FOREIGN LABOR CERTIFICATION JOB ORDERS

Foreign Labor Certification (FLC) can be obtained by an employer to fill vacancies when they are unable to find qualified applicants locally. This certification is obtained from U.S. DOL by certifying there are no qualified workers available in the United States willing to accept the job.

**FLC Coordinator**
The DLR FLC Coordinator ensures employers and DLR staff understand the requirements of FLC job orders. When a temporary FLC application is filed with U.S. DOL, the employer must place a job listing in SDWORKS for the required amount of time.¹ Employers are required to advertise and list a FLC job order in SDWORKS with the job service office in the service area of intended employment.

**TEMPORARY FLC JOB ORDERS**
Temporary FLC job orders, as indicated by either an Agriculture Temporary (H-2A) or Non-Agriculture Temporary (H-2B), are entered, serviced, and closed by a designated job service office as assigned by the FLC Coordinator. Temporary FLC job orders are not to be updated, closed, or otherwise modified by DLR staff due to compliance with federal rules and regulations.

**H-2A – Agriculture Temporary**
For H-2A applications, after approval from the FLC Coordinator, a request will be sent out from either the FLC Coordinator or FLC Program Assistant to the assigned Employment Specialist to post the job order. H-2A job orders should be opened immediately when written.

DLR does not enter H-2A job orders received from other states into SDWORKS. The job order information received from other states will still be collected by the FLC Coordinator for reporting purposes. If a request for out of state job order is received if should be sent to the FLC Coordinator.

If an applicant from another state contacts a job service office regarding a South Dakota H-2A job order, any information outlined in the copy of the ETA Form 790 may be provided to the individual. If an applicant has an inquiry about a job order from a state other than South Dakota, please have the individual contact that respective state.

Job service office staff should schedule and inspect housing units requested by the FLC Coordinator or Program Assistant and provide housing inspection information as required under federal statute.

**H-2B – Non-Agriculture Temporary**
For H-2B applications, the employer may enter the job order or submit a job order request through the DLR FLC webpage. At the beginning of every workday, you will need to run a report for new H-2B job orders in SDWORKS. If a job order was entered directly by the employer, please communicate with the FLC Coordinator the job order number for approval. Job order requests submitted through the DLR FLC webpage will be reviewed and approved by the FLC Coordinator. After approval, the request will be sent out from either the FLC Coordinator or FLC Program Assistant to the assigned Employment Specialist to post the job order. H-2B job orders need to remain On Hold until a Notice of Acceptance (NOA) has been received. At that time the FLC Coordinator or Program Assistant will give staff the okay to open the job order.

**RULES PERTAINING TO H-2A AND H-2B**

When a South Dakota H-2A or H-2B job order request is sent to a DLR job service office for job order entry, the job order must be entered within 1-2 business days whenever possible. If a delay of more than three days is anticipated, the FLC

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¹ The FLC Program Specialist will advise offices of mandatory listing times per current federal FLC regulations for H-2A and H-2B job orders.
Coordinator must be notified and provided a reason for the delay. Delays are be reported to the Chicago National Processing Center (CNPC).

When the South Dakota H-2A or H-2B job order is placed into SDWORKS, ensure the H2 field in “Other Information” and “Staff Information” is properly marked as either a H-2A or H-2B job order.

DLR relies heavily on the job service office staff to report any problems with FLC job orders. These problems include:

▪ Uncooperative employers.
▪ Employers indicating to applicants that they do not have an opening, etc.

Job service office staff assigned to FLC should manage the referral procedures for FLC job orders as indicated and approved by the FLC Coordinator.