



**Issue Date: 30 May 2019**

BALCA CASE NO.: 2019-TLN-00115

ETA CASE NO.: H-400-19042-686271

*In the Matter of:*

GOLDEN ACRES HOME, LLC,  
Employer.

### **ORDER GRANTING MOTION FOR RECONSIDERATION**

By Decision and Order dated May 6, 2019, I ruled in favor of the challenge of Golden Acres Home, LLC (the “Employer”) to the March 26, 2019 denial of its application seeking temporary labor certification under the H-2B temporary employment program. I reversed the Certifying Officer’s determination and directed a grant of certification. *See* 20 C.F.R. § 655.61(e).

By timely Motion for Reconsideration, *see* 29 C.F.R. § 18.93, received on May 8, 2019, the CO objected to my direction of a grant of certification. The CO did not request reconsideration of my analysis of whether the Employer established a “temporary need” under the applicable regulation, 8 C.F.R. § 214.2(h)(6)(ii)(B). Rather, the CO noted that under 20 C.F.R. §§ 655.33-.51, an Employer must complete a series of steps to attempt to recruit U.S. workers *after* an H-2B application is accepted. Because the application was a “non-acceptance denial,” those recruitment steps have not yet been completed. No response to the Motion for Reconsideration has been received from the Employer; it would have been due May 28, 2019.<sup>1</sup>

Upon my review of 20 C.F.R. §§ 655.33-.51 and the appeal file, I agree with the CO that a grant of certification is premature as a matter of the governing regulations and the facts in the record. I am amending the Decision and Order to remand this case to the CO for further action. *See* 20 C.F.R. § 655.61(e)(3).

SO ORDERED.

EVAN H. NORDBY  
Administrative Law Judge

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<sup>1</sup> The Motion for Reconsideration was served May 8, 2019, by mail. Fourteen days to respond, plus three days for mailing, *see* 29 C.F.R. §§ 18.32, .33, places the deadline on Saturday, May 25; therefore, the deadline is extended by regulation to the first weekday after the Memorial Day holiday weekend, which was May 28. *See id.*