


U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
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ADVISORY: FOREIGN LABOR CERTIFICATION
 TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 6-06

TO: OFLC-NATIONAL PROCESSING CENTER DIRECTORS
 STATE WORKFORCE AGENCY DIRECTORS

FROM: EMILY STOVER DeROCCO 
 Assistant Secretary

SUBJECT: Foreign Labor Certification National Training for State Workforce Agencies on Standards Governing Review of Temporary Program Applications and Determining Prevailing Wage Rates

- Purpose.** To notify State Workforce Agencies (SWAs) of training on foreign labor certification programs being offered by ETA in early December 2006. The training opportunity will update SWA staff on policy guidance regarding prevailing wage determinations, discuss the transition to processing temporary labor certification applications through the National Processing Centers (NPCs), and reinforce standards and timeframes for the review and preparation of employer applications for temporary labor certification.
- References.** 20 CFR Parts 655 (temporary labor certification) and 656 (permanent labor certification); Employment and Training Administration, *Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs* (revised May 9, 2005); ETA Handbook 3-85.
- Background.** ETA has previously offered foreign labor certification training to the SWAs. Important changes have taken place since then, including new regulations and Departmental guidance with respect to the calculation and processing of prevailing wage determinations required for labor certification applications, and the centralization of processing temporary program applications from ETA regional offices to two NPCs.

Transition from regional to national processing; promoting efficiency and standardization.

In July 2005, processing activities for the H-2A and H-2B temporary labor certification programs were transferred from ETA regional offices to the Office of Foreign Labor Certification (OFLC) NPCs in Atlanta and Chicago. It was not possible to offer comprehensive training to the SWAs during this transition period. During this past year, the OFLC sought to ensure a seamless transition to centralized processing by adopting interim

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measures, in part to accommodate and hold employers harmless for the variations in processing practices that state and regional offices had observed in the past, and which, in some cases, did not become evident until the centralized processing effort was implemented.

Because the SWAs are key stakeholders in the filing, preparation, and review of foreign labor certification applications in the temporary programs and as they continue to play a critical role in prevailing wage determinations for both temporary and permanent labor certification programs, the OFLC is offering updated training designed to discuss and address important application processing and prevailing wage determination issues with the SWAs that will continuously improve the processing of applications.

Guidance on the processing of prevailing wage determination requests. In addition, the new Program Electronic Review Management (PERM) regulation reconfigured the state role in permanent labor certification to providing prevailing wage determinations. Legislation also modified our existing protocols for making prevailing wage determinations. This session will provide updated materials and guidance to state staff on the new process and wage structure.

Performance and customer service. Greater consistency in SWA knowledge and practices will tangibly improve performance and customer service both at the state and Federal levels.

4. **Date and Place.** OFLC plans to provide SWA training in San Antonio, Texas, during the first week in December. We are expecting the training to take two days. SWAs will receive, under separate cover, information on the specific dates for training, reservation procedures, and reimbursement of necessary expenses incurred as a result of participating in the training.
5. **Action Required.** SWA administrators are asked to identify two (2) staff members to attend the training. One should be the person directly responsible for either processing or overseeing the processing of temporary foreign labor certification applications. The second staff person should be directly responsible for either processing or overseeing the processing of prevailing wage determinations. Attendees are expected to train other SWA staff upon their return.
6. **Inquiries.** Please direct inquiries by contacting the Office of Foreign Labor Certification at (202) 693-3010.