

U.S. Department of Labor Employment and Training Administration
Office of Foreign Labor Certification
Chicago National Processing Center
11 West Quincy Court



Chicago, IL 60604

<Insert Date>

<Insert Employer and/or

Agent/Attorney Name>

<Insert Employer and/or Agent/Attorney

Address>

<Insert City, State, Zip Code>

Case Number: <Insert Case Number>

RE: <Insert Employer's Business Name>

Dear Sir/Madam:

Your application seeking temporary labor certification under the H-2A temporary agricultural program has been **certified**. On <Insert Date> this office accepted for consideration an application from you requesting H-2A temporary labor certification for <Insert Number> <job title>. In accordance with 20 Code of Federal Regulations (CFR) § 655, Subpart B, it has been determined that a sufficient number of able, willing and qualified U.S. workers have not been identified as being available at the time and place needed to fill all of the job opportunities for which certification has been requested and that employment of the H-2A workers will not adversely affect the wages and working conditions of workers in the United States similarly employed.

Therefore, the Department grants certification for <Insert Number> <job title> job opportunities. You must comply with all assurances, guarantees and other requirements contained in 20 CFR 655, Subpart B and 20 CFR 653, Subpart F.

Upon receipt of this notification, you will need to submit to the U.S. Citizenship and Immigration Service (USCIS) the I-129 Form that is required in conjunction with an H-2A application. The employer or its agent or attorney, if applicable, must complete the footer on the original Appendix A, retain the original Appendix A, and submit a signed copy of Appendix A, together with the original certified Form ETA-9142A directly to USCIS. The USCIS petition can be obtained at <http://www.uscis.gov>.

IMPORTANT NOTE: The employer must sign and date the Form ETA-9142 prior to submission to USCIS.

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Enclosed is a bill for fees assessed for the H-2A certification. Non-payment or untimely payment may be considered a substantial violation subject to the procedures in Departmental regulations at 20 CFR 655.182.

Important Reminders:

- In accordance with Departmental regulations at 20 CFR 655.120(b), if the prevailing hourly wage or piece rate is adjusted during a work contract, and is higher than the highest of the AEWR, the prevailing wage, the agreed-upon collective bargaining wage, or the Federal or State minimum wage, in effect at the time the work is performed, the employer must pay at least that higher prevailing wage or piece rate upon notice to the employer by the Department. The Department posts all current prevailing hourly wages and piece rates to the Department of Labor's Agricultural On-Line Wage Library (AOWL). You are encouraged to visit the AOWL website at <http://www.foreignlaborcert.doleta.gov/aowl/cfm> for the updated wage rates.

For an employer subject to the requirements at 20 CFR 655.200-235, in accordance with 20 CFR 655.211(a), the employer must pay a wage that is at least the highest of the adverse effect wage rate, the agreed-upon CBA, or the applicable minimum wage rate set by Federal or State law or judicial action, for each month, or portion thereof, during the job order period.

- You must continue to cooperate with the State Workforce Agency (SWA) by accepting all referrals of eligible U.S. workers who apply (or on whose behalf an application is made) for the job opportunity until the end of the recruitment period as set forth in Departmental regulations at 20 CFR 655.135(d). The end date of your obligation to consider all referrals under the 50 percent rule is calculated by the SWA based on the date the H-2A worker departed for the employer's place of business, which is assumed to be three days prior to the first date of need. However, if the H-2A worker will not depart for your place of employment three days prior to the first date of need, Departmental regulation 20 CFR 655.135(c) requires you to inform the SWA in writing of the new expected departure date.
- You must update and maintain the recruitment report throughout the recruitment period including the 50 percent period as specified in Departmental regulations at 20 CFR 655.156(b). This supplement to the recruitment report must meet the requirements of Departmental regulations at 20 CFR 655.156(a)(1)-(4). The employer must sign and date this supplement to the recruitment report and retain it for a period of no less than three (3) years. The supplement to the recruitment report must be provided upon request. An association that fulfills the recruitment requirements its members and is subject to 20 CFR 655.225(e) must maintain a recruitment report containing the information required by 20 CFR 655.156 for each individual employer-member.
- You are also reminded that in accordance with Departmental regulations at 20 CFR 655.122(n), the termination of workers for cause and abandonment of the job by workers

are to be reported in writing to the Department and to the Department of Homeland Security (DHS) within two (2) business days of the termination or discovering abandonment. To make compliance with this requirement simple and fast, the employer may e-mail the notification directly to the Chicago NPC using TLC.Chicago@dol.gov. Your requests will be handled as expeditiously as possible. Employers without internet access may also send written notification by facsimile to (312) 886-1688 (ATTN: H-2A Abandonment and Termination) or U.S. mail to the following address:

U.S. Department of Labor
Employment and Training Administration
Office of Foreign Labor Certification
Chicago National Processing Center
11 West Quincy Court
Chicago, IL 60604
ATTN: H-2A Abandonment and Termination

- In accordance with Departmental regulations at 20 CFR § 655.135(i), employers must inform H-2A workers of the requirement that they must leave the United States at the end of the period certified by the Department or separation from the employer, whichever is earlier, unless the H-2A worker is being sponsored by another subsequent employer.
- In accordance with Departmental regulations at 20 CFR § 655.122(q), employers must provide to H-2A workers no later than the time at which the workers apply for the visa, or to workers in corresponding employment no later than on the day work commences, a copy of the work contract between the employer and the workers in a language understood by the worker as necessary or reasonable. For H-2A workers going from an H-2A employer to a subsequent H-2A employer, the copy must be provided no later than the time an offer of employment is made by the subsequent H-2A employer.
- In accordance with Departmental regulations at 20 CFR § 655.135(l), employers must post and maintain in a conspicuous location at the place of employment, a poster provided by the Secretary of the Department of Labor in English, and to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English, which sets out the rights and protections for workers. A copy of the poster is available at <http://www.dol.gov/whd/resources/posters.htm>.
- Departmental regulations at 20 CFR 655.180 allow the Department to conduct audit examinations of certified H-2A applications. The applications selected for audit will be chosen within the sole discretion of the Department. If your certification has been selected for audit, you are reminded that you must submit the documentation requested in the audit letter within the specified timeframe. Failure to comply with the audit process may result in a finding by the Certifying Officer to revoke the labor certification and/or debarment of the employer from future filings of H-2A temporary labor certification applications. Additionally, the audit findings and underlying documentation may be provided to the Department of Homeland Security or another appropriate enforcement agency. Referrals of

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any findings that an employer discouraged an eligible U.S. worker from applying, or failed to hire, discharged, or otherwise discriminated against an eligible U.S. worker, will be made to the Department of Justice, Civil Rights Division, Office of Special Counsel for Unfair Immigration Related Employment Practices.

- In accordance with Departmental regulations at 20 CFR § 655.170, employers may request to extend (by more than two (2) weeks) the period of employment on certified H-2A applications in writing, to the Chicago NPC. The employer may e-mail the request directly to the Chicago NPC using the address: TLC.Chicago@dol.gov, with the words "H-2A Extension Request" contained in the subject line of the e-mail. Employers without internet access may send a written request by facsimile to (312) 886-1688 (ATTN: H-2A Extension Request) or by U.S. mail to the following address:

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Employment and Training Administration
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ATTN: H-2A Extension Request

- Requests for changes in the period of employment lasting less than two (2) weeks can be directly filed with the USCIS.

Sincerely,

OFLC Certifying Officer

Enclosures: Invoice for Certification; ETA Form 9142A

CC: Employer Name (if represented by Agent/Attorney)
State Workforce Agency

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