

# H - 2A Employer Compliance Checklist



FOREIGN LABOR  
CERTIFICATION

Review 20 CFR 655 subpart B or visit  
[foreignlaborcert.doleta.gov](http://foreignlaborcert.doleta.gov)

For questions regarding Foreign Labor  
Certification, contact:

**Department of Labor and Regulation**  
Foreign Labor Certification Program  
123 W. Missouri Ave.  
Pierre, SD 57501

**Tel:** 605.773.3101 | **Fax:** 605.773.6184

[dlr.sd.gov](http://dlr.sd.gov)

Auxiliary aids and services are available upon request to individuals with disabilities. State and federal laws require the Department of Labor and Regulation to provide services to all qualified persons without regard to race, color, creed, religion, age, sex, ancestry, political affiliation or belief, national origin, or disability.



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**The following checklist is not a full listing of an employer’s obligations under the Foreign Labor Certification Program. Make sure you are fully aware of additional rules and regulations by reviewing 20 CFR 655 subpart B.**

Are you:

- Paying all workers (including U.S. domestic workers with the same job duties) the adverse effective wage rate (AEWR)? If you don’t know the AEWR, contact the DLR Foreign Labor Certification Coordinator at 605.773.3101.
- Providing housing at no cost to the workers meeting housing standards?
- Providing the worker with all tools and supplies required to do the job at no cost to the employee?
- Providing transportation between living quarters and the worksite?
- Making sure provided transportation complies with all federal, state or local laws?
- Keeping accurate and adequate records of worker’s earnings?
  - Field tally records
  - Supporting payroll records
  - Records showing the nature and amount of work performed
  - Number of hours actually worked
  - Number of hours offered
  - Time the worker began and ended each day
  - Rate of pay
  - The worker’s earnings per pay period
  - The worker’s home address
  - The amount of all deductions taken from the worker’s wages and reasons for deductions.
- Making records available for inspection and transcription by the Secretary or a duly authorized and designated representative, and by the worker.
- Retaining earning records for at least three years after the date of the certification.
- Providing pay stubs to employees on or before each payday with the following information
  - The worker’s total earnings for the pay period
  - The worker’s hourly rate and/or piece rate of pay
  - The hours of employment offered to the worker
  - The hours actually worked by the worker
  - An itemization of all deductions made from the worker’s wages
  - Beginning and ending dates of the pay period
  - The employer’s name, address and FEIN
- Paying workers a least twice a month?
- Notifying your agent, the Chicago National Processing Center, and the Department of Homeland Security when an H-2A worker abandons employment or is terminated for cause within two working days?
- Providing H-2A workers a copy of the work contract in a language understood by the workers? If a work contract does not exist, the ETA790 will be the work contract.
- Notifying workers of his or her duty to leave United States at the end of the period certified by the U.S. Department of Labor or separation from the employer?
- Cooperating with the South Dakota Department of Labor and Regulation by accepting referrals of all eligible U.S. workers who apply for the job opportunity?

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