

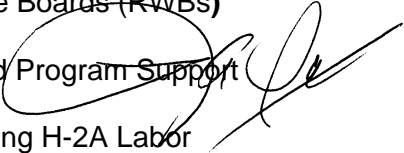


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AWI Communiqué

DATE: November 27, 2007

TO: Workforce Florida, Inc. and Regional Workforce Boards (RWBs)

FROM: Lois A. Scott, Program Manager, One-Stop and Program Support 

SUBJECT: Clarification of Certain Procedures for Processing H-2A Labor Certification Applications

PURPOSE:

To notify the Regional Workforce Boards (RWBs) of their responsibility to verify the employment eligibility of any worker referred to an employer in response to an H-2A job order.

REFERENCE:

Immigration and Nationality Act (INA) Section 101(a) (15) (H) (ii) (a); INA Section 218; 20 Code of Federal Regulations (CFR) 651.10; 20 CFR Part 653 Subparts B and F; 20 CFR Part 654, Subpart E; 20 CFR Part 655, Subpart B; 20 CFR Part 658, Subpart F; Field Memorandum No. 16-00; Training and Employment Guidance Letter No. 31-01; General Administration Letter No. 1-02.

BACKGROUND:

The H-2A nonimmigrant visa program permits employers to hire foreign workers to come temporarily to the U.S. and perform agricultural labor or services of a temporary or seasonal nature. The H-2A visa classification requires the intending employer, prior to filing a petition for one or more H-2A workers with the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS), to apply to the Secretary of Labor for a certification that: (1) there are not sufficient workers who are able, willing, qualified, and available at the time and place where the H-2A worker is to perform the work and (2) employment of the H-2A worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

The National Processing Center (NPC) having jurisdiction over the state in which the area of intended employment is located is responsible for processing a request for H-2A labor certification. The NPC responsibilities include reviewing the application for acceptance, directing the State Workforce Agencies (SWA) to clear the job order through the intrastate and interstate clearance system, ensuring the employer meets positive recruitment requirements, and making a final determination with respect to granting or denying certification for all or some of the job opportunities requested. The SWA with which the employer files a concurrent request for H-2A labor certification, is responsible for placing a job order, using information submitted by the employer on its

job offer for intrastate and interstate clearance, and where necessary, performing inspections to ensure that housing meets the applicable standards.

AUTHORITY:

United States Department of Labor

ACTION REQUIRED:

Regional Workforce Boards must verify the employment eligibility of any worker referred to an employer in response to an H-2A job order. The RWBs are asked to distribute this guidance to the appropriate staff at the local levels.

LINK:

Training and Employment Guidance Letter - [TEGL 11-07](#)

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