

IMPORTANT ANNOUNCEMENT REGARDING THE H-2B PROGRAM

The 2016 Department of Labor Appropriations Act (Division H, Title I of Public Law 114-113) (2016 DOL Appropriations Act), which was enacted on December 18, 2015, contained several provisions requiring non-substantive modifications to (1) the Form ETA-9165, Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OES Survey and (2) Appendix B of the Form ETA-9142B, H-2B Application for Temporary Employment Certification. In order to comply with the 2016 DOL Appropriations Act, the Office of Foreign Labor Certification (OFLC) submitted these non-substantive modifications to the Office of Management and Budget (OMB) for review and approval. The OMB has now approved the non-substantive modifications. Therefore, the OFLC Certifying Officers (COs) may issue H-2B prevailing wage determinations based on the submission of a private survey, and may now certify H-2B applications for temporary labor certification, so long as all applicable program requirements are met.

IMPORTANT NOTICES

Employers Requests for H-2B Temporary Labor Certification

- Prior to February 1, 2016, employers with either a pending H-2B application or those who file a new H-2B application containing the previous Appendix B will be provided with a copy of the revised Appendix B at the time the CO issues a certification decision. They will also receive instructions in the Final Determination Letter regarding how to complete the revised Appendix B for submission to the United States Citizenship and Immigration Services.
- On or after February 1, 2016, employers or their authorized representatives filing a new H-2B application must submit a signed and dated copy of the revised Appendix B containing the program assurances and obligations that comply with the 2016 DOL Appropriations Act. Otherwise, the CO will issue a Notice of Deficiency requesting that the employer provide a signed and dated copy of the revised Appendix B.

To obtain a copy of the Emergency Guidance (updated January 5) reflecting these changes, please click [here](#).

To obtain a copy of the revised Appendix B, Form ETA-9142B, please click [here](#).

To obtain a copy of the Department's Frequently Asked Question concerning corresponding employment, please click [here](#).