



# NCWORKS FOREIGN LABOR PROGRAMS



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## Foreign Labor Certification

Foreign Labor Certification (FLC) programs are generally designed to assure that the admission of foreign workers into the U.S. on either a permanent or temporary basis will not adversely affect the job opportunities, wages and working conditions of American workers.

Employers secure certification through the U.S. DOL's Employment and Training Administration (ETA). The U.S. DOL must certify to U.S. Citizenship and Immigration Services (USCIS) that there are not enough U.S. workers who can accept certain job opportunities and that employing the foreign workers will not adversely affect similarly employed U.S. workers.

For more information on the Permanent ("PERM") and H-2B Temporary Non-agricultural Labor Certification Programs, employers can visit [foreignlaborcert.doleta.gov](http://foreignlaborcert.doleta.gov).

## Foreign Labor Recruitment

As a part of the process, employers must obtain a "Prevailing Wage Determination" (PWD) in order to complete the PERM application, Form ETA 9089 and the H-2B application, Form ETA 9142B. The PWD is obtained from the National Prevailing Wage Center using ETA Form 9141. The PWD application is available at [flag.dol.gov](http://flag.dol.gov).

Once the U.S. DOL application is approved, employers must petition USCIS for a visa. Approval by the U.S. DOL does not guarantee a visa issuance. Applicants (i.e. workers) must also establish that they are admissible to the U.S. under a law called the Immigration and Nationality Act.

Employers can find more information about various types of visas at [uscis.gov](http://uscis.gov).

## ► Building a Strong Workforce

**Sometimes businesses are unable to fill all their available positions with U.S. workers and need to hire foreign workers.**

To do that, employers must seek certification through programs administered by the U.S. Department of Labor (DOL). As part of NCWorks, the N.C. Division of Workforce Solutions is here to help North Carolina businesses with that process.



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### Employer Requirements

Employers are required to advertise and list a job order with their local NCWorks Career Center. Find contact information for NCWorks Career Centers at **ncworks.gov**. The NCWorks team will ensure that employers understand the requirements for listing FLC job orders and will manage the screening and referral procedures for PERM and H-2B Temporary FLC job orders, just as with other job orders.

### Job Posting Requirements

For H-2B, employers may review the job order checklist at **dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2B\_Job\_Order\_Checklist.pdf**. The job duties that workers will perform must support any requirements an employer may have, such as having a valid driver's license, being bilingual, security clearance, etc.

Employers must complete a job order form and submit it via email to **h2b.joborders@nccommerce.com**. Employers may find the Job Order Submission Form at **ncworks.gov**. It's important that the form be completed accurately with the full job order summary/description included.

A copy of the job order must also be sent to the Chicago National Processing Center (CNPC), along with the ETA Form 9142b application, Appendix B, ETA Form 9141 Prevailing Wage Determination and any other supporting documentation. This package can be submitted electronically to CNPC by uploading the documents via the Foreign Labor Application Gateway (FLAG) System at **flag.dol.gov**. The H-2B application package must be filed between 75-90 days prior to the date that the employer needs the services of the workers - except under certain "emergency" circumstances.

A job order will not be cleared for active recruitment until CNPC has issued a Notice of Acceptance.

For a PERM-related application for a nonprofessional occupation, employers must, at a minimum, place a job order and two newspaper advertisements within six months of filing the application. The steps must be conducted at least 30 days but no more than 180 days before the filing of the application. The newspaper advertisements must be placed on two different Sundays.

The 30-day job order timeframe must end at least 30 days prior to filing. While the employer is not limited to the 30-day timeframe and may choose to post the job order for a longer period, the posting must take place at least 30 days prior to filing the application.

Another requirement for PERM positions is that the job order be posted for at least 30 days on NCWorks online. If employers don't want to post their own job orders, the NCWorks team is available to post jobs for the employers.

**NCWorks is committed to assisting employers with all aspects of employee recruitment and will help them determine if Foreign Labor Certification is right for their business.**



Contact NCWorks today.

919.814.0423 | [DWS\\_BusinessServices@nccommerce.com](mailto:DWS_BusinessServices@nccommerce.com)



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