H-2A Application Process Flowchart for Employers

February, 2023

State Workforce Agency (SWA)
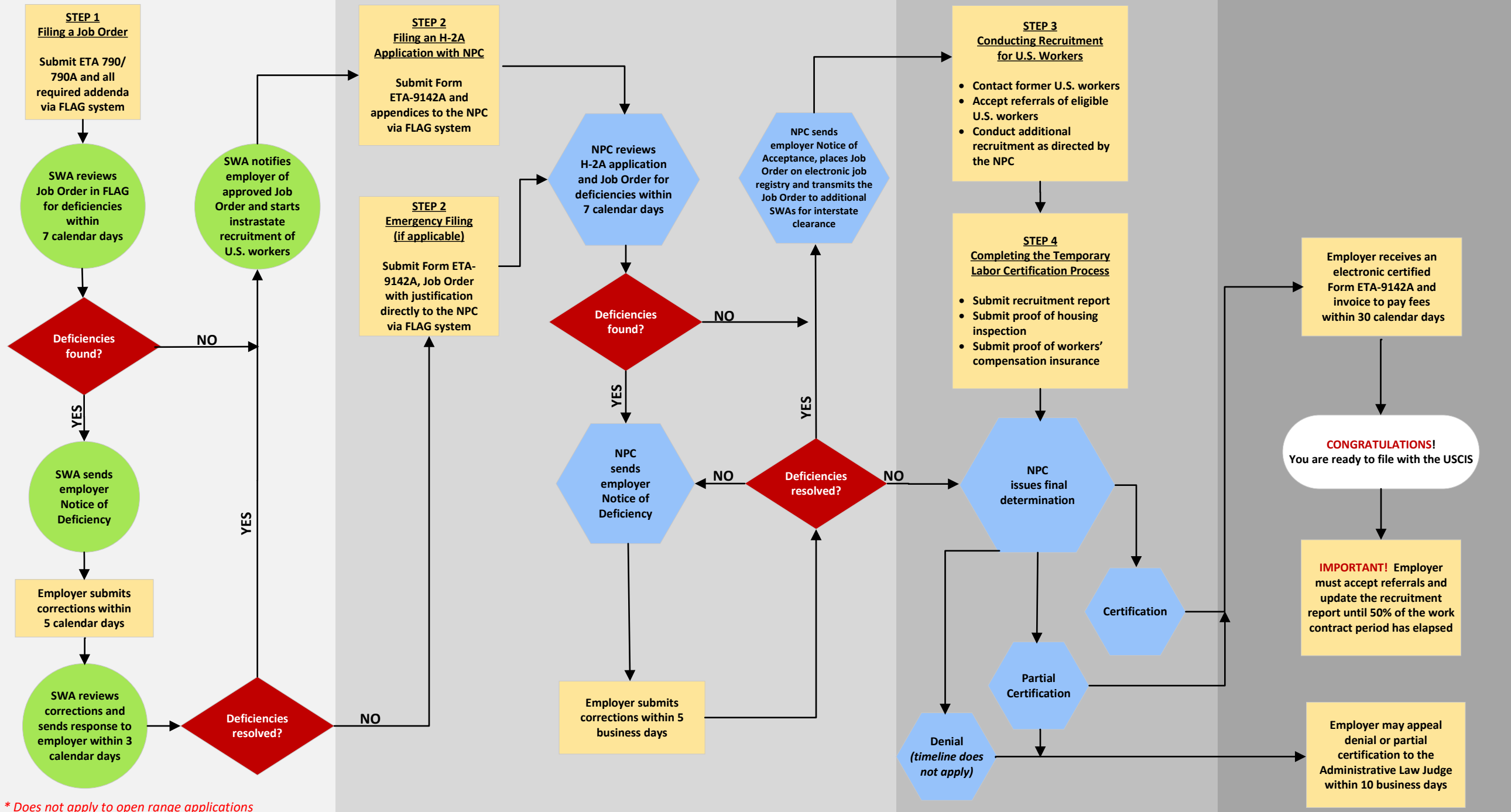### 75-60 days before the first date of need*

STEP 1
Filing a Job Order

Submit ETA 790/790A and all required addenda via FLAG system

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SWA reviews Job Order in FLAG for deficiencies within 7 calendar days

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Deficiencies found?

- NO → SWA notifies employer of approved Job Order and starts instrastate recruitment of U.S. workers
- YES ↓

SWA sends employer Notice of Deficiency

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Employer submits corrections within 5 calendar days

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SWA reviews corrections and sends response to employer within 3 calendar days

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Deficiencies resolved?

- NO → (returns to SWA sends employer Notice of Deficiency)
- YES → (to SWA notifies employer of approved Job Order)

* Does not apply to open range applications

National Processing Center (NPC)
No less than 45 days from the first date of need

STEP 2
Filing an H-2A Application with NPC

Submit Form ETA-9142A and appendices to the NPC via FLAG system

STEP 2
Emergency Filing (if applicable)

Submit Form ETA-9142A, Job Order with justification directly to the NPC via FLAG system

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NPC reviews H-2A application and Job Order for deficiencies within 7 calendar days

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Deficiencies found?

- NO → NPC sends employer Notice of Acceptance, places Job Order on electronic job registry and transmits the Job Order to additional SWAs for interstate clearance
- YES ↓

NPC sends employer Notice of Deficiency

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Employer submits corrections within 5 business days

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Deficiencies resolved?

- NO → (returns to NPC sends employer Notice of Deficiency)
- YES → (to NPC sends employer Notice of Acceptance)

30 days before the first date of need

STEP 3
Conducting Recruitment for U.S. Workers

- Contact former U.S. workers
- Accept referrals of eligible U.S. workers
- Conduct additional recruitment as directed by the NPC

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STEP 4
Completing the Temporary Labor Certification Process

- Submit recruitment report
- Submit proof of housing inspection
- Submit proof of workers' compensation insurance

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NPC issues final determination

→ Certification
→ Partial Certification
→ Denial *(timeline does not apply)*

Post Determination

Employer receives an electronic certified Form ETA-9142A and invoice to pay fees within 30 calendar days

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CONGRATULATIONS! You are ready to file with the USCIS

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IMPORTANT! Employer must accept referrals and update the recruitment report until 50% of the work contract period has elapsed

Employer may appeal denial or partial certification to the Administrative Law Judge within 10 business days

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U.S. Department of Labor

Legend: ▢ = Employer Actions ● = SWA Actions ⬡ = NPC Actions

Office of Foreign Labor Certification