

**Office of Foreign Labor Certification**  
**H-2A Employer Filing Tips**  
**May 2012**

The following “filing tips” are based on the Chicago National Processing Center’s experience in processing H-2A applications during the previous filing season. These filing tips are intended to alert employers to common filing mistakes which can delay the processing of an H-2A application. Employers can obtain more detailed information on the H-2A program, including Frequently Asked Questions (FAQs), by visiting the OFLC website at: <http://www.foreignlaborcert.doleta.gov/h-2a.cfm>.

### Pre-Filing

- ④ When preparing your agricultural job order, please use the ETA Form 790 *Agricultural and Food Processing Order* and ensure the form is **signed and dated by the employer; not the employer’s authorized representative.**
- ④ Remember to **first** submit your agricultural job order to the State Workforce Agency (SWA) serving the area of intended employment **no fewer than 60 and no more than 75 days before your start date of work.**
- ④ At the time of submitting your agricultural job order to the SWA, remember to request an inspection of all housing the employer intends to provide to workers.
- ④ Be specific on the ETA Form 790 when describing what type of agricultural work will be performed and identify the crops or commodities to be produced.
- ④ If the employer is offering an hourly wage rate, please make sure to use either
  1. The current Adverse Effect Wage Rate (AEWR), which is established by the Department and available at:  
<http://www.foreignlaborcert.doleta.gov/adverse.cfm>

**OR, IF HIGHER**

  2. The current prevailing hourly wage rate, which is established by the SWA and available at: <http://www.foreignlaborcert.doleta.gov/aowl.cfm>.

- ④ Remember to disclose the current amounts for transportation and daily subsistence payments to workers in your agricultural job order, which are available at: [http://www.foreignlaborcert.doleta.gov/meal\\_travel\\_subsistence.cfm](http://www.foreignlaborcert.doleta.gov/meal_travel_subsistence.cfm)
- ④ When disclosing the contract impossibility guarantee in your agricultural job order, please make sure the terms and conditions are consistent with the minimally sufficient language the Department finds acceptable, which is available on the FAQs page of the OFLC website at: <http://www.foreignlaborcert.doleta.gov/fagsanswers.cfm#h2ajoboffers24>
- ④ Ensure all job qualifications and requirements disclosed in your agricultural job order are bona fide and consistent with those considered to be normal and accepted by employers that do not use H-2A workers in the same or comparable occupations and crops.

We recommend you consult the OFLC's Agricultural Employment Practices Survey Library at [http://www.foreignlaborcert.doleta.gov/aowl\\_survey\\_pdf.cfm](http://www.foreignlaborcert.doleta.gov/aowl_survey_pdf.cfm) for more information about prevailing employment practices and acceptable experience requirements for agricultural jobs.

- ④ If you are unable to include all of the relevant information pertinent to an item on the ETA Form 790, please include an attachment. All attachments should be clearly labeled, and if possible, reference the ETA Form 790 item number to which they correspond. For example, if more space is required to list all job specifications, the employer may reference on the attachment "Item 15 – Job Specifications (Continued)."

## Filing

- ④ Unless you have a documented emergency situation, you must file a complete H-2A application (including all supporting documentation) with the Chicago NPC **no less than 45 days before your start date of work.**
- ④ Please remember to submit a completed *Application for Temporary Employment Certification*, ETA Form 9142, and Appendix A.2, reflecting the employer's **original signature** and, if applicable, that of the employer's authorized agent or attorney. **The ETA Form 9142 will not be considered complete unless each field marked with an asterisk (\*) is completed.**
  - **Only** an association filing a master application as a joint employer with one or more of its employer-members may sign the ETA Form 9142.
  - An association filing as an agent may not sign on behalf of its employer-members; each employer-member must provide an original signature.

- ④ Make sure that your proof of workers' compensation coverage (e.g., copy of an insurance policy) clearly shows valid coverage throughout the requested period of employment.

**Important Note:** If your workers' compensation coverage will expire before the end date of need, please provide proof of renewal through the end date of the requested period of employment or, if one is not available, a signed assurance that renewed coverage will be in place before the current policy expires.

**Information pages for future renewals are not sufficient proof of coverage.**

- ④ If you intend to use rental or other public accommodations to house workers, please remember that you, not the SWA, will need to provide documentation that such housing complies with the applicable local, State, or Federal housing standards.
- ④ Except for occupations covered by special procedures published by the Department (e.g, animal shearing, beekeeping, sheep or goat herding, range livestock), work itineraries are not permitted and you must file an agricultural job order and H-2A application covering worksites within a single area of intended employment.
- ④ If you have a temporary need that is other than seasonal (e.g., peakload, one-time occurrence, intermittent), you must include a statement describing the nature of your business or operations and explaining why the dates of need of the job opportunity and the number of workers being requested for certification reflect a temporary need.
- ④ If you are a returning filer and your dates of need and/or number of workers are different from prior requests, please include a statement explaining the variation in temporary need to avoid a delay in processing your application.

## Forms

- ④ Please make sure that you use the correct, OMB approved forms when preparing your application. Fillable ETA Forms 790 and 9142 and Appendix A.2 may be found at: <http://www.foreignlaborcert.doleta.gov/form.cfm>
- ④ If available, please make sure that the email address fields for the employer and, if applicable, the employer's attorney or agent, are completed on the ETA Form 9142. The Chicago NPC will use the email address to more efficiently communicate with you on the status of your application.
- ④ Please complete your application and job order by typing responsive information directly into the fillable forms. Hand written applications are often difficult to read and can create delays in processing.

- Ⓜ Unless instructed by the Chicago NPC, please avoid crossing out and making ink changes directly on the application. If unavoidable, please initial each correction.

## Recruitment

- Ⓜ Please remember to timely submit an initial recruitment report detailing the employer's recruitment efforts. The **employer must personally sign the report; not the employer's authorized representative**. However, the employer's authorized representative may prepare and transmit, on behalf of the employer, the recruitment report to the Chicago NPC.