

Mass Workforce Issuance

Workforce Issuance No. 09-03

☐ Policy ☒ Information

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Regional Managers

cc: WIA State Partners

From: Michael Taylor, Director
Department of Workforce Development

Date: January 23, 2009

Subject: **Changes to the USDOL H2A and H2B Foreign Labor Certification Program**

Purpose: To inform Local Workforce Investment boards, One-Stop Career Center Operators and other local workforce investment partners of changes in the Foreign Labor Certification program.

Background: On December 18 and 19, 2008, the Office of the Federal Register published the U.S. Department of Labor Final Rules on H-2A Temporary Agricultural Employment, and the H-2B Temporary Non-agricultural Employment programs. The Final Rules are effective January 17 and 18, 2009 respectively, although certain aspects of the rules will be subject to transition.

The two primary areas of change are Job Orders and Employment Eligibility Verifications. One of the most significant changes to the above listed visa programs will impact the role of the SWA (State Workforce Agency) and One-Stop Career Centers (OSCCs) in the processing of job orders and recruitment activities, as well as employment eligibility verifications. OSCCs located in the area of intended employment are now expected to process job orders, post listings, and make referrals to job orders.

Action**Required: H-2B related Job Orders:**

- Effective January 18, 2009, the immediate impact for the local career centers is that employers may post their H-2B related job orders with the local career center for the area of intended employment either through either a direct contact or on-line through TalentQuest.
- In the event that an agent or representative of the employer contacts the career center to list a job order, the job order should be posted following the regular job order process. Career centers are strongly urged to post all such job orders with all pertinent contact information accessible by the job seeker.

NOTE: The bulk of the H2B job orders have already been filed and processed for the first half of this year, so the number of job orders requested for posting through the local career centers may be minimal.

H-2A related Job Orders:

- DCS, the Commonwealth's designated SWA will continue to process all H2A job orders through June 30.

Employment Eligibility Verifications:

- Until such time as the Commonwealth develops specific processes and procedures and related training for employment eligibility verification, career centers **will not** be asked to conduct the Employment Eligibility Verifications.
- H-2A or H-2B job seekers who report to a career center for referral should contact the employer directly.
- DWD/DCS will send notice to the H-2A and H-2B employers in its database to inform them that, until notified otherwise by the Commonwealth, compliance with the Employment Eligibility Verification requirements of Section 274 of the Immigration and Naturalization Act continues.

Employers should be encouraged to submit any questions associated with the visa programs listed above to the Office of Foreign Labor Certification (OFLC) e-mail boxes listed below.

For H-2B employers: H-2B.Regulations@dol.gov

For H-2A employers: H-2A.Regulation@dol.gov

In addition, the DCS Foreign Labor Certification Program staff is working through this transition process, and may be reached as follows:

H2A program: Bill Parks at 617-626-5339 or Donna Gambon at 617-626-5053.

H2B program: Juanita Stein at 617-626-5312 or Alan Milkoff at 617-626-5331.

Effective: Immediately

Inquiries: Inquiries regarding this issuance should be directed to Louise Meyer at lmeyer@detma.org