

U.S. Department of Labor

Employment and Training Administration

Office of Foreign Labor Certification

Chicago National Processing Center

11 West Quincy Court

Chicago, IL 60604-2105



**NOTICE OF ACCEPTANCE**  
**H-2B TEMPORARY NON-AGRICULTURAL PROGRAM**

February 8, 2024

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Garland Lodge and Resort LLC dba Garland Lodge and Golf Resort  
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Lewiston, MI 49756

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Case Number: H-400-24002-605916

**RE: GARLAND LODGE AND RESORT LLC**  
**dba GARLAND LODGE AND GOLF RESORT**

Dear Sir/Madam:

The employer's application seeking temporary labor certification for 15 Landscaping and Groundskeeping Workers, SOC Occupational Title, Landscaping and Groundskeeping Workers, under the H-2B temporary non-agricultural labor certification program has been reviewed and **accepted for processing**. The employer should read all instructions and information contained in this letter carefully. Before the Department of Labor can issue a final determination on the *H-2B Application for Temporary Employment Certification*, Form ETA-9142B, (Application) the employer must comply with the requirements listed below.

The **employer must** perform all actions contained in the **Employer Requirements section** of this Notice of Acceptance (NOA).

**The State Workforce Agency (SWA) must** perform the actions contained in the **SWA Instructions** section of this NOA upon receipt of a copy of this NOA.

**EMPLOYER REQUIREMENTS**

The employer must conduct recruitment of U.S. workers, as outlined below, and prepare and submit a recruitment report in accordance with 20 CFR 655.40 through 655.48 and the instructions provided below. All recruitment steps requiring action from the employer must be conducted within **14 calendar days** from the date of this letter. This 14-calendar-day period begins the day after the date of this NOA (i.e., Day 1 is the day after the date of this NOA). The employer's recruitment report may not be submitted until the required recruitment steps are

complete, including the posted notice of the job opportunity, if applicable, which must be posted for **15 consecutive business days**, as explained in section I.B. below.

## **I. Instructions for Recruiting U.S. Workers**

Pursuant to 20 CFR 655.15(a), at the time the employer filed its Application, the employer was required to submit to the SWA serving the area of intended employment a job order that complied with State-specific requirements and 20 CFR 655.18. The instructions below explain the steps necessary to complete the recruitment the employer is required to conduct under 20 CFR 655.40 through 655.46, distinct from the recruitment conducted by the SWA through circulation of the job order. **The employer should proceed with recruitment in the time specified in this letter, even if the SWA has not provided the employer with a job order number.** Failure to confirm with the SWA that it has accepted the employer's job order may delay processing of the employer's H-2B recruitment report.

**The employer must consider all U.S. applicants resulting from any recruitment source during the recruitment period** and accept referrals of qualified U.S. workers until 21 days before the employer's date of need.

**Important Note for Job Contractors (20 CFR 655.19(e)(1) and (2)):** Either the job contractor or the employer-client may conduct the mandatory recruitment of U.S. workers detailed in this letter, but all recruitment information must clearly identify both the job contractor and employer-client by name and the work locations where workers will perform labor or services.

### **A. Contact Former U.S. Employees (20 CFR 655.20(w) and 655.43)**

The employer must contact (by mail or other effective means) former employees whom it employed in the occupation at the place of employment during the previous year, inform them of the terms of the job order, and solicit their return to the job. The employer is not required to contact former employees who were dismissed for cause or abandoned the worksite.

### **B. Contact the Bargaining Representative or Post the Job Opportunity (20 CFR 655.45(a) or (b))**

If there is a bargaining representative for any of the employer's employees in the occupation and area of intended employment, the employer must provide a copy of this Application and related job order to the bargaining representative; or

If there is no bargaining representative, the employer must provide notice of the job opportunity, in accordance with 20 CFR 655.41, by posting a notice in at least two conspicuous locations at the place(s) of employment or otherwise provide reasonable notification to all employees in the job classification in the area where work will be performed by H-2B workers. Prominent electronic posting of the notice on the employer's internal or external Web site customarily used to provide notices to employees about terms and conditions of employment is permissible. The notice of the job opportunity must be posted for 15 consecutive business days - beginning on a business day within the 14-calendar-day employer-conducted recruitment period- and the employer's recruitment cannot be considered complete until the employer has posted these notices for at least 15 consecutive business days. Consecutive business days is determined by the employer's days of business operation. Reminder: Day 1 of the 14-

calendar-day employer-conducted recruitment window is the day after the date of this NOA, Day 1 of the required 15-consecutive-business-day posting period cannot be earlier than the day after the date of this NOA.

**Note:** For an employer who is required to conduct the 15 consecutive business day posting (*i.e.*, there is no bargaining representative), there is no exception to this posting requirement. An employer must post notice as instructed, including for a position in a private home or other location where there may not be other employees present.

#### **C. Electronic Advertisement on SeasonalJobs.dol.gov (20 CFR 655.34)**

The Department will post this electronic advertisement on the employer's behalf; the employer need not take any action in this regard.

#### **D. Job Order Submitted to the SWA Pursuant to 20 CFR 655.15(a)**

The SWA will place the job order, which the employer already submitted to the SWA pursuant to 20 CFR 655.15(a), into intrastate clearance and, if appropriate, interstate clearance. **Generally, the SWA will place the job order into clearance on the employer's behalf; however, some clearance systems may require additional employer action with regard to job order content modification or posting.**

To check that the job order posted, as required, and for record retention purposes pursuant to 20 CFR § 655.56(c)(2) and (c)(3), the employer is encouraged to visit the SWA job order system to view its job order in the clearance system to ensure an amended or modified job order was posted in accordance with the SWA requirements and that any amendments to the job order are accurately reflected. The employer is responsible for ensuring the posting is done correctly.

**Important Notice:** On December 18, 2015, the Department of Labor Appropriations Act, 2016, (Division H, Title I of Public Law 114-113) (Appropriations Act) was signed into law. Section 113 of the Appropriations Act and subsequent appropriations acts prohibit the Department of Labor (Department) from expending funds to enforce the three-fourth guarantee rule under 20 CFR 655.20. Therefore, in order to comply with these appropriations acts, the Department cannot require the employer to advertise and offer to workers full-time employment for a total number of work hours equal to at least three-fourths of the workdays of each 12-week period (or 6-week period if the employment covered by the job order is less than 120 days). However, these appropriations acts did not vacate this regulatory provision, and it remains in effect, even though the Department will not use any funds to enforce it.

## **II. Requirements for Accepting Referrals and Considering U.S. Applicants**

#### **A. Mandatory Recruitment Period (20 CFR § 655.40(c))**

The employer must continue to accept referrals and applications of all U.S. applicants interested in the position until 21 days before the date of need.

#### **B. Interviewing U.S. Workers (20 CFR 655.40(d))**

If the employer wishes to interview U.S. applicants, it must conduct the interviews by phone or provide a procedure for the interviews to be conducted in the location where the worker is being recruited so that the worker incurs little or no cost. The employer must not provide H-2B workers with more favorable treatment; whether it requires, or in how it conducts, interviews. If the employer is a job contractor, either the job contractor or the employer-client may interview applicants, as provided in 20 CFR 655.19(e)(1).

### **C. Considering and Hiring U.S. Workers (20 CFR 655.40(e))**

The employer must consider all U.S. workers who apply for the job (or on whose behalf an application is made), including those who apply directly to the employer for the job opportunities that are the subject of this Application, and accept and hire any applicants who are qualified and who will be available at the time and place of employment.

**Reminder:** The Chicago National Processing Center (Chicago NPC) will consider available any U.S. worker who applies for the job opportunity, unless the employer identifies a lawful, job-related reason for not hiring the U.S. worker in its recruitment report, addressed in Section III. The Chicago NPC will reduce the total number of job opportunities that may be certified by the number of U.S. workers who apply and for whom the employer does not identify a lawful, job-related reason for rejection. *See* 20 CFR 655.54.

## **III. Recruitment Report Requirements**

### **A. Submission Date and Method (20 CFR 655.48)**

The employer must prepare, sign, date, and submit a written recruitment report to our office by **March 11, 2024**, by uploading the recruitment report to the correct pending Application in FLAG. In the alternative, the employer may email the recruitment report to [tlc.chicago@dol.gov](mailto:tlc.chicago@dol.gov) with the subject “ATTN. H-2B: **H-400-24002-605916** recruitment report.” If the employer does not have Internet access it may submit the recruitment report with the same caption by facsimile to (312) 886-1688 or mail to the following address:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Chicago National Processing Center  
11 West Quincy Court  
Chicago, IL 60604-2105  
ATTN. H-2B: H-400-24002-605916

**Note:** Do not submit a recruitment report using multiple avenues; this may delay processing of the Application. OFLC will not make a favorable final determination on the Application if the employer has not prepared, signed, dated, and submitted a written recruitment report to the Chicago NPC.

**Important Note for Job Contractors:** If the employer is a job contractor who has filed this Application with an employer-client, both the job contractor and the employer-client must sign the recruitment report.

## **B. Recruitment Report Contents (20 CFR 655.48)**

The recruitment report must contain the following information:

1. The name of each recruitment activity or source (e.g., job order and the name of the SWA; the name of any additional recruitment efforts, *including the SeasonalJobs.dol.gov posting*);
2. The name and contact information of each U.S. worker who applied or was referred to the job opportunity up to the date of the preparation of the recruitment report, and the disposition of each worker's application. The employer must clearly indicate whether the job opportunity was offered to the U.S. worker and whether the U.S. worker accepted or declined;
3. Confirmation that former U.S. employees were contacted, if applicable, and by what means, as well as information concerning the consideration and disposition of such worker candidate(s);
4. Confirmation that the bargaining representative was contacted, if applicable, and by what means, or, if there is no bargaining representative, that the employer posted the availability of the job opportunity, for 15 consecutive business days in two conspicuous locations, to all employees in the job classification and area in which the work will be performed by the H-2B workers, including information concerning the consideration and disposition of any referrals or interested candidates; and
5. If applicable, for each U.S. worker who applied or was referred to the employer for the position but was not hired, the lawful job-related reason(s) for not hiring the U.S. worker.

## **C. Duty to Update the Recruitment Report**

The employer must continue to update the recruitment report throughout the entire recruitment period (*i.e.*, until 21 days before the start date of need). If the employer is a job contractor that has filed this Application with an employer-client, either the job contractor or the employer-client may update the recruitment report. The updated report must be signed, dated and need not be submitted to the Department, but must be made available to the Department in the event of a post-certification audit or upon request from other Federal agencies in the event of an investigation.

## **IV. Documentation Retention Requirements**

In accordance with 20 CFR 655.56, for three years after the date the Application is adjudicated the employer must maintain in its files the following documentation substantiating its recruitment efforts:

- A. Proof of contact with former U.S. workers required by 20 CFR 655.43;
- B. A copy of the posted notice of the job opportunity or contact with bargaining representative(s) required by 20 CFR 655.45; and

- C. Substantiation of the information submitted in the recruitment report prepared in accordance with 20 CFR 655.48, such as evidence of non-applicability of contact with former workers, as specified in 20 CFR 655.43.

Please direct any inquiries regarding this case to the Chicago NPC at [tlc.chicago@dol.gov](mailto:tlc.chicago@dol.gov) or by phone to (312) 886-8000. **Any correspondence sent to the Chicago NPC must include the employer's case number to prevent delays in the processing.**

**\*\*\* SECTION V BELOW APPLIES ONLY TO THE STATE WORKFORCE AGENCY RECEIVING A COPY OF THIS NOTICE OF ACCEPTANCE \*\*\***

## **V. SWA Instructions**

Upon receiving a copy of this NOA:

### **A. Place and Circulate the Job Order**

The originating SWA must place the accepted job order into intrastate clearance. In addition, the originating SWA must circulate the job order to the following States for interstate clearance:

# None

If applicable, the **SWA must provide to the employer a job order reference number for the employer's use in recruiting and considering U.S. workers for the job opportunity.**

### **B. Keep the Job Order Active during the Referral Period**

Each SWA that receives the job order must keep the job order on its active file and refer U.S. applicants until the end of the referral period, *i.e.*, until 21 days before the employer's date of need.

### **C. Circulate the Job Order to Labor Organizations (for traditionally or customarily unionized occupations or industries)**

Each SWA that receives the job order must also circulate a copy of the job order in a traditionally or customarily unionized occupation or industry to the following labor organizations, as appropriate:

1. The central office of the State Federation of Labor; and
2. The offices of any local unions representing employees in the same or substantially equivalent job classification in the area(s) in which work will be performed.

## **SWA REMINDERS:**

1. The SWAs must only refer for employment individuals who have been apprised of all the material terms and conditions of employment and who are qualified and will be available for employment.

2. If the OFLC CO determines it necessary to amend or modify the job order after acceptance, the CO will inform the SWA of modifications that must be made.
3. The Department annually changes the required transportation and subsistence rates. Please **ensure that the job order contains the updated rates**, located here: <https://www.dol.gov/agencies/eta/foreign-labor/wages/meals-travel-subsistence>

Sincerely,

OFLC Certifying Officer

CC: Michigan State Workforce Agency