H-2B Filing Tips

June 23, 2016

Office of Foreign Labor Certification
Employment and Training Administration
United States Department of Labor

Filing Requirements

- Completed Application for Temporary Employment Certification
- Appendix B
- A Valid Prevailing Wage Determination (PWD)
- Copy of Job Order
- Agent/ Recruiter Documentation
Completed Application for Temporary Employment Certification (ETA Form 9142)

- Timeframes: 75 to 90 days from requested Start Date
- Highlight Form Areas with Applicable Tips
  - Section B9 "Statement of Temporary Need"
    - Keep Content centered around explaining temporary need and requested number of workers:
      - Annual Operations
      - Why Job Opportunity Fits the Chosen Standard in Item B8
      - What causes the need
      - What causes the need to go away
      - If applicable explain any change in dates of need or requested number of workers from the previous year

Completed Application for Temporary Employment Certification (ETA Form 9142)

- Sections C, D & E
  - Make sure to identify a Physical Address so packages can be sent via overnight delivery using UPS
  - Make sure to include a correct email address and choose one that will be monitored daily

C. Employer Information

**Important Note:** Enter the full name of the individual employer, partnership, or corporation and all the other information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer by name, mailing address, and total worker positions needed under the application.

D. Employer Point of Contact Information

**Important Note:** The information contained in this section must be that of an Employee of the Employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.
Completed Application for Temporary Employment Certification (ETA Form 9142)

- Section F, Job Offer Information
  - (a)(5) Job Duties

  5. Job duties - A description of the duties to be performed **MUST** begin in this space. If necessary, add attachment to continue and complete description.

Fb. Minimum Job Requirements
- Education
- Training
- Experience
- Other

Completed Application for Temporary Employment Certification (ETA Form 9142)

- Section F, Job Offer Information
  - (c) Place of Employment Information – Additional worksites

  7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? *

<table>
<thead>
<tr>
<th>State</th>
<th>Area Based On</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Appendix B

- Make sure to provide a signed Appendix B
  - Latest version expires 12/31/2018:

Obtain a Valid Prevailing Wage Determination (PWD)

- Upon submission include a copy of ETA Form 9141 or insert the PWD Number in Section G (3):

G. Rate of Pay

- Basic Rate of Pay Offered
  - From: $24.35
  - To (Optional): $24.35
- Overtime Rate of Pay (if applicable)
  - 1a. From: $0.00
  - To (Optional): $0.00
- Per: (Choose only one)
  - Hour
  - Week
  - Bi-Weekly
  - Month
  - Year
  - Piece Rate
  - 2a. If Piece Rate is indicated in question 2, specify the wage offer requirements
    - N/A
- Additional Wage Information (e.g., multiple worksite applications, different work, or other special procedures)
  - If necessary, add attachment to continue and complete description
    - N/A
Obtain a Valid Prevailing Wage Determination (PWD)

- Make sure that the following items are consistent between Section F of ETA Form 9141 and ETA Form 9142
  - SOC Code (ETA Form 9142, Item B.2)
  - SOC Occupational Title (ETA Form 9142, Item B.3)
  - Job Locations (ETA Form 9142, Item F.c.7 & 7a)

Obtain a Valid Prevailing Wage Determination (PWD)

- **Important Information:**
  - If the application is submitted without a valid Prevailing Wage Determination (or valid PWD case number) and no emergency request was submitted, the application will be REJECTED without review.
    - The only remedy to the rejection is to obtain a valid PWD, REFILE the H-2B application, and make sure to either provide a copy of the PWD (ETA Form 9141) or identify the PWD case number in Section G(3). (Shown in previous slide)
  - If an emergency request is submitted but is denied, the application will also be rejected without review.
Agent/Recruiter Documentation

- **Agent and Recruiter Agreements**
  - Agents must provide an agent agreement.
  - Foreign recruiter agreements must include the identity and location of all persons and entities hired by or working for the hired foreign recruiter.
  - If the employer is not using a foreign worker recruiter, then we will need a statement indicating that.
Recruitment Report

- **Recruitment Reports**
  - Must not be on attorney/agent letterhead and not signed by attorney/agent.
  - **Employer** must prepare and sign the recruitment report
  - Be mindful of required content for recruitment reports. Many recruitment reports are missing content. (See 655.48)

Department of Labor

**Helpful Resources**

- Visit the OFLC website and “Subscribe” for e-mail updates [http://www.foreignlaborcert.doleta.gov](http://www.foreignlaborcert.doleta.gov)
Department of Labor

Helpful Resources

- If you are having technical problems or issues with your iCERT account, please contact the iCERT Technical Helpdesk at oflc.portal@dol.gov

Disclaimer

This presentation is intended for training use only and does not carry the force of legal opinion.

The Department of Labor is providing this information as a public service. This information and any related materials are presented to give the public access to information on the Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The Federal Register and the Code of Federal Regulations remain the official source for regulatory information published by the Department of Labor. We will make every effort to keep this information current and to correct errors brought to our attention.