



Application for Temporary Employment Certification

Form ETA 9142
 U.S. Department of Labor

Please read and review the filing instructions carefully before completing this form and print legibly. A copy of the instructions can be found at <http://www.foreignlaborcert.doleta.gov/>. Except for items marked with an asterisk (*), which may be left blank because they either do not apply or are conditioned based on a response to another item, all other data collection items contained on this form must be completed. In accordance with Federal regulations, incomplete applications will not be accepted for processing by the ETA application processing center.

OMB Paperwork Reduction Act Statement: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain temporary employment certification (Immigration and Nationality Act, Section 101 (a)(15)(H)(ii)). Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification, U.S. Department of Labor, Room C-4312, 200 Constitution Ave., NW, Washington, DC 20210. Do NOT send the completed application to this address.

A. Application Information

| | | | | | |
|--|---|--|--|---|--|
| 1. Indicate the type of application being filed for processing (Choose only one box below) | | | | | |
| <u>H-2A Visa Program</u> | | <u>H-2B Visa Program</u> | | | |
| <input type="checkbox"/> Individual Employer | <input type="checkbox"/> Farm Labor Contractor | <input type="checkbox"/> Individual Employer | | <input type="checkbox"/> Job Contractor | |
| <input type="checkbox"/> Association - Sole Employer | <input type="checkbox"/> Association - Joint Employer | | | | |
| <input type="checkbox"/> Association - Agent | | | | | |

B. Employer or Association Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For H-2A applications filed by an association on behalf of its employer-members, the electronic filing system will require the association to identify each employer-member requesting temporary labor certification for foreign workers under the application. If filing the Form ETA 9142 by mail, submit a separate attachment to complete the requirements of this section.

| | | | |
|---|-------------------|---|----------------|
| 1. Employer's name (Headquarters or Main Office) | | | |
| 2. Trade Name/Doing Business As (DBA), if applicable* | | | |
| 3a. Address 1 | | | |
| 3b. Address 2* | | | |
| 4. City | 5. State/Province | 6. Country | 7. Postal Code |
| 8a. Phone number (area code and seven digit number) () - | | 8b. Extension* | |
| 9. Number of employees currently on the employer's payroll in area of intended employment | | 10. Year commenced business (or date EIN issued for households) | |
| 11. Employer Identification Number (EIN from IRS) | | 12. NAICS/Industry code (must be at least 4-digits) | |

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C. Employer or Association Point of Contact Information

Important Note: This section must be filled out by an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The name, phone number, and email in this section must be different from the attorney or authorized representative contact information listed in Section D, unless the attorney is an employee of the employer.

| | | | | | |
|---|--|------------------------|----------------|--------------------|----------------|
| 1a. Contact's Last (Family) Name | | 1b. First (Given) Name | | 1c. Middle Name(s) | |
| 2. Job Title | | | | | |
| 3a. Address 1 | | | | | |
| 3b. Address 2* | | | | | |
| 4. City | | 5. State/Province | 6. Country | | 7. Postal Code |
| 8a. Phone number Phone number (area code and seven digit number) () - | | | 8b. Extension* | | |
| 9. E-Mail Address* | | | | | |

D. Attorney or Agent Contact Information (If applicable)

| | | | | | |
|--|--|------------------------|---------------------------------------|--------------------|----------------|
| 1a. Contact's Last (Family) Name | | 1b. First (Given) Name | | 1c. Middle Name(s) | |
| 2. Firm/Business Name | | | | | |
| 3a. Address 1 | | | | | |
| 3b. Address 2* | | | | | |
| 4. City | | 5. State/Province | 6. Country | | 7. Postal Code |
| 8a. Phone number Phone number (area code and seven digit number) () - | | | 8b. Extension* | | |
| 9. E-Mail Address* | | | | | |
| 10. Firm/Business EIN | | | 11. Year commenced business | | |
| 12. Name of Highest Court in the State Where Attorney is in Good Standing (if applicable)* | | | 13. State BAR Number (if applicable)* | | |

E. Temporary Need Information

| | | | |
|--|--|--|-------------------------------|
| 1. Initial number of openings to be filled by job offer (at the time recruitment was conducted for U.S. workers) | | 2. Number of foreign workers being requested for certification to fill job offer | |
| | | 2a. New Worker(s): ____ | 2b. Returning Worker(s): ____ |
| 3. Dates you expect to employ foreign worker(s) on a temporary basis: | | 3a. From (mm/dd/yyyy) | 3b. To (mm/dd/yyyy) |

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E. Temporary Need Information (continued)

4. Nature of Temporary Need: (Choose only one of the standards)

- Seasonal Peakload One-Time Occurrence Intermittent

5. Statement of Temporary Need – A description of the employer's temporary need **MUST** begin in this space. If filing the Form ETA 9142 by mail, submit a separate attachment if necessary to continue description.

Important Note: Question 5 must be completed for all H-2B applications and for only those H-2A applications where the nature of the employer's temporary need in Question 4 is identified as other than "seasonal."

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F. Recruitment Information

| | | |
|---|---|--|
| 1. For H-2B applications ONLY. Was the employer required, by notice from a Certifying Officer, to undergo Supervised Recruitment with this application in accordance with 20 CFR 655.30? | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 2a. SWA job order identification number | 2b. Start date of SWA job order (mm/dd/yyyy) | 2c. End date of SWA job order (mm/dd/yyyy) |
| 3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Name of newspaper of general circulation in which the first print advertisement was placed: | | |
| 5. Date of first print advertisement identified in question 4 (mm/dd/yyyy): | | |
| 6. Which of the following did the employer use to place the second and third advertisements for the job opportunity? (Choose only one) <input type="checkbox"/> Newspaper <input type="checkbox"/> Professional, Trade, or Ethnic Publication | | 6a. Name of newspaper or professional, trade, or ethnic publication in which the second and third advertisements were printed (if different than the answer to question 4).* |
| 7. Date of second print advertisement (mm/dd/yyyy): | | 8. Date of third print advertisement (mm/dd/yyyy): |
| 9. In accordance with Federal regulations, enter a complete description of other positive recruitment efforts undertaken to recruit U.S. workers as well as the results of such efforts. If filing the Form ETA 9142 by mail, submit a separate attachment if necessary to <u>continue</u> description. | | |

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G. Job Offer and Prevailing Wage Determination

Important Note: ETA Form XXXX contains a full description of the employer's job opportunity, including the duties to be performed, minimum job requirements, worksite location(s), duration of employment, benefits, wages, and other terms and conditions. Applications that fail to attach ETA Form XXXX will be considered incomplete and not accepted for processing by the ETA application processing center.

| | |
|---|--|
| 1. Please confirm that ETA Form XXXX, Job Offer and Required Wage Request Form, will be submitted simultaneously with the filing of this application. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--|

H. Wage Offer Information (Used to Advertise and Recruit U.S. Worker Prior to Filing)

| | |
|--|--|
| 1. Offered (basic) wage From: \$ _____ . ____ To:* \$ _____ . ____ | 1a. Overtime wage (If Applicable)* From:* \$ _____ . ____ To:* \$ _____ . ____ |
| 2. Per: (Choose only one) <input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/> Piece Rate | |
| 2a. If Piece Rate is indicated in question 2, specify the wage offer requirements :* | |

I. Declarations

a. Preparer

| | |
|---|--|
| 1. Was the application completed by the employer? If No in question 1, you must complete the remainder of section I.a. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--|

I hereby certify that I have prepared this application at the direct request of the employer listed in Section C and that to the best of my knowledge the information contained herein is true and correct. I understand that to knowingly furnish false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in a Federal penitentiary or both (18 U.S.C. 1001).

| | | |
|-----------------------------------|------------------------|-----------------------------|
| 2a. Preparer's last (Family) name | 2b. First (Given) name | 2c. Middle initial |
| 3. Title | | |
| 4. E-mail address | | |
| 5. Signature | | 6. Date signed (mm/dd/yyyy) |

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I. Declarations (Continued)

b. Employer

Important Note: In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach the appropriate Appendix, as instructed below, will be considered incomplete and not accepted for processing by the ETA application processing center.

| | |
|--|---|
| 1. Check the appropriate box below to indicate the Appendix that will be submitted simultaneously with this application. | |
| <u>H-2A Visa Application</u> | <u>H-2B Visa Application</u> |
| <input type="checkbox"/> Appendix A - H-2A Employer Declarations | <input type="checkbox"/> Appendix B - H-2B Employer Declarations |

J. U.S. Government Agency Use Only

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the requested foreign worker(s) will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.

This certification is valid from _____ to _____.

Signature of Certifying Officer

Date of Determination

Case Number

Status

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APPENDIX A
H-2A EMPLOYER DECLARATIONS
FOR USE IN FILING H-2A APPLICATIONS ONLY

Employers requesting temporary labor certification under the H-2A program

By virtue of my signature below, **I HEREBY CERTIFY** the following conditions of employment:

1. The offered terms and working conditions of the job opportunity are normal to workers similarly employed in the area(s) of intended employment and are not less favorable than those offered to the foreign worker(s) and are not less than the minimum terms and conditions required by Federal regulation at 20 CFR 655, Subpart B.
2. The offered wage is the greatest of the adverse effect wage rate, the prevailing wage rate, which may be a prevailing wage piece rate, or the legal Federal or state minimum wage, and that the employer will pay the offered wage during the entire time the foreign worker(s) is employed under the labor certification application.
3. The offered wage is not based on commissions, bonuses or other incentives, unless the employer guarantees a wage paid on a weekly, bi-weekly, or monthly basis that equals or exceeds the adverse effect wage rate, prevailing wage rate, which may be a prevailing wage piece rate, or the legal Federal or state minimum wage, whichever is greatest.
4. There is not, at the time the labor certification application is filed, a strike, lockout, or work stoppage in the course of a labor dispute in the occupational classification at the place of employment.
5. During the period of employment that is the subject of the labor certification application, the employer shall:
 - (i) Comply with all Federal, state or local employment related laws and regulations, including employment-related health and safety laws;
 - (ii) Provide housing to those workers who are not reasonably able to return to their residence within the same day, without charge to the worker, that complies with the applicable local, state, or Federal standards and guidelines for housing; and, if required, has requested or been certified as a result of a preoccupancy inspection of the housing;
 - (iii) Provide insurance, without charge to the worker, under a state workers' compensation law or otherwise, that meets the requirements set forth at 20 CFR 655.104(e); and
 - (iv) Provide transportation in compliance with all applicable Federal, state or local laws and regulations between the worker's living quarters (i.e., housing provided by the employer pursuant to 20 CFR 655.104(d)) and the employer's worksite without cost to the worker.
6. The job opportunity is open to all qualified eligible individuals regardless of race, creed, color, national origin, age, sex, religion, handicap, or citizenship, and it conducted the required recruitment prior to filing the labor certification application and was unsuccessful in locating qualified eligible U.S. workers for the job opportunity for which certification is sought and has rejected any U.S. worker applicants only for lawful, job-related reasons.
7. There are no U.S. workers available in the area(s) capable of performing the temporary services or labor in the job opportunity, and the employer will continue to cooperate with the SWA by accepting referrals of all eligible U.S. workers who apply (or on whose behalf an application is made) for the job opportunity until the date of departure of the foreign worker(s) from the place of permanent residence to begin work, where known, or until three (3) calendar days prior to the date on which it is anticipated the foreign worker(s) will begin work.
8. The job opportunity is for full-time temporary employment, whose qualifications are consistent with the normal and accepted qualifications required by non-H-2A employers in the same or comparable occupations and crop activities in that they shall not require a combination of duties not normal to the occupation.
9. The employer will inform its foreign workers of the requirement that they leave the U.S. at the end of the employment period certified by the Department or upon separation from the employer, whichever is earlier, as required in 20 CFR 655.111, unless the H-2A worker is being sponsored by another employer and that employer has already filed and received a certified Application for Temporary Employment Certification and has filed that certification in support of a petition to employ that worker with Department of Homeland Security.
10. All fees associated with processing the temporary labor certification will be paid in a timely manner.
11. Upon the separation from employment of any foreign worker(s) employed under the labor certification application, if such separation occurs prior to the end date of the employment specified in the application, the employer will notify the Department and DHS in writing or any other method specified of the separation from employment not later than forty-eight (48) hours after such separation is effective.
12. The employer has not laid off and will not lay off any similarly employed permanent U.S. worker(s) in the occupation that is the subject of the application in the area(s) of intended employment within the period beginning 75 days before the date of requested need of the first foreign worker(s), except that such layoff shall be permitted where the employer also attests that it offered the opportunity to the laid-off permanent U.S.

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worker(s) and said U.S. worker(s) either refused the job opportunity or were rejected for the job opportunity for lawful, job-related reasons.

13. The employer has not sought or received payment of any kind for any activity related to obtaining the labor certification, including payment of the employer's attorneys' fees or domestic recruitment costs, whether as an incentive or inducement to filing, or as a reimbursement for costs incurred in preparing or filing the application, or securing the H-2A workers, from the employee or any other party, except when work to be performed by the foreign worker in connection with the job opportunity will benefit or accrue to the person or entity making the payment, based on that person's or entity's established business relationship with the employer. If employer uses international recruiters, the employer attests that it has forbidden the foreign labor contractor/international recruiter from seeking to receive or receiving payments from prospective H-2A workers. For purposes of this paragraph, payment includes, but is not limited to, monetary payments, wage concessions (including deductions from wages, salary, or benefits), kickbacks, bribes, tributes, in kind payments, and free labor.
14. The employer shall not discharge any person for the sole reason of that person's taking any action listed in paragraphs 15(i) through 15(v) below.
15. The employer shall not intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, and shall not cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, any person who has with just cause:
 - (i) Filed a complaint under or related to Sec. 218 of the INA (8 U.S.C. 1188), or this subpart or any other DOL regulation promulgated pursuant to Sec. 218 of the INA;
 - (ii) Instituted or caused to be instituted any proceeding under or related to Sec. 218 of the INA, or this subpart or any other DOL regulation promulgated pursuant to Sec. 218 of the INA (8 U.S.C. 1188);
 - (iii) Testified or is about to testify in any proceeding under or related to Sec. 218 of the INA or this subpart or any other DOL regulation promulgated pursuant to Sec. 218 of the INA;
 - (iv) Consulted with an employee of a legal assistance program or an attorney on matters related to Sec. 218 of the INA or this subpart or any other DOL regulation promulgated pursuant to Sec. 218 of the INA; or
 - (v) Exercised or asserted on behalf of himself/herself or others any right or protection afforded by Sec. 218 of the INA, or this subpart or any other DOL regulation promulgated pursuant to Sec. 218 of the INA.
16. The employer further attests that it is: (check only one; if none apply do not submit this application)
 - i. A fixed-site employer, or
One of the following types of employers as defined in 20 CFR § 655.100(b)
 - ii. An agent or recruiter
 - iii. A Farm Labor Contractor as defined by the Migrant and Seasonal Agricultural Worker Protection Act
 - iv. An association

I hereby designate the agent or attorney identified in section D (if any) of the Form ETA 9142 to represent me for the purpose of labor certification and, by virtue of my signature in Block 3 below, **I take full responsibility** for the accuracy of any representations made by my agent or attorney.

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly furnish false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in the Federal penitentiary or both (18 U.S.C. 1001).*

| | | |
|------------------------|------------------------|-----------------------------|
| 1a. Last (Family) name | 1b. First (Given) name | 1c. Middle initial |
| 2. Title | | |
| 3. Signature | | 4. Date signed (mm/dd/yyyy) |

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APPENDIX B
H-2B EMPLOYER DECLARATIONS
FOR USE IN FILING H-2B APPLICATIONS ONLY

Employers requesting temporary labor certification under the H-2B program

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment:

1. The offered terms and working conditions of the job opportunity are normal to workers similarly employed in the area(s) of intended employment and are not less favorable than those offered to the foreign worker(s).
2. The offered wage equals or exceeds the prevailing wage, the Federal minimum wage and the State minimum wage, and the employer will pay the offered wage during the entire time the foreign worker(s) is employed under the labor certification application.
3. The offered wage is not based on commissions, bonuses or other incentives, unless the employer guarantees a wage paid on a weekly, bi-weekly, or monthly basis that equals or exceeds the prevailing wage.
4. The employer has enough funds available to pay the wage or salary offered the foreign worker(s), and will be able to place the foreign worker(s) on the payroll on or before the date of the foreign worker(s) proposed entrance into the U.S.
5. There is not, at the time the labor certification application is filed, a strike, lockout, or work stoppage in the course of a labor dispute in the occupational classification at the place of employment.
6. During the period of employment that is the subject of the labor certification application, the employer shall comply with all Federal, state or local employment related laws and regulations.
7. The job opportunity is open to all qualified eligible individuals regardless of race, creed, color, national origin, age, sex, religion, handicap, or citizenship, and it conducted the required recruitment prior to filing the labor certification application and was unsuccessful in locating qualified U.S. applicants for the job opportunity for which certification is sought and has rejected any U.S. worker applicants only for lawful, job-related reasons.
8. There are no U.S. workers available in the area(s) capable of performing the temporary services or labor in the job opportunity.
9. The job opportunity is for full-time temporary employment and the dates of temporary need, reason(s) for temporary need, and number of foreign workers needed have been truly and accurate stated on the application.
10. The employer will not place any foreign worker(s) employed pursuant to this application outside the area(s) of intended employment listed on the application unless the employer has obtained a new temporary labor certification from the Department.
11. The employer will inform the foreign workers of the requirement that they leave the U.S. at the end of the employment period certified by the Department or upon separation from the employer, whichever is earlier, as required in § 655.35.
12. Upon the separation from employment of any foreign worker(s) employed under the labor certification application, if such separation occurs prior to the end date of the employment specified in the application, the employer will notify the Department and DHS in writing any other method specified of the separation from employment not later than forty-eight hours after such separation is effective.
13. The employer has not laid off and will not lay off any similarly employed permanent U.S. worker(s) in the occupation that is the subject of the application in the area(s) of intended employment within the period beginning 120 days before the date of requested need of the first foreign worker(s), except that such layoff shall be permitted where the employer also attests that it offered the opportunity to the laid-off permanent U.S. worker(s) and said U.S. worker(s) either refused the job opportunity or were rejected for the job opportunity for lawful, job-related reasons.
14. The employer has not sought or received payment of any kind for any activity related to obtaining the labor certification, including payment of the employer's attorneys' fees or domestic recruitment costs, whether as an incentive or inducement to filing, or as a reimbursement for costs incurred in preparing or filing the application, from the employee or any other party, except when work to be performed by the foreign worker in connection with the job opportunity will benefit or accrue to the person or entity making the payment, based on that person's or entity's established business relationship with the employer. For purposes of this paragraph, payment includes, but is not limited to, monetary payments, wage concessions (including deductions from wages, salary, or benefits), kickbacks, bribes, tributes, in kind payments, and free labor.

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15. The employer will not place any foreign worker(s) employed pursuant to the labor certification application with any other employer or at another employer's worksite(s) unless
- (i) The employer applicant first makes a bona fide inquiry as to whether the other employer has displaced or intends to displace a similarly employed U.S. worker within the area(s) of intended employment within the period beginning 120 days before and throughout the entire placement of the foreign worker(s), and the employer applicant has no knowledge of displacement; and
 - (ii) The worksite(s) is listed on the certified application.

I hereby designate the agent or attorney identified in section D (if any) of the Form ETA 9142 to represent me for the purpose of labor certification and, by virtue of my signature in Block 3 below, **I take full responsibility** for the accuracy of any representations made by my agent or attorney.

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly furnish false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in the Federal penitentiary or both (18 U.S.C. 1001).*

| | | |
|------------------------|------------------------|-----------------------------|
| 1a. Last (Family) name | 1b. First (Given) name | 1c. Middle initial |
| 2. Title | | |
| 3. Signature | | 4. Date signed (mm/dd/yyyy) |