

Mass Workforce Issuance

100 DCS 21.102

☒ **Policy**

☐ **Information**

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

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: March 22, 2016

Subject: **OSCC Roles and Responsibilities Under the H-2B Recruitment Requirements**

Purpose: To notify Local Workforce Boards, One-Stop Career Center Operators and other local partners of guidance to Career Center Operators on providing assistance to H-2B employers regarding the recruitment of U.S. workers and the completion of the recruitment report.

Background: The H-2B non-immigrant program allows employers to temporarily hire non-immigrant workers to perform non-agricultural labor or services in the United States. Employment must be of a temporary nature for a limited period of time such as a one-time occurrence, seasonal need, peak load need or intermittent need. The H-2B Program requires the employer to attest to the Department of Labor (DOL) that it will offer a wage that equals or exceeds the highest of the prevailing wage, applicable Federal minimum wage, the State minimum wage, or local minimum wage to the H-2B non-immigrant worker for the occupation in the area of intended employment during the entire period of the approved H-2B labor certification. The H-2B program also establishes certain recruitment and displacement standards in order to protect similarly employed U.S. workers.

Required: H-2B employers must conduct recruitment of U.S. workers within *14 calendar* days from the date the job order is approved by U.S. DOL; recruitment includes:

1. DCS placement of the DOL approved job order in MOSES. The job order will be available in “active” status until 21 days before the anticipated start date of employment.
2. Employer placement of two newspaper advertisements in a newspaper of general circulation on two separate days (one must be a Sunday) providing the job details and directing applicants to apply through the local One-Stop Career Center.
3. Employer contacting its former employees (except for those who were dismissed for cause, but including those who were otherwise laid off).
4. **One-Stop Career Centers must** provide to the employer the status information of actual referrals made (sample recruitment report attached). The employer will generally ask for this report within 14 days from the time that the job order is posted. Employers are required to submit this to the U.S. DOL Chicago National Processing Center (CNPC) as part of their recruitment obligations.
5. **One-Stop Career Centers must** provide follow-up outcomes on all referrals made (i.e. hired, not hired, etc.).
6. Employers are required to document CNPC that they:
 - a. Will not reject U.S. applicants for the job opportunity for which the labor certification is sought for reasons other than lawful, job-related reasons.
 - b. Will retain records of all rejections of U.S. worker applicants for the job opportunity for which labor certification is sought.

Action

Required: Each local Board will ensure that all Career Center staff is informed of the content of this issuance and provide needed assistance to employers seeking verification of referrals made by the local One-Stop Career Center.

Effective: Immediately

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.

Attachment: A. OSCC Result of Recruitment Template