

Delaware Department of Labor

Connecting people to jobs, resources monetary benefits, workplace protections and labor market information to promote financial independence, workplace justice and a strong economy

Division of Employment and Training

Program Administrator

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Foreign Labor Certification (FLC) Fact Sheet

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Program Overview

The Foreign Labor Certification (FLC) also known as Alien Labor Certification (ALC) provides assistance to the residents & businesses of Delaware as well as foreign workers. Foreign Labor Certification Unit/State Workforce Agency (SWA) assists employers in meeting requirements for recruitment of alien workers and assures that regulatory processes are followed to document that American workers are not available. The program ensures the employment of the foreign worker will not adversely affect the wages and working conditions of the U.S. workers that are employed.

Foreign Labor Certification programs assists U.S. employers in hiring foreign workers on either a temporary or permanent basis to fill jobs essential to the U.S. economy. Certification may be obtained in cases in where it can be demonstrated that there are insufficient qualified U.S. workers available and willing to perform the work at wages that meet or exceed the prevailing wage paid for that occupation in the area of intended employment.

The Foreign Labor Certification handles the following programs:

- **Permanent Labor Certification** (PERM Program)
- **H-1B Specialty (Professional) Workers** (H-1B Program)
- **H-2A Temporary Labor Certification** (Seasonal Agricultural / H-2A Program)
- **H-2B Temporary Labor Certification** (Non-agricultural / H-2B Program)

Process

Hiring foreign workers for employment in the U.S. normally requires approval from several government agencies. First, employers must seek labor certification through the U.S. Department of Labor (DOL). Once the application is certified (approved), the employer must petition the U.S. Citizenship and Immigration Services (CIS) for a visa. Approval by DOL does not guarantee a visa issuance. The Department of State (DOS) will issue an immigrant visa number to the foreign worker for U.S. entry. Applicants must also establish that they are admissible to the U.S. under the provisions of the Immigration and Nationality Act (INA).

Although each foreign labor certification program is unique, there are similar requirements that the employer must complete prior to the issuance of a labor certification.

In general, the employer will be required to complete these basic steps to obtain a labor certification:

1. The employer must ensure that there is a need to hire foreign workers and ensure that the position meets the qualifying criteria for the requested program.
2. The employer must complete the ETA form designated for the requested program. This may include the form and any supporting documentation (e.g., job description, resume of the applicant, etc.).
3. The employer must ensure that the wage offered equals or exceeds the prevailing wage for the occupation in the area of intended employment.
4. The employer must ensure that the compliance issues affected upon receipt of a foreign labor certification are completely understood.
5. The completed ETA form is submitted to the designated Department of Labor office for the requested program (e.g., SWA, regional office or the national office).
6. The employer is notified of the determination of the Department of Labor.

Program Benefits

- ✓ Foreign labor certification programs permit U.S. employers to hire foreign workers on a temporary or permanent basis to fill jobs essential to the U.S. economy.
- ✓ Foreign labor certification programs are designed to assure that the admission of foreign workers into the United States on a permanent or temporary basis will not adversely affect the job opportunities, wages, and working conditions of U.S. workers.

For more information please go to our website: <https://det.delawareworks.com/flc/> & the USDOL FLC website: <https://www.foreignlaborcert.doleta.gov/>.