H-2B PROGRAM
PRE-FINAL DETERMINATION RECRUITMENT REPORT CONTENT CHECKLIST AND BEST PRACTICES GUIDE

OFFICE OF FOREIGN LABOR CERTIFICATION

PURPOSE: The checklist below reflects the recruitment report (RR) requirements in the U.S. Department of Labor's (DOL) 2015 H-2B Interim Final Rule and contains best practice tips intended to assist employers in preparing and submitting clear and complete recruitment reports to the Office of Foreign Labor Certification (OFLC) Certifying Officer (CO) to enable the CO to issue a final determination regarding their *H-2B Applications for Temporary Employment Certification* (H-2B Application). **The checklist is intended for use as guidance only; it should <u>not</u> be submitted to the OFLC CO; and it DOES NOT absolve the employer from complying with all regulatory requirements.**

Incorrect, incomplete, or unclear RRs will generally lead to requests for additional information and delays in processing and ultimately may result in denial of the H-2B Application. Therefore, OFLC encourages employers to use the checklist below as a guide and carefully review the notes and tips in this document when completing H-2B RRs for submission to the CO.

BACKGROUND: The H-2B program requires employers to test the U.S. labor market so that DOL can certify there are not sufficient U.S. workers who are qualified and who will be available to perform the employers' job opportunities, and that employment of H-2B foreign workers in these jobs will not adversely affect the wages and working conditions of U.S. workers similarly employed.

Through a Notice of Acceptance (NOA), the CO authorizes the employer to begin its test of the labor market. The NOA instructs the employer how to conduct the required recruitment activities and when to submit a written RR, which summarizes recruitment activities and provides up-to-date results of the recruitment activities for the CO's review before the CO issues a final determination. The RR must not be submitted to the CO until all employer-conducted recruitment activities are completed and must contain all required information including up-to-date results of the recruitment (§ 655.40(b), (f)).

REMINDER: The employer must update the RR throughout the required recruitment period (i.e., until 21 days before the start date of work) (§ 655.48(b)) and maintain and retain the RR and supporting documents for 3 years from the date of certification of the H-2B Application, the date of denial of the H-2B Application, or the day DOL receives a letter of withdrawal provided in accordance with § 655.62 (§ 655.56).

PRE-FINAL DETERMINATION RECRUITMENT REPORT

Required Content Checklist / Best Practices Tips

1. SIGNATURE AND DATES (§ 655.48)

A. The employer signed the recruitment report.	☐ Yes
B. Each joint employer signed the recruitment report. Required for a job contractor and its employer-client. See 20 CFR 655.18.	☐ Yes ☐ Not applicable. There are no joint employers for this Application.

Best practice tips:

- ✓ Check that the recruitment report identifies the person(s) who signed it (*e.g.*, by name and title). If it is unclear who is signing on behalf of the employer, the CO may request clarification about the signatory's identity and role with the employer before issuing a final determination.
- ✓ Employers may electronically sign recruitment reports using a valid electronic signature as mandated by OMB. See https://www.archives.gov/records-mgmt/policy/electronic-signature-technology.html
- ✓ Check that the recruitment report is prepared on the employer's letterhead or otherwise clearly prepared by the employer. A recruitment report prepared on attorney or agent letterhead indicates that the recruitment report was most likely not prepared by the employer. If the CO receives a recruitment report prepared on attorney or agent letterhead, the CO may request clarification and an updated recruitment report before issuing a final determination.

C. The recruitment report is dated.	☐ Yes
D. The date of the recruitment report falls after all employer-conducted recruitment activities are completed. (The job order and *Seasonaljobs.dol.gov* will generally remain active beyond the date of the recruitment report. However, the employer-conducted recruitment activities addressed in Sections 3 - 7 below must be completed before the employer prepares the recruitment report to submit to the CO.)	☐ Yes

Reminder: The purpose of the recruitment report is to summarize the recruitment activities and recruitment results of the labor market test that is required to enable the CO to

reach a final determination. The CO cannot certify an H-2B Application without sufficient information to demonstrate that the employer complied with recruitment requirements and properly considered U.S. workers who applied or were referred to the job opportunity.

Best practice tips:

- ✓ Include the date(s) that each of the required employer-conducted recruitment activities began and ended. If it is not clear that the employer conducted all required recruitment activities in compliance with timing requirements (i.e., after the date the CO issued the Notice of Acceptance (NOA) and before the date the employer prepared the recruitment report), the CO may request clarification and an updated recruitment report before issuing a final determination.
- ✓ If the date of the recruitment report is the same as the date provided for one or more of the employer-conducted recruitment activities, or the recruitment report otherwise indicates that the employer has not allowed a reasonable period of time for U.S. workers to respond to the recruitment (e.g., employer mailed letters to former employees and dated the recruitment report two days later). The CO may require that an updated recruitment report be submitted before issuing a final determination.
- ✓ If the date of the recruitment report is not contemporaneous to the date of recruitment report submission (e.g., recruitment report dated October 1, submitted on October 8), the CO may require that an updated recruitment report be submitted, which provides additional recruitment results information, before issuing a final determination.

2. JOB ORDER AND SWA REFERRALS (§ 655.16 AND §655.47)

A. The recruitment report identifies the job order that the employer placed with the SWA as a recruitment source.	☐ Yes

Best practice tip:

- ✓ Include the "job order number" to identify the job order associated with the employer's Application. If the employer is unsure of the correct job order number, the employer may provide other information to enable the CO to identify the applicable job order and related referrals, if applicable, with the SWA. For example, the employer may describe the date and method of job order submission to the SWA, and the name and contact information of SWA staff whom the employer communicated with regarding the job order. If the correct job order number or other identifying information is not included in the recruitment report, the CO may request clarification and an updated recruitment report.

B. The recruitment report includes the name and contact information of each U.S. worker referred to the employer from/through the SWA's job order system.	☐ Yes ☐ Not applicable. The SWA did not refer any U.S. workers for the employer's job opportunity.

Best practice tips:

- ✓ Check that the recruitment report includes all of the contact information that the employer has for each referral (e.g., mailing address, telephone number, and/or email address).
- ✓ Provide a summary of the referral activity generated through the job order system or state that the employer received no referrals from the job order. For example, the employer may state: **"The SWA referred four (4) U.S. workers on [date] as a result of the job order"** or **"The employer received zero (0) U.S. worker referrals from the SWA in connection with recruitment through the job order."** If the recruitment report is unclear regarding the number or timing of referrals resulting from the job order placed with the SWA in connection with the Application, the CO may request clarification and an updated recruitment report.

Reminder:

If the employer receives any applications or resumes—whether through the SWA referral process or directly from a U.S. worker who applies or is referred—the employer must retain the applications or resumes received and make them available, for example, in the event of an OFLC audit or Wage and Hour Division investigation.

3. CONTACT WITH BARGAINING REPRESENTATIVE (§655.45)

REQUIRED IF THERE IS A BARGAINING REPRESENTATIVE FOR ANY OF THE EMPLOYER'S EMPLOYEES IN THE OCCUPATION AND AREA OF INTENDED EMPLOYMENT ("AIE")

A. The recruitment report states that the employer sent a copy of the job order and ETA-9142B, *H-2B Application for Temporary Employment Certification* to the bargaining representative.	☐ Yes ☐ Not applicable. There is no bargaining representative for any of the employer's employees in the occupation and AIE.
B. The recruitment report describes the nature of the employer's contact with the bargaining representative, **including the date and means of contact**.	☐ Yes ☐ Not applicable. There is no bargaining representative for any of the employer's employees in the occupation and AIE.
C. The recruitment report indicates the number of U.S. workers who applied directly or were referred by the bargaining representative/labor union. A number must be included in the recruitment report. If the employer received no referrals from the bargaining representative/union, the recruitment report indicates	☐ Yes ☐ Not applicable. There is no bargaining representative for any of the employer's employees in the occupation and AIE.

"zero," or uses an alternative term to convey zero (e.g., none).	
D. The recruitment report provides the name and contact information (e.g., mailing address, telephone number, and/or email address) for each U.S. worker who applied directly or was referred to the employer from/though the bargaining representative/labor union.	☐ Yes ☐ Not applicable. There is no bargaining representative for any of the employer's employees in the occupation and AIE <u>or</u> no U.S. workers applied or were referred from/though the bargaining representative.

<u>Best practice tips</u>:

- ✓ If the prevailing wage determination (Form ETA-9141, *Application for Prevailing Wage Determination*) for the H-2B Application is based on a collective bargaining agreement ("CBA"), check that the recruitment report clearly addresses the requirement to contact the bargaining representative.
- ✓ If there is a CBA, and a bargaining representative had to be contacted for the H-2B Application, check that the recruitment report clearly identifies who the employer contacted (e.g., name, title, organization, address), date(s) of contact, and the method of contact used (e.g., email, phone number).
- ✓ If the recruitment report is unclear regarding whether there is an applicable bargaining representative whom the employer must contact to provide notification regarding the job opportunity before the CO can issue a final determination, the CO may request clarification and an updated recruitment report.

  The following are examples of statements that <u>do not</u> clearly meet this regulatory requirement:

  > "There is no bargaining representative at this worksite;"
  >
  > "I don't have a bargaining representative;" or
  >
  > "There is no collective bargaining agreement at this worksite."

  In contrast, if there is no bargaining representative for any of the employer's employees in the occupation and AIE, the employer is permitted to include the following statement: **"There is no bargaining representative for any of my employees in the occupation and area of intended employment."**

Reminder:

If the employer receives any applications or resumes—whether from the bargaining representative or directly from a U.S. worker who applies or is referred—the employer must retain the applications or resumes and make them available, for example, in the event of an OFLC audit or Wage and Hour Division investigation.

4. CONTACT WITH FORMER U.S. EMPLOYEES (§655.43 AND §655.48)

REQUIRED IF THE EMPLOYER HAS FORMER U.S. EMPLOYEES WHO WERE EMPLOYED IN THE OCCUPATION AND PLACE OF EMPLOYMENT IN THE PRIOR YEAR WHOSE SEPARATION WAS INVOLUNTARY, UNLESS DUE TO TERMINATION FOR CAUSE

A. The recruitment report indicates that the employer was required to contact—and did contact (by mail or other effective means)—its former U.S. employees to solicit their return to the job opportunity.	☐ Yes ☐ Not applicable. The employer has no former U.S. employees that it must contact.

Best practice tip:

✓ If the recruitment report is unclear regarding whether the employer has former U.S. employees whom it must contact for compliance with 20 CFR 655.43, the CO may request clarification and an updated recruitment report before issuing a final determination on the employer's Application.

The following are examples of statements that do not clearly meet this regulatory requirement:

> "The employer has not laid off any workers in this position in the past year." (Unclear because 20 CFR 655.43 requires the employer to contact former U.S. employees in the same occupation, which may include various related positions.)
>
> "The employer contacted 3 former U.S. employees who were employed in the occupation at the place of employment and who were laid off in the past 120 days." (Unclear because 20 CFR 655.43 requires the employer to contact workers who were employed "during the previous year"—including but not limited to those who have been laid off within 120 calendar days before the date of need—in the occupation at the place of employment, unless the worker was terminated for cause or abandoned the worksite. It is also not clear that the three workers contacted are the total number of workers who were employed in the occupation in the last year.)

In contrast, if there are no former U.S. employees who were employed in the occupation and place of employment during the prior year, or there were but all such workers either were terminated for cause or abandoned the worksite, the employer is permitted to state: **"The employer did not contact any former U.S. employees because it has no former U.S. employees who were employed in the occupation at the place of employment during the past year, who were not terminated for cause and/or who did not abandon the worksite."**

Reminder:

If the employer's recruitment report indicates that there are no former U.S. employees that the employer is required to contact, the employer must retain evidence substantiating that the former U.S. employee contact requirement did not apply to the Application and must make this

documentation available, for example, in the event of an OFLC audit or Wage and Hour Division investigation. *See* 20 CFR 655.56(c)(3).	
B. The recruitment report clearly states the nature of the employer's contact with former U.S. employees, including the method of contact used and date(s) of contact.	☐ Yes ☐ Not applicable. The employer has no former U.S. employees that it must contact.

Best practice tips:

- ✓ Check that the recruitment report provides information regarding the employer's efforts to contact former U.S. employees and solicit their return to work, when applicable, to enable the CO to assess whether there are not sufficient U.S. workers who are qualified and will be available to perform the job opportunity, as required before the CO can issue certification.

- ✓ The following are examples of helpful information that the employer may include a summary of its efforts:
  - the number of former U.S. employees the employer contacted
  - the names and contact information for the former U.S. employees contacted
  - dates and methods of contact(s) (e.g., initial contact, follow-up contact, former U.S. employee responses to the employer's contact)
- ✓ If the employer contacted former U.S. employees and hired some or all of those responding to the employer's contact, indicate in the recruitment report how the employer determined the number of H-2B workers to request. If the recruitment report is unclear regarding whether the employer determined the number of H-2B workers requested in the Application without regard to the number of former U.S. employees that might return to work (i.e., Number of H-2B Workers Requested = Total Number of Workers Needed) **or** after subtracting the number of former U.S. employees the employer anticipated would return to work from the employer's total need (i.e., Number of H-2B Workers Requested = Total Number of Workers Need – Anticipated Returning Former U.S. Employees), the CO will assume the number of H-2B workers requested reflects the employers total need without regard to potential returning former U.S. workers. As a result, the CO will reduce the number of H-2B workers certified under the H-2B Application by one for each former U.S. employee who has not been rejected for lawful job-related reasons.
  - ✓ The recruitment report may provide the name, contact information (e.g., mailing address, telephone number, and/or email address), and disposition for each former U.S. employee who responded to the employer's solicitation to return to work. Adding this information supports an employer's assertion that it thoroughly conducted its test of the labor market.

Reminders:

If helpful, employers may contact its former U.S. workers prior to the issuance of a NOA and rely on these workers' confirmation that they will return to work. However, this proactive step

will not exempt the employer from contacting the former U.S. workers during the authorized recruitment period, as instructed and stated in the NOA.

The employer must retain documents demonstrating that the employer offered the job opportunity in the H-2B Application to each former U.S. employee contacted and that the former U.S. employee either refused the job opportunity or was rejected only for lawful, job-related reasons. The employer must make these documents available, for example, in the event of an OFLC audit or Wage and Hour Division investigation. *See* 20 CFR §§ 655.20(r) and (w), 655.43, and 655.56(c)(7).

For H-2B program purposes, "abandoned the worksite" includes but is not limited to an employee failing to report to work at the regularly scheduled time for at least 5 consecutive working days without the consent of the employer. *See* § 655.20(y).

5. Posted Notice of the Job Opportunity (§655.45)

REQUIRED IF THERE IS NO BARGAINING REPRESENTATIVE FOR ANY OF THE EMPLOYER'S EMPLOYEES IN THE OCCUPATION AND AIE

A. The recruitment report states that the employer posted notice of the availability of the job opportunity at the place(s) of employment.	☐ Yes ☐ Not Applicable. The employer's employee(s) in the occupation and AIE have a bargaining representative, whom the employer contacted.

Best practice tip:

✓ The recruitment report should indicate, when applicable, that the employer posted notice at the place(s) of employment because the employer's employee(s) in the occupation and AIE do not have a bargaining representative. If the recruitment report is unclear regarding whether there is an applicable bargaining representative who the employer must contact to provide notification regarding the job opportunity before the CO can issue a final determination, the CO may request clarification and an updated recruitment report. For example, the employer is permitted to state: **"The employer posted notice at the worksite, as there is no bargaining representative for any of my employees in the occupation and area of intended employment."**

B. The recruitment report specifies how and where the employer posted the required notice to all employees in the job classification and area: identifying the two conspicuous locations at the place(s) of employment where the employer posted physical notice of the job opportunity; **or** identifying the alternative manner in which the employer provided reasonable notification (e.g., electronic posting).	☐ Yes ☐ Not Applicable. The employer's employee(s) in the occupation and AIE have a bargaining representative, who the employer contacted.

C. The recruitment report specifies the dates the employer posted notice of the job opportunity.	☐ Yes ☐ Not Applicable. The employer's employee(s) in the occupation and AIE have a bargaining representative, whom the employer contacted.

Best practice tips:

✓ The recruitment report should indicate, when applicable, the means and location of posting. If the recruitment report is unclear regarding whether the employer posted the notice using appropriate means and in appropriate locations, the CO may request clarification and an updated recruitment report before issuing a final determination.

The following are examples of clear statements of the means and location of posting:

"The employer posted notice of the job opportunity on the bulletin board where required Wage and Hour posters are posted and in the employee lunchroom."

"The employer maintains an intranet page where it posts information regarding job openings, holiday schedules, and other employment-related information to employees. Notice of the job opportunity was posted at the top of this intranet page."

If the recruitment report is unclear regarding the means and/or location the employer used to post the notice, the CO may request clarification and an updated recruitment report before issuing a final determination.

✓ The recruitment report should indicate, when applicable, the dates of posting (e.g., "posted on October 4, 2022 through October 24, 2022") and information regarding the employer's business days (e.g., "open for business Monday through Friday" or "open for business seven days per week").

Example: If the CO issues a NOA dated October 3, 2022, the recruitment report is permitted to state:

> **"The employer posted notice of the job opportunity from October 4, 2022 through October 24, 2022, which is 15 consecutive Monday through Friday business days;"** or **"The employer posted notice of the job opportunity from October 4, 2022 through October 20, 2022, which is more than 15 consecutive business days. The employer is open for business seven days per week."**

If the recruitment report is unclear regarding whether the employer posted the notice for at least the minimum number of days required (i.e., 15 consecutive business days) before preparing the recruitment report, the CO may request clarification and an updated recruitment report before issuing a final determination.

Reminders:

Notice of the job opportunity must be posted in at least two (2) conspicuous locations at the place(s) of anticipated employment or using a means that provides reasonable notification to all employees in the occupation and area in which the work will be performed (e.g., electronic

intranet or bulletin board the employer customarily uses to post notices about job opportunities). An internal or external website or other electronic means may be used, provided that notice of the job opportunity is prominently displayed, the means used is maintained by the employer, and the employer customarily uses the means for notices to employees about terms and conditions of employment. § 655.45(b).

Regardless of the means of posting (e.g., physical posting or electronic posting), the notification must be posted and available to the employer's employees for at least 15 consecutive business days.

The recruitment report provides a copy of the retained posting or clearly explains the contents of the posting such that the CO can determine the posting contained the contents required by § 655.41, including: wage offer(s), including overtime and deductions; SWA contact information, statement directing applicants to the SWA, and job order #; description of job opportunity, minimum education and experience requirements, other work requirements; geographic location specific enough to apprise applicants of travel and living requirements; work hours and days, including all guarantees, and anticipated start and end dates; and employer-provided board, lodging, transportation and subsistence (including that specified at § 655.20(j)(1)); and all provided tools, supplies, and equipment

The employer must maintain a copy of the posted notice and information regarding where and when it was posted, and must make this documentation available, for example, in the event of an OFLC audit or Wage and Hour Division investigation.

F. The recruitment report provides the names, contact information (e.g., mailing address, telephone number, and/or email address), and disposition for each U.S. worker who applied in response to the notice.	☐ Yes ☐ Not Applicable. The employer's employee(s) in the occupation and AIE have a bargaining representative, whom the employer contacted, or no U.S. workers applied in response to the notice.

6. Contact with Community-Based Organizations (§655.45) Required if the CO directs the employer to contact and notify designated organizations in the NOA

A. The recruitment report confirms the employer contacted community-based organization(s), as directed by the CO in the NOA, and notified the organization(s) of the job opportunity.	☐ Yes ☐ Not Applicable. In the NOA, the CO did not designate community-based organization(s) for the employer to contact.
B. For each community organization the employer contacted and notified of the job opportunity, the	☐ Yes

recruitment report states whether the organization referred qualified U.S. worker(s) (including the number of referrals) **or** was non-responsive to the employer's requests.	☐ Not Applicable. In the NOA, the CO did not designate community-based organization(s) for the employer to contact.
C. The recruitment report provides the name, contact information, and disposition for each U.S. worker who applied or was referred to the employer through contact with community-based organization(s).	☐ Yes ☐ Not Applicable. In the NOA, the CO did not designate community-based organization(s) for the employer to contact, or no U.S. workers applied or were referred from/though designated community-based organization contact.

Best practice tips:

- ✓ Review the NOA to determine whether the CO requires this type of recruitment activity for the H-2B Application due to the nature of the job opportunity and/or the AIE.
- ✓ Check that the recruitment report provides information regarding the employer's contact with community-based organization(s), when applicable, that confirms that each designated community-based organization was contacted and notified of the position openings. For example, the employer may include a summary of its efforts that includes:
  - the name(s) of the organization(s) the employer contacted
  - the names and contact information for the representatives of the organization(s) the employer contacted
  - dates and methods of contact(s) (e.g., initial contact, follow-up contact, responses to the employer's contact)

Reminder:

The NOA will specify whether the CO requires this type of recruitment activity due to the nature of the job opportunity and/or the area of intended employment. *See* § 655.45(c).

7. Additional Recruitment Ordered by the CO (§ 655.46)

REQUIRED IF THE CO DIRECTS THE EMPLOYER TO CONDUCT ADDITIONAL RECRUITMENT ACTIVITIES IN THE NOA

A. The recruitment report indicates that the employer conducted any/all additional recruitment efforts, as directed by the CO in the NOA.	☐ Yes ☐ Not Applicable. In the NOA, the CO did not direct the employer to engage in any

	additional recruitment activities.
B. The recruitment report indicates the method(s) of additional recruitment the employer conducted at the CO's direction (e.g., newspaper or website advertisements), the name of the recruitment tool used (e.g., name of the newspaper or website).	☐ Yes ☐ Not Applicable. In the NOA, the CO did not direct the employer to engage in any additional recruitment activities.
C. The recruitment report indicates the date(s) the employer conducted the additional recruitment efforts (e.g., date the employer placed the newspaper or website advertisement(s)).	☐ Yes ☐ Not Applicable. In the NOA, the CO did not direct the employer to engage in any additional recruitment activities.
D. The recruitment report indicates the name, contact information, and disposition of applicants who responded to these recruitment methods.	☐ Yes ☐ Not Applicable. In the NOA, the CO did not direct the employer to engage in any additional recruitment activities, <u>or</u> no U.S. workers applied or were referred from/though the additional recruitment activities.

<u>Best practice tips</u>:

- ✓ Review the NOA to determine whether the CO required additional recruitment activities for the H-2B Application.
- ✓ Check that the recruitment report provides information regarding additional recruitment activities, when applicable, that confirms that the employer completed each designated activity. For example, the employer may include a summary of its efforts that includes: the name(s) of the activity (e.g., newspaper advertisement, including the name of the newspaper) and dates of the activity.

8. Recruitment Results, Interviews, & Hiring (§655.48)

A. The recruitment report indicates the date each applicant applied or was referred (from all sources, including Seasonal Jobs) to the employer or former employee expressed interest in returning to the job.	☐ Yes ☐ Not Applicable. The employer received no referrals or applicants for employment from/through any source up to the date the employer prepared the recruitment report.
B. If applicable, the recruitment report indicates the dates the employer conducted interviews with applicants and	☐ Yes

the location and/or methods used to conduct the interviews (e.g., telephone interviews or in-office interviews at X address).	☐ Not Applicable. The employer did not conduct interviews as part of the recruitment and hiring process.

Best practice tips:

✓ Check that the recruitment report identifies the person(s) who conducted interview(s) (*e.g.*, by name and title), if applicable. If it is unclear who conducted interviews on behalf of the employer, the CO may request clarification about the interviewer's identity and role with the employer before issuing a final determination.

Reminders:

Interviews must be conducted by telephone or at a location where workers can participate at little or no cost.

The employer cannot impose an interview requirement on U.S. workers that was not imposed on H-2B foreign workers.

The employer may not make the recruitment, interview, or hiring process more difficult or burdensome than necessary; it must make a good faith effort to contact and follow-up with applicants and former employees and must provide applicants and former employees adequate time to respond to employer communications.

C. The recruitment report indicates the date the employer hired or provided notice of refusal to hire each applicant or former employee.	☐ Yes ☐ No. No U.S. worker responded to the advertisements and notices, no worker was referred by the SWA or labor union/ community organization, and no former employee applied for the job.

Best practice tips:

✓ Check that the recruitment report clearly explains the reason for each rejection. For example, if the employer refuses to hire an applicant for lack of required experience, the employer should provide a copy of or clearly reference the resume indicating experience below the requirement.

Reminder:

The employer cannot reject applicants for failure to meet requirements or conditions the employer is not requiring of foreign workers, are not normal and accepted among non-H-2B employers of workers in the same occupation and AIE, or are not stated in the H-2B Application or recruitment materials provided to applicants.

Employers cannot treat U.S. workers less favorably than foreign workers in recruitment and hiring. The employer may not require employment experience, drug tests, or criminal background checks for U.S. workers if it does not require the same tests and background checks for H-2B foreign workers. *See* 655.18(a)(1),(2).

Examples:

- ✓ Employers may not conduct a drug screening for H-2B workers at a later date if the employer does not provide the same late screening for U.S. workers.

- ✓ Employers cannot impose, e.g., a 12-month experience requirement on U.S. workers that is not also required of H-2B foreign workers or normally required by non-H-2B employers of workers in the occupation and employment area.

EXAMPLE RECRUITMENT REPORT THAT DEMONSTRATES BEST PRACTICE TIPS

Clearly identifies each recruitment activity or source and the date(s) that each was conducted.

Provides aggregate summary of recruitment results.

ABC RESORT MOTEL
1 RESORT WAY
CHICAGO, ILLINOIS 60600
WWW.ABCRESORTMOTEL.ORG
123-456-7890

June 16, 2022

RE: H-2B Recruitment Report, ABC Resort Motel, H-0000-00000-000000

Dear Certifying Officer:

Please accept this letter as our company's recruitment report for our pending H-2B Application for 15 maids to work at our facility located at 1 Resort Way, Chicago, IL 60600. Our business is open seven days per week. The job requires no prior experience as a maid or housekeeper.

We had one former U.S. worker, On Alphabet, in this occupation in the year preceding the filing of our current H-2B Application. We sent Ms. Alphabet a letter on June 2, 2022 by e-mail and U.S. mail soliciting her return to this temporary position and provided her with a copy of the job posting notice. Ms. Alphabet called me on June 6, 2022 and said she had taken a full-time job with another company. She declined our offer to return to this temporary position with our company.

There is no union bargaining representative for any of my employees in the occupation in the area of employment for this job. The job opportunity, meeting the requirements stated in 20 CFR 655.18 (Job order assurances and contents), was posted in two conspicuous locations at our facility from Monday, June 1, 2022 until Tuesday, June 15, 2022.

A copy of the job order was filed with the Illinois State Workforce Agency (SWA) when we filed the H-2B Application with the Chicago National Processing Center. The job order number is 12345678. The SWA referred one U.S. worker: Any Name, 123 Street, Chicago, IL, 60642, 123-567-8901. On June 3, 2022, I contacted Mr. Name at 12 pm to schedule a telephone interview. On June 5, 2022, I conducted an interview with Mr. Name and offered him the temporary job opportunity. Mr. Name declined the position stating he was only interested in a permanent job.

For this job opportunity, no U.S. workers applied to our company through www.seasonaljobs.dol.gov, or responded to our posting notices. We also posted advertisements of this job opportunity on an internet site, www.indeed.com, and on job placement boards at our local grocery stores but we received no response from these other recruitment sources.

We will continue to update our recruitment efforts until 21 days prior to the start date of need, December 1, 2022.

Sincerely,

First Name Last Name

Human Resources Manager