



H-2B Temporary Labor Certification Program Application Filing Process

December 11, 2019

Office of Foreign Labor Certification
Employment and Training Administration
U.S. Department of Labor

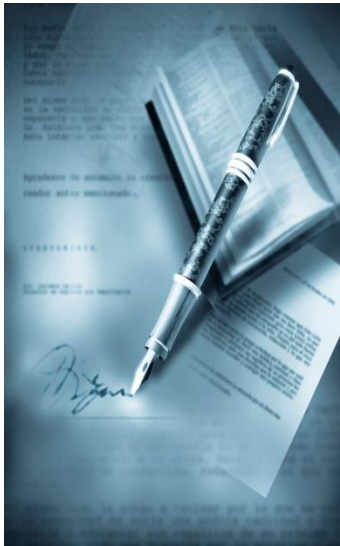
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H-2B Applications April 1 Start Date



Section I

Filing Process

H-2B Applications April 1 Start Date Filing Process for Randomization Procedures



- The application filing window opens on January 2, 2020, at 12:00 a.m. Eastern Time
- On January 2nd, 3rd, and 4th OFLC will accept all timely filed applications containing an April 1, or later start date of need (i.e., three-day filing window)
- On January 6, OFLC will randomize **all** applications with an April 1 start date and received in this three-day filing window using the procedures published in the Federal Register on March 4, 2019
- Randomized applications will be assigned to groups
 - Group A will include a sufficient number of applications (about 35,000 worker positions) to fill the statutory visa cap
 - Each subsequent group will total no more than 20,000 worker positions

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- Once randomization is completed:
 - ✓ Employers and their agent/attorney, if applicable, will be notified in writing of their group assignment
 - ✓ Group A applications will be assigned to analysts for review and issuance of first action decisions
 - ✓ After all first actions are issued for Group A applications, Group B applications will be assigned to analysts for review and issuance of first action decisions
 - ✓ Applications will be processed as each successive stage in the labor certification process is completed
- OFLC will publish the list of applications received and their group assignment within five business days after the randomization process has been completed

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Where to File



- All H-2B applications will be submitted and processed through the Foreign Labor Application Gateway (FLAG) system at <https://flag.dol.gov/>
- Mailed applications will be assigned to OFLC staff for data entry into the FLAG System
 - The official submission date will be the date that OFLC staff **complete** data entry of the application and will be processed using the previously stated filing and randomization procedures

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What to File



Employer will submit the following documents:

- Form ETA-9142B (including valid PWD Tracking Number)
 - Appendix A – additional worksite locations
 - Appendix B – signed and dated copy of the original
 - Appendix C – foreign labor recruiter information (if applicable)
- Copy of the job order concurrently submitted to the state workforce agency
- Agent agreement/documentation demonstrating authority to represent the employer (if applicable)
- Copies of all contracts/agreements with any agent and/or recruiter engaged in international recruitment of H-2B workers (if applicable)

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What to File (continued)

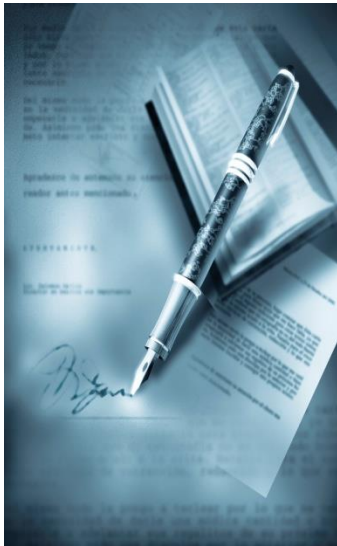


Required documents (continued)

- Occupations involving special procedures must submit other required documents (e.g., work itinerary on Appendix A, Form ETA-9142B)
- Copy of MSPA registration for the employer or agent (if applicable)

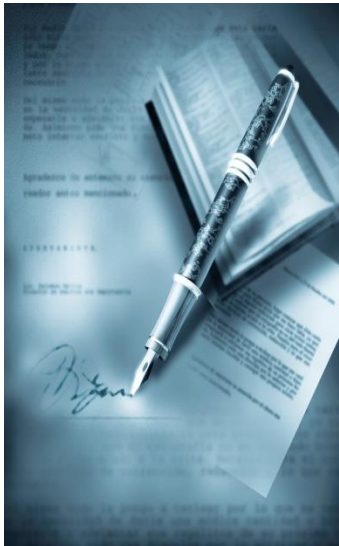
Additional documents for **H-2B job contractors**

- Appendix D – identifying the one employer-client associated with the job opportunity
- Appendix B – signed and dated copy of original for employer-client
- A separate statement of temporary need for the employer-client on the Form ETA-9142B Section B.8 (include only one attachment)
- Copy of an executed contract with employer-client



Section II

Completing the Application in FLAG



Section III

Helpful Hints and Reminders

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Helpful Hints and Reminders



- **DO NOT** submit duplicate applications for the same job opportunity
- Employers filing through the FLAG System must complete all required fields and upload all required and relevant supporting documentation (e.g., Appendix B, MSPA certificate of registration, job contractor agreement/contract, etc.)
- Upload Notice of Deficiency (NOD) responses and Recruitment Reports from the My Cases table in your FLAG System account
- **DO NOT** send a duplicate response to the OFLC Chicago NPC Help Desk
- If you experience any technical issues with the FLAG System, immediately contact the FLAG Help Desk from the Support tab at <https://flag.dol.gov/support/contact>

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Returning a Labor Certification



You may return a temporary labor certification that is no longer needed using the following procedure:

- Email the Chicago NPC at TLC.Chicago@dol.gov
- Include the phrase “*H-2B Cert Return Notification*” followed by the full case number in the email subject line
- Include the full case number and employer name in the body of the email and a brief explanation as to the certification return

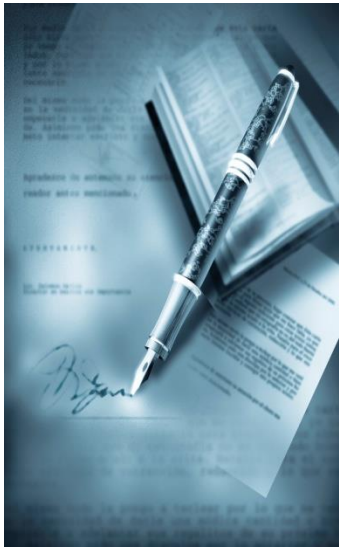
Example: Acme Company will not use the certification for H-400-1234-56789 due to the H-2B cap being reached.

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Returning a Labor Certification (continued)



- The Chicago NPC Help Desk will issue a confirmation that the return has been processed and notify U.S. Citizenship and Immigration Services of the returned certification.
- If the employer files a new application for the same worker positions with a later start date (e.g., due to the first-half visa cap being reached), the 'return' notification can also be part of the new filing. It should be clearly marked as its own PDF attachment.



Section IV

System Preparedness



FLAG System

- Utilizes a “queuing” approach to significantly reduce the risk of system downtime when a large number of applications are simultaneously filed
- Decoupled front-end external filer system from the back-end case processing system
- Cloud-based and scalable to meet increased user workload
- Performance and load testing (ongoing since July)
 - Completed performance and load testing to handle anticipated peak filing volume

H-2B Applications April 1 Start Date System Preparedness (continued)



- Provide 24/7 monitoring and help desk support (process successfully used during the July mini-peak season)
- Ensure all technology partners supporting the FLAG System are on standby for rapid response support (e.g., Microsoft Azure, AWS, GSA's Login.gov, Appian)
- Execute communications plan in the event of service disruptions or outages
- Maintain "FLAG Operating Status" indicator on the public homepage to maintain customer confidence
- Verify application pool (after three-day window) and conduct randomization

H-2B Applications April 1 Start Date Processing Times Report



- Updates will be available through the FLAG System every **Monday, Wednesday, and Friday**
- First posting will be on January 13, 2020

Sample

Filing Window	STEP 1	STEP 2		STEP 3	STEP 4
	Total Cases Selected & Workers Requested	Total Cases Issued NOA or NOD	Percent Issued NOA or NOD	Total Cases Pending Post NOA/NOD Issued	Total Decisions Issued & Workers Certified
January 2 – 4 Submissions					
Group A	1,650 (35,000 Workers)	850	52%	750 (15,000 Workers)	100 (2,500)
Group B	1,000 (20,000 Workers)	0	0%	0	0
Group C	1,000 (20,000 Workers)	0	0%	0	0
Total Cases Issued Final Decision & Workers Certified (January 2, 2020 through July 2, 2020)					100 (2,500)