



JAN 03 2019

To Members of Congress,

I am writing to notify you of an unfortunate development concerning the H-2B visa program, which allows U.S. employers who meet specific legal requirements to bring foreign nationals to the United States to fill temporary or seasonal non-agricultural jobs if no American workers are available. Despite substantial improvements and testing during 2018 in anticipation of an increase in H-2B *Applications for Temporary Employment Certification*, many employers experienced a failure of the iCERT system early in the morning on January 1, 2019. Please rest assured that the temporary system disruption should not prevent employers from meeting regulatory deadlines, which permit an employer seeking an April 1, 2019 start date to file as late as January 16, 2019.

As you are aware, the statutory provisions in the Immigration and Nationality Act governing the H-2B program limit the number of visas that can be awarded to 66,000 per year. Of the 66,000 visas, 33,000 are available for employment start dates of October 1 to March 30, and the remaining visas are available for employment start dates of April 1 to September 30. When seeking to obtain an H-2B worker, an employer must first file an *Application for Temporary Employment Certification* with the Department of Labor's Office of Foreign Labor Certification (OFLC) through OFLC's iCERT system. Regulations permit employers to file applications up to 90 calendar days before the employer's start date of need. Therefore, the earliest filing date for an April 1, 2019 start date is January 1, 2019. Because OFLC typically receives applications for significantly more workers than available H-2B visas, OFLC receives a large volume on January 1 each year. This year, applications for approximately 97,800 workers were pending as of midnight on January 1. Additionally, OFLC saw over 22,900 server login attempts on January 1, 2019 in contrast with only 721 attempts in approximately the same time period for the 2018 filing season. This unprecedented volume of simultaneous system users—30 times the number compared to last year—ultimately caused the iCERT system to fail.

We are continuing to work diligently to augment the iCERT system, and have notified your affected constituents as well as our partners at the Departments of Homeland Security and State of this situation. The system will be down for a short period of time while we work to implement a solution. OFLC will provide at least 24-hours of advanced notice to the filing community prior to reopening the system.

We apologize for the frustration and inconvenience to your constituents and will continue to provide public updates as the issue is resolved. If you have any further questions please the Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,

A handwritten signature in blue ink that reads "Joe Wheeler".

Joe Wheeler  
Deputy Assistant Secretary

