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## Under Court Order, OFLC to Propose Rescission of H-2B Registration Requirements and Provide Unique H-2B Temporary Registration Numbers

**Legal Update**

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*This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.*

In response to a federal court order in *Padilla Construction Company v. Walsh*, the Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) plans to rescind H-2B registration requirements and propose conforming edits throughout its H-2B regulations.

In the interim, DOL said it will use the Notice of Acceptance (NOA), issued when an H-2B application meets regulatory requirements and the employer can begin recruiting U.S. workers, to inform an H-2B employer of DOL's determination of the employer's temporary need for services or labor:

Where an employer is determined to have a temporary need for services or labor, the NOA will provide the employer with a unique temporary need registration number, which may remain active for up to three years and which will be considered as one piece of evidence during [DOL's] adjudication of the employer's temporary need in future application filings. [DOL] will use a Notice of Deficiency to inform an H-2B employer when its temporary need for an application filing is in question, to request additional information, and also to inform an employer of deactivation of its temporary need registration number if the number has expired or if it appears that the employer no longer demonstrates a temporary need.

OFLC said the announcement of its future proposal to rescind H-2B registration requirements will **not** affect H-2B application filings for the 2023 peak application filing season for the second-half visa cap.