



DEPARTMENT OF
CAREER SERVICES

Workforce Issuance

100 DCS 21.104

☐ Policy ☒ Information

To: Chief Elected Officials
MassHire Workforce Board Chairs
MassHire Workforce Board Directors
MassHire Career Center Directors
MassHire Fiscal Officers
MassHire DCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
MassHire Department of Career Services

Date: May 26, 2021

Subject: **Final Rule Released for Implementation of the H-2B Program
Supplemental Visa Cap Allocation**

Purpose: To notify MassHire Workforce Boards, MassHire Career Centers and other local workforce partners that the Department of Labor (DOL) and the Department of Homeland Security (DOH) has released the final rule for Implementation of the Temporary Final Rule (TFR) implementing a supplemental visa allocation of 22,000 H-2B visas. To obtain a copy of the TFR on public inspection, please click [here](#).

Background: The Departments of Labor (DOL) and Homeland Security (DHS) will jointly publish a *Temporary Final Rule* (TFR) implementing a supplemental visa allocation of 22,000 H-2B visas under the authority contained in the Consolidated Appropriations Act, 2021. The TFR is scheduled for official publication *on Tuesday, May 25, with an immediate effective date*.

To ensure the recruitment of U.S. workers supporting the *original temporary labor certification* has not become outdated, employers that wish to obtain visas under this TFR, *must conduct additional* recruitment for U.S. workers. This is particularly important this year as U.S. workers have begun to, and will continue to, reenter the workforce as they become vaccinated, and the COVID-19 emergency subsidies.

An equal opportunity employer/program.

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

TDD/TTY 1-800-439-2370 - Voice 1-800-439-0183

The supplemental recruitment requirements in the TFR will at least apply to all employers who received an initial temporary labor certification *with a certified start date of work beginning April 1 to April 11.*

Among other requirements, the TFR will have two (2) immediate impacts on the SWAs as the supplemental recruitment *will require employers* to do the following.

1. Place a new job order with MDCS, Foreign Labor Certification (FLC) (<https://www.mass.gov/hiring-foreign-workers-flc>) for at least 15 calendar days; and
2. Contact, by email or other electronic means, the nearest comprehensive MassHire Career Center (MCCs) offering business services in the geographic area where work will start to request assistance to advertise and recruit U.S. workers for the job opportunity. When contacting the MCC(s), the employers must provide staff with the job order number of the original job listing placed on MOSES.

Action

Requested: Please encourage BSR staff to be ready and responsive to potential employer and, equally important, be ready to provide the following link: <https://www.mass.gov/hiring-foreign-workers-flc> or direct the employer to reach MDCS, FLC at: h2bprograms@detma.org, to broadly disseminate the job order information among organizations serving disadvantaged populations, where the MCC believes potentially qualified U.S. workers would make themselves available for the employer's job opportunity, including currently unemployed workers through the state unemployment insurance program.

MCCs shall refer qualified U.S. workers during the active period of the job order or assist workers applying for the job opportunity. Please note that the TFR *requires employers to hire all qualified U.S. workers who apply 30 days after the last date the SWA job order is posted OR the date on which the last H-2B worker departs for the place of employment, whichever is later.*

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Effective: Immediately

Inquiries: Please direct all inquiries to José V. Ocasio: Jose.Ocasio@detma.org. Please reference this Issuance number with your inquiry.