

U.S. Department of Labor
Employment and Training Administration
OFFICE OF FOREIGN LABOR CERTIFICATION

COVID-19

Frequently Asked Questions

ROUND 4

June 3, 2020

This Frequently Asked Question (FAQ) rescinds and replaces Question 3 of the COVID-19 Round 1 FAQs, published on March 20, 2020, which is located on the [Office of Foreign Labor Certification \(OFLC\) website](#). All other COVID-19 FAQs remain in full effect, with an extension of the accommodations set forth in Questions 7 and 8 of the COVID-19 Round 2 FAQs from May 12, 2020, until stay-at-home orders are lifted for the City of Chicago and Cook County, Illinois, and the processing center can resume daily mail processing operations. OFLC will post an announcement on its website when daily mail processing operations resume at its Chicago National Processing Center (NPC). For certifications issued on or after May 13, 2020, the employer's H-2A labor certification fee will be considered timely if received by the Chicago NPC no later than August 10, 2020.

- 1. In the COVID-19 Round 1 FAQs, OFLC made accommodations for extensions of time and deadlines for employers and their authorized attorneys or agents affected by the COVID-19 pandemic, which expired on May 12, 2020. Will OFLC grant further extensions of time or deadlines based on current conditions related to the COVID-19 pandemic?**

OFLC will not be extending these accommodations beyond May 12, 2020. As noted in the COVID-19 FAQ Round 1, published on March 20, 2020, OFLC has remained fully operational during the federal government's maximum telework flexibilities operating status – including the National Processing Centers, PERM System, and Foreign Labor Application Gateway (FLAG) System.

Employers (and their authorized attorneys or agents) may still request extensions, under appropriate circumstances, if they require additional time to respond to a deadline. Requests for extensions of time and/or the deadlines for any OFLC regulatory requirements or deadlines to respond must clearly explain why the extension is necessary and be made on or before the date of the deadline to respond. OFLC will adjudicate any requests on a case-by-case basis. Employers (and their authorized attorneys or agents) should not assume OFLC will automatically grant requests and must notify the applicable OFLC NPC as soon as possible of their need for additional time to ensure they receive a response before their deadline expires.

Important Reminder: The National Prevailing Wage Center will not approve any requests to extend the validity date of a prevailing wage determination.

Permanent Program – Filing Date Extensions:

Employers are required to begin their recruitment efforts no more than 180 days before filing an *Application for Permanent Labor Certification* (Form ETA 9089) and to complete most recruitment measures at least 30 days before filing ([20 CFR 656.17\(e\)](#)). Due to service disruptions and other business operations temporarily affected by the COVID-19 pandemic, some employers may be prevented from completing these requirements within the 180-day time frame. OFLC will **no longer** accept recruitment completed after the regulatory deadlines have passed.

NOTE: Any delayed recruitment associated with the extension provided in Round 1 of the COVID-19 Frequently Asked Questions, conducted in conjunction with the filing of an application for permanent labor certification, must have started on or after September 15, 2019, and the filing must have occurred by May 12, 2020. If this has not occurred, the application will be denied as the recruitment associated with the filing would not comply with PERM regulatory requirements.

Administrative Review or Appeals:

Requests for extensions of time related to appeals of OFLC actions should **be directed** to the presiding administrative or judicial authority, including the Department's Office of Administrative Law Judges (OALJ) for appeals of agency denials of labor certifications, debarments, revocations, or other agency actions related to the labor certification. For more information concerning OALJ operations, please visit www.oalj.dol.gov.