

**MINISTRY OF LABOR
NATIONAL IMMIGRATION COUNCIL**

NORMATIVE RESOLUTION NR.61, DECEMBER 8, 2004

Regulates the provisions for the concession of a work permit to a foreign citizen that is not employed by a Brazilian firm and that enters the country in order to work under a technology transfer contract, a technical assistance contract and a cooperation agreement/convention or under an emergency situation.

THE NATIONAL IMMIGRATION COUNCIL, instituted through Law nr. 6.815, August 19, 1980, organized according to Law nr. 10.683, May 28, 2003, and empowered by Decree nr. 840, June 22, 1993, determines:

Art. 1 A foreign citizen that that is not employed by a national firm and enters Brazil in order to render assistance during an emergency situation, for technological transfer or technical assistance purposes during the contractual period of a cooperation agreement or convention signed between legal Brazilian and foreign entities, can be granted a non-extendable work permit and a temporary visa foreseen in point V, of art. 13 of Law nr.6.815, August 19, 1980 and altered by Law nr.6.964, December 9, 1981.

Sole paragraph. Administrative, financial and managing posts are not considered technical assistance.

Art. 2. The request must be addressed to the Ministry of Labor and accompanied by the following documents:

- 1 – request for a work permit according to the model approved by the Ministry of Labor, signed by the legal representative of the requesting firm;
- 2 – proof of the foreign citizen's professional experience, minimum of three years, in an activity related to the contracted services;
- 3 – original receipt of the payment of individual immigration tax – DARF, code 6922;
- 4 – document on the constitution of the requiring firm;
- 5 – document of election, designation or appointment of the representative or administrator of the requiring firm;
- 6 – letter signed by the contracting firm assuming full responsibility for the repatriation of the foreigner at the end his/her services, if the legal document signed with the foreign firm is recalled/cancelled or if the contract of the foreign employee with the foreign contracting firm is recalled/cancelled;
- 7 – letter signed by the contracting party assuming full responsibility for all and any medical and hospital expenses incurred by the contracted foreigner, as well as his/her dependents, during the period of stay in Brazil;
- 8 – notarized copy of one of the documents that demonstrates the situation referred to in art. 1 of this Normative Resolution, such as:

- a) document issued by the Internal Revenue Service, in the case of acquisition or sale of technical assistance equipment;

- b) document signed by the concerned parties in the case of technical cooperation between firms within the same group, as well as proof of the association;
- c) certified document, in foreign currency, between the Central Bank of Brazil and the foreign legal entity;
- d) contract, agreement or convention.

9 – a detailed training program and the number of Brazilians that will be trained according to the contract, agreement or convention as well as a detailed specification of the professional qualifications of the foreigner, the scope of the training program, its model of execution, its location, duration and its objectives/results.

§ 1. The documents must clearly indicate their objective and present the program for the transfer of science/technology and/or technical assistance training to a Brazilian, show any type of remuneration, the periods of enforcement and deadlines as well as any further clauses and contractual provisions.

§ 2. The requiring firm shall inform the Ministry of Labor on all of the locations where the foreigner will work as well as on eventual changes to the work location.

§ 3. The representative of the contracted foreign firm must present proof of his/her legal power to sign the contract or legal agreement through the presentation of documents that empowers him/her with the power of representation and according to current legislation in the country of origin.

§ 4. If the contract is written in a foreign language it must, apart from consular legalization, be translated by an authorized translator.

§ 5. The Ministry of Labor may deny the request if there is circumstantial evidence that national workmanship is being substituted with foreign professionals and will cancel the permit(s) if a Fiscal Labor Inspector finds that the foreigner is employed by the national firm.

Art. 3. New work permits and or extensions to the same are conditioned to the presentation of proven results reached by the Training Program foreseen in point 9 of art.2 of the present Normative Resolution.

Art. 4. The work permits referred to in this Normative Resolution will have a validity period of one year and can, if justifiable, be extended for an equal period of time.

Sole paragraph. If the contracting firm is interested in continuing to employ the foreign citizen it must contract him/her according to Brazilian labor legislation.

Art. 5 Contracts containing guarantee clauses will be granted successive work permits by the Ministry of Justice as long as the guarantee is enforced.

Art. 6 If the contracting party needs to employ the foreign citizen hired for the rendering of technical assistance services for a period of up to ninety days, it can apply for the temporary permit under the protection of point V of art.13 of Law nr.6.815 and altered by Law nr. 6.964/81 through the presentation of the following documents:

- 1 – request for a work permit;

- 2 – data on the contracting and contracted party;
- 3 – proof of the foreign citizen's professional experience, minimum of three years, in an activity related to the contracted services;
- 4 – original receipt of the payment of individual immigration tax – DARF, code 6922;
- 5 – document on the constitution of the requiring firm.

Sole paragraph. The Ministry of Labor may, based on this article, grant new work permits to the same foreigner.

Art. 7 During an emergency situation and at the criteria of Consular authorities, the same foreigner may be granted a single non extendable thirty day temporary permit for each ninety day working period, foreseen in point V of art.13 of Law nr. 6.815/80 and altered by Law nr. 6.964/81, without having to comply with the formalities included in this Normative Resolution.

Sole paragraph. It is understood as an emergency situation the situation that is an imminent threat to life, the environment, the national patrimony or that has interrupted the production chain or the rendering of services.

Art. 8 Normative Resolution Nr.55, August 27, 2003 is hereby revoked.

Art. 9 This Normative Resolution enters into effect on the date of its publication.

NILTON FREITAS
President of the National Immigration Council

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