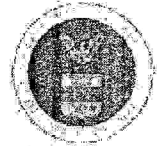


U.S. Department of Labor

Employment and Training Administration

Office of Foreign Labor Certification
Chicago National Processing Center
536 S. Clark Street, 9th Floor
Chicago, IL 60605



January 12, 2012

[REDACTED]

[REDACTED]

Notice of Audit Examination

Dear Sir/Madam:

The Department of Labor (Department), in accordance with its regulations at 20 CFR § 655.180, has selected the H-2A temporary labor certification referenced above for audit examination. During the course of the examination, the Chicago National Processing Center (Chicago NPC) Certifying Officer may request supplemental information and/or documentation from the employer in order to complete the audit process.

Requirements for Responding to the Notice of Audit

All requested documentation and information contained in this letter must be physically received by the Certifying Officer on or before February 2, 2012. A written response must be transmitted by a method that ensures receipt by the Certifying Officer no later than **February 2, 2012**. All documentation requested must be submitted together.

Upon receipt of a timely response or expiration of the stated deadline for receipt of the response, whichever comes first, the Certifying Officer will review the certified application and all documentation and information submitted by the employer and either issue a request for supplemental information or a Notice of Findings from the audit examination.

Please submit the following documentation and information supporting the certified H-2A labor certification application referenced above:

1. Documentation substantiating that the employer is a bona fide U.S. business and has a physical location in the U.S. and a means by which it may be contacted for employment and describing the process, as specified at Department regulations at 20 CFR § 655.103(b) (e.g., but not limited to, utility bills with a physical address or tax documentation with the employers Federal Employer Identification Number (FEIN), etc.);
2. Wage determination documentation received from the Department, as specified at the Department's regulations at 20 CFR § 655.120(a) (e.g., but not limited to, an acceptance letter, certified 9142, or case specific email correspondence between the employer and the Department, etc.);
3. Proof of positive recruitment steps, as required by Department regulations at 20 CFR § 655.150 through § 655.158, including:
 - a. A copy of the job order (ETA Form 790 and all attachments) placed with the State Workforce Agency (SWA) serving the area of intended employment, as specified at the Department's regulations at 20 CFR § 655.121 & § 655.122;
 - b. Copies of all newspaper advertisements placed in the area of intended employment in Kentucky on two separate days, one of which must be on a Sunday, as specified at Department regulations at 20 CFR § 655.151 and 20 CFR § 655.152 (Please Note: If the newspaper of general circulation does not publish a Sunday Edition, then the employer must provide a statement from the State Workforce Agency or the Newspaper);
 - c. Where the employer has laid off U.S. workers in the occupation in the area of intended employment within 60 days of the start date of employment, proof the employer (1) notified each laid-off worker of the job opportunity involved in the certified H-2A application, (2) considered each laid-off worker who expressed interest in the job opportunity, and (3) documented the results of each notification and consideration, OR an official statement signed and dated by the employer that no layoff has occurred within 60 days of the start date of employment; in accordance with Department regulations at 20 CFR § 655.135(g); and
 - d. Copies of all advertisements and recruitment efforts performed in the additional recruitment states other than the one where work is to be performed in Tennessee and Florida, as specified in Department regulations at 20 CFR § 655.154.
4. An updated final recruitment report, as specified by Department regulations at 20 CFR § 655.156, reflecting referrals of qualified U.S. workers and the disposition of each U.S. worker. In order to complete the audit examination, the employer will be required to provide a final recruitment report at the conclusion of 50% of

the certified work contract, as specified in the Department's regulations at 20 CFR § 655.156;

5. Documentation and information substantiating the disposition of each U.S. worker identified in the recruitment report prepared in accordance with Department regulations at 20 CFR § 655.156, such as evidence of non-applicability of contact of former employees, as specified in the Department's regulations at 20 CFR § 655.156(a)(3);
6. Proof of worker's compensation insurance or State law coverage in compliance with the State law covering injury and disease arising out of and in the course of the workers the entire period of need March 1, 2011 to December 31, 2011, as specified in 20 CFR § 655.122(e);
7. Earnings records for each worker which include, but are not limited to the following, as specified in Departmental regulations at 20 CFR § 655.122(j):
 - A. Supporting summary payroll records that show the nature and amount of work performed; including:
 - The number of hours offered each day by the employer.
 - The number of hours worked each day by each worker.
 - The time the worker began and ended each work day.
 - The rate of pay (piece rate and hourly, if applicable).
 - The worker's permanent home address for H-2A workers and U.S. workers (Please note: employer provided housing is not sufficient)
 - An explanation as to the reason for withholding deductions from certain workers and releasing certain workers from those same deductions.
 - B. Proof of Transportation and daily subsistence reimbursement, as specified in 20 CFR § 655.122(h). The documentation must include; but is not limited to, check stubs and receipts;
 - C. Proof the employer met the Three-Fourths Guarantee, as specified in 20 CFR § 655.122(i);
 - D. If the employer has terminated any workers for cause and/or any workers have abandoned their employment, the employer must provide copies of all documentation which notified the appropriate federal and state agencies of the workers' cessation of employment, as specified in 20 CFR § 655.122(n).
 - E. If the workers arrived after the beginning date of need or left prior to the ending date of need the employer must provide an explanation.

along with supporting documentation that confirms the employer's true temporary need as defined in 20 CFR § 655.103(d).

Note: All records must clearly distinguish between H-2A workers and domestic workers.

8. A copy of the specific work contract between the employees and employer or a certified copy of the ETA 9142 and copy of the job order, as defined in Departmental regulations at 29 CFR § 501.10 and specified further in Department regulations at 20 CFR § 655.122(q);
9. Housing report which documents that the employer's provided housing meets all applicable, local, state and federal standards. The records must include, but are not limited to the following, as specified in the Department's regulations at 20 CFR § 122(d):
 - Proof that the employer requested a housing inspection from the JEFF GATEWOOD/KENTUCKY DEPARTMENT OF WORKFORCE SERVICES 60 days prior to the start date of need.
 - Proof that the JEFF GATEWOOD/KENTUCKY DEPARTMENT OF WORKFORCE SERVICES inspected and certified the employer provided housing 30 days before the employer's date of need.
10. If the employer is an H-2A Labor Contractor (H-2ALC), please submit the following documentation, as required in Department regulations at 20 CFR § 655.132(b):
 - a. The MSPA Farm Labor Contractor (FLC) certificate of registration and identification of the farm labor contracting activities the H-2ALC is authorized to perform;
 - b. Listing of the names and locations of each fixed-site agricultural business to which the H-2ALC expects to provide workers, the expected beginning and ending dates of employment, and a description of the activities the workers are expected to perform at each site;
 - c. Proof of surety bond, as required by Department regulations at 20 CFR § 501.9; and
 - d. Proof of compliance with housing and transportation obligations for each fixed-site employer which provided housing or transportation and to which the H-2ALC provided workers during the validity period of the certification, unless such housing and transportation obligations were met by the H-2ALC itself.

11. If the employer/agent is an association, provide documentation substantiating the association's status as an employer or agent, as specified by Departmental regulations at 20 CFR § 655.131;
12. If the employer is represented by an agent or attorney, provide a copy of the agreement of services between the employer and the agent or attorney. An example of such documentation is an indemnification agreement.

Responses to this audit must be submitted to the Chicago NPC Certifying Officer using the following address:

U.S. Department of Labor, Employment and Training Administration
Office of Foreign Labor Certification, Chicago National Processing Center
536 South Clark Street, 9th Floor
Chicago, IL 60605
C-11005-26317: Response to H-2A Audit

Questions concerning this audit can be directed via e-mail to TLC.Chicago@dol.gov, phone at (312) 886-8000, or facsimile at (312) 886-1688.

Important Notice: Failure to fully comply with the audit process may result in a finding by the Certifying Officer to revoke the labor certification as provided by Departmental regulations at 20 CFR § 655.181 and/or debar the employer from future filings of H-2A temporary labor certification applications as provided by Departmental regulations in 20 CFR § 655.182.

Additionally, the Certifying Officer may refer audit findings to the Department of Homeland Security or the Department's Wage and Hour Division. The Certifying Officer may also refer any findings that an employer has discouraged any eligible U.S. worker from applying, or failed to hire, discharged or otherwise discriminated against an eligible U.S. worker, to the Department of Justice's Civil Rights Division, Office of Special Counsel for Unfair Immigration Related Employment Practices.

For additional resources regarding H-2A application process and regulatory provisions, please visit our website at: <http://www.foreignlaborcert.doleta.gov/>.

Sincerely,

Certifying Officer

cc: AGRICULTURE WORKFORCE MANAGEMENT ASSOCIATION, INC/ C/O
DONNA GRAVES, H2 VISA PROGRAM COORDINATOR

JEFF GATEWOOD