATIC NOTE

Please note that the designation does not impair the Secretary of State's authority to suspend, in appropriate circumstances, the issuance of A-3 or G-5 visas to domestic workers seeking to work for officials of a diplomatic mission or an international organization under the Wilberforce Reauthorization Act.

Please contact domesticworkers@state.gov with any questions.

Enclosure:

As stated.

Department of State,

Washington, September 19, 2018.



Domestic Worker Program Requirements

Foreign mission members and International Organization (IO) personnel who employ a foreign domestic worker (“employers”) must abide by all requirements of the Domestic Worker Program and must respect all applicable U.S. federal, state, and local laws and regulations.

In addition, the Office of the Chief of Protocol requires that employers accept and comply with the following Domestic Worker Program requirements:*

- Facilitation of their domestic workers’ participation in the S/CPR Domestic Worker In-Person Registration Program;
- Provision of assistance, as needed, to the domestic worker to establish a bank account in the United States in his/her name only;
- After the first 30 days of employment in the United States, payment of salary made exclusively by check or electronic funds transfer to the domestic worker’s U.S. bank account;
- Provision of a pay slip at the time of wage payment to the domestic worker noting the hourly wage, overtime wage, and the number of hours worked in the pay period and any required deductions to fulfill tax and social security obligations. No other deductions are permitted.
- Maintenance of contemporaneous timekeeping and payment records and the retention of such records for three years after employment ends, as well as provision of copies of the records to the Department of State upon request;
- Establishment of employment contracts that include all Department required terms in English, and if the domestic worker does not understand English, also in a language the domestic worker understands;
- Timely request, through the employer’s foreign mission or IO, of extensions of A-3 or G-5 status for the domestic worker prior to expiration of the domestic worker’s authorized period of stay in the United States, such that there is sufficient time to allow such requests to be processed before the expiration of the domestic worker’s authorized period of stay;

* Not all of these requirements are in the required contract terms.

- Prohibition of all salary deductions, except as required by law;
- Exclusive employment of the domestic worker by the employer who signed the contract; and
- Provision of at least 35 hours a week of compensated employment.

The following are new, additional Domestic Worker Program requirements:

- Employers may not be related to the domestic worker they employ (exceptions will be made on a case-by-case basis, e.g., for the care of a disabled family member);
- Employers or the employer's foreign mission or IO must cover the medical expenses of domestic workers while they are in the United States;
- Employers under investigation for abuse or exploitation of a domestic worker or a pattern of repeated domestic worker terminations will not be able to participate in the Domestic Worker Program unless and until the matter is resolved;
- Chiefs of Mission, Deputy Chiefs of Mission, and Principal Officers may generally sponsor only two domestic workers. Other qualified employers may generally sponsor only one domestic worker. Members of the administrative and technical staff, service staff, miscellaneous foreign government office personnel and their equivalents may generally not sponsor any; and
- Missions and IOs that wish to participate in the Domestic Worker Program must agree that if any of their personnel request that a domestic worker be accompanied by a dependent, the mission/IO will submit a Dependent Protection and Oversight Plan signed by the Chief of Mission/senior IO official to accompany the pre-notification request. The Plan must include regular monitoring of the dependent's welfare and living conditions, with increased oversight for minors, and written semi-annual certification by the employee, the employer, and the employer's mission/IO that the dependent is not working in the United States.

While these are the current Domestic Worker Program requirements, we anticipate that this framework may evolve in the future based on changing circumstances. Foreign missions and IOs will be provided reasonable notice of changes.