

TRAINING AND EMPLOYMENT NOTICE	NO. 20-20
	DATE May 26, 2021

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
ALL AMERICAN JOB CENTER PROGRAMS

FROM: SUZAN G. LEVINE 
Principal Deputy Assistant Secretary

SUBJECT: American Job Center Role in Connecting U.S. Job Seekers to Job Opportunities Available with Employers Seeking to Employ H-2B Nonimmigrant Foreign Workers in the Second Half of Fiscal Year (FY) 2021

1. **Purpose.** To ensure State Workforce Agencies (SWA) are aware that employers seeking to hire foreign workers for temporary employment under a supplemental H-2B visa cap in FY 2021 must contact a comprehensive American Job Center (AJC) for assistance in recruiting U.S. workers for their job opportunities.
2. **Action Requested.** The Department of Labor (DOL) requests that SWA staff responsible for administering foreign labor certification activities and AJCs utilize their established one-stop partner networks and recruitment practices to help connect job seekers with job opportunities from employers seeking to employ foreign workers on supplemental H-2B visas.
3. **Summary and Background.**
 - a. Summary – This Training and Employment Notice explains the role of AJCs in the recruitment of U.S. workers for temporary or seasonal job opportunities available with employers seeking to hire foreign workers on supplemental H-2B visas made available by a Temporary Final Rule (TFR) jointly published by DOL and the Department of Homeland Security (DHS) on May 25, 2021.
 - b. Background – In response to strong demand for H-2B visas, Congress authorized a supplemental H-2B visa allocation in the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) (FY 2021 appropriation), which permits the Secretary of Homeland Security, after consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers, “upon the determination that the needs of American businesses cannot be satisfied in [FY] 2021 with U.S. workers who are willing, qualified, and able to perform temporary nonagricultural labor.” Accordingly, DOL and DHS jointly published a TFR to implement a supplemental visa allocation of 22,000 H-2B visas under the authority contained in the Consolidated Appropriations Act, 2021.

The TFR adds a provision at 20 CFR 655.64(a)(5)(ii) requiring certain employers to contact, by email or other electronic means, the nearest AJC(s) offering business services in the geographic area where work will commence to request staff assistance to advertise

and recruit U.S. workers for the job opportunity. Employers must contact a “comprehensive center” AJC offering the full range of employment and business services. Because many AJCs continue to offer virtual or remote services due to the COVID-19 pandemic, the TFR requires employers to utilize electronic methods disclosed for the nearest AJC to meet the contact and disclosure requirements in this rule. When contacting the AJC(s), the employers must provide staff with the job order number or, if the job order number is unavailable, a copy of the job order placed on the SWA job listing system. AJCs can be located at the DOL-sponsored website <https://www.careeronestop.org/LocalHelp/local-help.aspx>.

4. **AJC Role and Responsibilities.** After locating the nearest comprehensive AJC, the employer will contact the AJC using an electronic method and will provide the AJC a job order identification number or copy of the job order, which contains information necessary to apprise U.S. job seekers of the job opportunity. Once contacted by the employer, the AJC should make every effort to broadly disseminate information about the job vacancies through the regional one-stop partner network as well as any other organizations including to those organizations serving disadvantaged populations, where the AJC believes potentially qualified U.S. workers would make themselves available for the employer’s job opportunity

These recruitment activities may include, for example, leveraging the state unemployment insurance program to disseminate knowledge of the job opportunity to unemployed workers seeking employment; contacting community-based organizations in the geographic area providing employment and training services and who serve potentially qualified workers; and circulating a copy of the job order to appropriate union offices or hiring halls, consistent with 20 CFR 655.33(b)(5), when the job opportunity is in an occupation or industry that is traditionally or customarily unionized. Where appropriate, the AJCs should refer or direct interested U.S. workers to apply directly with the SWAs if the workers require assistance applying for the job opportunity.

5. **Inquiries.** Please direct questions to the appropriate ETA regional office.

6. **References.**

- a. Consolidated Appropriations Act, 2021 (Pub. L. 116-260)
- b. Exercise of Time-Limited Authority to Increase the Fiscal Year 2021 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers; Temporary Final Rule published at 86 FR 28198 (May 25, 2021).

7. **Attachments.** Not applicable.