

H-2A Certification

The H-2A temporary agricultural program creates a means for **employers anticipating a shortage of domestic workers to bring in nonimmigrant foreign workers to the U.S. to perform temporary or seasonal agricultural labor or services.** Temporary or seasonal being employment performed during particular seasons of the year, typically in relation to the production and/or harvesting of a crop, or for a period of time less than one year in which the employer can present that the demand for foreign workers is truly temporary.

An employer must file an application with the U.S. Citizenship and Immigration Services (CIS) noting that there is not a sufficient amount of workers who are able, willing, qualified, and available, and that the recruitment of migrant workers will not adversely affect the wages and working conditions of similarly employed U.S. workers before the petition for alien workers can be approved.

The employer may be an individual proprietorship, a partnership or a corporation. An association of agricultural producers may file as a sole employer, a joint employer with its members, or as an agent of its members.

An authorized agent, whether an individual (e.g., an attorney) or an entity (e.g., an association), may file an application on behalf of an employer. Associations may file master applications on behalf of their members.



"Equal Opportunity Employer/Program"

"Auxiliary aids and services are available upon request to individuals with disabilities"

Printed with Federal funds.

Revised 01/20/06

Office of Employment and Training
Division of Workforce and Employment Services
275 East Main Street 2WA
Frankfort, KY 40601
(502) 564-7456

Agricultural Foreign Labor Certification program

Certification for
Temporary or Seasonal
Agricultural Work



Office of Employment and Training

www.oet.ky.gov

Department for Workforce Investment
Education Cabinet



KentuckyUnbridledSpirit.com

Requirements

Unlike nonagricultural programs, the statute and departmental regulations provide for numerous worker protections and employer requirements with respect to wages and working conditions as summarized below:

Recruitment:

An employer must put forth an independent and positive effort in recruiting U.S. workers.

Wages:

The rate of pay must be equivalent to that of U.S. workers. Hourly rate must also be as high as the applicable Adverse Effect Wage Rate (AEWR), federal or state minimum wage, or the applicable prevailing wage rate.

Housing:

Free housing must be provided by the employer for all workers who are not reasonably able to return to their residences the same day. All housing must be inspected and approved according to appropriate standards.

Worker's Compensation Insurance:

Proof of insurance must be provided where it is required by state law.

Meals:

Each worker must be provided 3 meals a day or free and convenient cooking and kitchen facilities.

Tools and Supplies:

All tools and supplies necessary to carry out work must be furnished by the employer at no cost to the worker.

Transportation:

Reimbursement must be provided to the worker for the cost of transportation and subsistence from the place of recruitment to the place of work.

Three-Fourths Guarantee:

Even if the worker is not employed the guaranteed three-fourths of the workdays in the work contract period, the employer must still pay the amount that would have been earned.

Fifty Percent Rule:

All qualified and eligible U.S. workers who apply for a job must be hired for at least 50% of the work contract period.

Certification Fee:

The base fee is \$100 with an additional \$10 for every job opportunity certified, up to a maximum fee of \$1,000 for each certification granted.

Process for Filing

When to Apply:

A complete application must be filed and received at least 45 calendar days before the first date workers are needed. Filing before the minimum 45 calendar day requirement is encouraged due to application review, discussion and amendment, if necessary.

What to Submit:

- Application for Alien Employment Certification (Form ETA 750, Part A. Offer of Employment.)
- Agricultural and Food Processing Clearance Order (Form ETA 790.)
- Attachments as appropriate to supplement information requested on the above forms.
- Statement of authorization of agent or association, if applicable.

How to Apply:

Applications may be filed in person, mailed certified return receipt requested, or delivered by guaranteed commercial delivery to:

**USDOL/ETA/FLC
Atlanta National Processing Center
Harris Tower
233 Peachtree St. Suite 410
Atlanta, GA ..30303**

and

**Office of Employment and Training
Division of Workforce and Employment Services
275 East Main Street 2WA
Frankfort, KY ..40621**

For further information please contact the Office of Employment and Training, H-2A section at:

(502) 564-7456

or fax to:

(502) 564-7459

E-mail:

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