



**Issue Date: 10 November 2022**

**BALCA Case No.: 2023-TLC-00003**

ETA Case No.: H-300-22249-455674

*In the Matter of*

**LOWELL CRAIG,**  
*Employer*

APPEARANCES: Rebecca Short, H-2A Agent  
Lowell Craig  
3944 West Highway 36  
Owingsville, KY 40360  
*For Employer*

Monica Berry, Esq.  
Office of the Solicitor  
U.S. Department of Labor  
Washington, D.C.  
*For the Certifying Officer*

BEFORE: Hon. Christine Hilleren-Wilkins  
*Administrative Law Judge*

**DECISION AND ORDER AFFIRMING DENIAL OF CERTIFYING OFFICER**

This matter arises under the temporary agricultural labor or services provision of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1188 and its implementing regulations at 20 C.F.R. Part 655, Subpart B. The temporary alien agricultural labor certification (“H-2A”) program permits employers to hire foreign workers to perform agricultural work within the United States on a temporary basis. Here, the Certifying Officer (“CO”) of the Office of Foreign Labor Certification’s Chicago National Processing Center (“OFLC CNPC”) denied the application of Employer Lowell Craig (“Employer”) for temporary labor certification of one Farmworker/Laborer, Crop, Nursery, and Greenhouse job opportunity. Employer has requested expedited administrative review of the CO’s denial.<sup>1</sup>

Procedural History and Findings of Fact

Employer is a cattle farmer and engages in the ranching, rearing, and sale of cattle in Owingsville, Kentucky.<sup>2</sup> Employer also wishes to produce hay crop.<sup>3</sup>

On September 7, 2022, Employer filed Forms ETA-9142A, 790, 790A and addenda with the OFLC CNPC’s CO to apply for temporary labor certification for one Farmworker/Laborer job opportunity during the period

---

<sup>1</sup> In administrative review cases, the ALJ must issue a decision based on the written record either affirming, reversing, or modifying the CO’s decision, or remanding the case to the CO for further action. No new evidence may be considered, and the ALJ must render the decision within five business days of her receipt of the administrative file. 20 C.F.R. § 655.171(a).

<sup>2</sup> Administrative File (“AF”), p. 1.

<sup>3</sup> *Id.* at 1, 77-78.

of October 24, 2022 through July 20, 2023.<sup>4</sup> The worker's job duties described in Employer's application included the following:

Workers may be required to perform work, on the farm, that is incidental to farming the crops listed in the application, such as performing hand cultivation tasks, weeding or hoeing, cleaning and repairing farm buildings, weed beds, rake grounds, operate tractor/farm equipment incidental to crops, clean fence rows and weed eating around barns and other out buildings, and fence rows, painting barns and fences, weeding, etc.... Workers may drive and operate farm machinery to plant, cultivate, harvest and store grain crops such as corn, wheat, soybeans, etc. Attach farm implements such as plow, disc, and rill to tractor and drive tractor in field to till soil and plant/cultivate crop. Perform a variety of other duties such as husking and shelling corn, lubricating, and repairing farm machinery and unloading grain onto conveyors to storage bins and elevators. Assist in set-up of product sale of crop. Attend to any combination of the following tasks to attend to livestock and farming operation: feeding, sorting, herding, vaccinating, fencing, and other general care for livestock; monitor, care for and move livestock using 4-wheelers and/or side-by-sides to pastures for grazing; examine animal to detect diseases and injuries; calving checks; place mineral blocks;... herd into corral and/or small stall and manually restraining animals; apply medications to cuts and bruises; spray livestock with insecticide; assist with castration of livestock; clip identifying notches or brands animals; manually clean stalls/corrals. Shop work is required such as repairing and maintaining equipment and welding; perform routine maintenance and cleaning of farm implements, and operate tractors and farm implements required to plant, cultivate, and harvest hay, wheat, and pulse crops; trucking is required to move crops to bins at harvest, must manually house/stack hay bales; pick rocks, repair/replace/build fence in rough terrain.<sup>5</sup>

Employer's application qualified its request as one of "Other Temporary Need."<sup>6</sup> Employer's statement of temporary need described its inability to find a worker in the local area who was willing and/or able to perform the job requirements for the wage offered.<sup>7</sup>

On September 9, 2022, the CO issued a Notice of Deficiency ("NOD") describing two deficiencies in Employer's application.<sup>8</sup> The noted prevailing deficiency<sup>9</sup> was that Employer failed to establish a temporary or seasonal need for workers because "the job duties for the requested position include[d] general care for livestock," and those duties on their face were not seasonal or temporary in nature.<sup>10</sup> To cure this deficiency, the CO directed Employer to provide additional information and documentation to establish its need qualified as "Other Temporary Need" by explaining how its job opportunity was temporary in nature.<sup>11</sup> Employer's response was required to include the following:

---

<sup>4</sup> *Id.* at 3-19.

<sup>5</sup> *Id.* at 13.

<sup>6</sup> *Id.* at 15.

<sup>7</sup> *Id.* at 135.

<sup>8</sup> *Id.* at 107-11.

<sup>9</sup> The CO's NOD also described a deficiency pertaining to the Federal Employer Identification Number ("FEIN") included within Employer's application, noting that "[t]he Chicago NPC is unable to complete business verification using the number provided by the employer...". *Id.* at 109. The necessary modification for this deficiency required Employer to provide evidence of its FEIN number on a document from an official source. *Id.* Employer responded to this deficiency on September 16, 2022, noting that its official FEIN letter from the IRS was attached in a separate email. *Id.* at 25-26. Employer's submission appears to have cured that deficiency, as it was not raised again by the CO in subsequent correspondence; accordingly, it is not further addressed herein. *Id.* at 80-85.

<sup>10</sup> *Id.* at 110, noting that "caring for livestock occurs all year long."

<sup>11</sup> *Id.* at 110.

1. A statement describing the employer's (a) business history, (b) activities (*i.e.* primary products or services), and (c) schedule of operations throughout the entire year; and
2. Summarized monthly payroll reports for a minimum of three previous calendar years that identify, for each month and separately for full-time permanent and temporary employment in the requested occupation, the total number of workers or staff employed, total hours worked, and total earnings received. Such documentation must be signed by the employer attesting that the information being presented was compiled from the employer's actual accounting records or system;
3. Other evidence and documentation that similarly serves to support a temporary need. In the event that the employer is a new business, without an established business history and activities, or otherwise does not have the specific information and documents itemized above, the employer is not exempt from providing evidence in response to this Notice of Deficiency. In lieu of the documents requested, the employer must submit any other evidence and documentation relating to the employer's current business activities and the trade industry that similarly serves to justify the dates of need being requested for certification; and
4. If contractors or other entities were used by the employer to address the need, or portions of the need, described in this application, three years of contracts/receipts detailing the services provided and dates of said services must be provided. If family members or other individuals not directly employed by the employer were used, signed affidavits attesting to their work schedule and duties must be provided.<sup>12</sup>

Employer responded to the CO's Notice of Deficiency on September 16, 2022.<sup>13</sup> In its response, Employer explained that "[c]attle farming is a year round job and recurring but [is] more demanding in the fall and winter season as cattle need more attention when there is no pasture to graze during the cold months."<sup>14</sup> Additionally, Employer granted CNPC leave to change its ETA Form 9142A to reflect a seasonal need "if necessary for this position to be in compliance" with departmental regulations.<sup>15</sup> Employer did not submit any additional documentation to substantiate its assertion that its need for labor qualified as temporary or seasonal.

On September 21, 2022 the CO issued a Notice of Required Modifications ("NRM") finding that despite its response, Employer had failed to establish whether its need qualified as seasonal or temporary.<sup>16</sup> The CO found that Employer's application and response to the NOD issued on September 9, 2022 contained inconsistent information as to its seasonal need.<sup>17</sup> More specifically, the CO indicated Employer only provided information regarding its increased need for workers in fall and winter, but Employer's application requested workers until late July 2023.<sup>18</sup> The CO found Employer's response to be deficient because Employer failed to provide any explanation for why it needed additional workers in the spring and summer months.<sup>19</sup> Employer also failed to provide any of the requested supportive documents.<sup>20</sup> To cure the deficiency, Employer was instructed to provide the following information:

1. A statement describing the employer's (a) business history, (b) activities (*i.e.* primary products or services), and (c) schedule of operations throughout the entire year;

---

<sup>12</sup> *Id.* at 24.

<sup>13</sup> *Id.* at 25.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 80-85.

<sup>17</sup> *Id.* at 84.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

2. An explanation of what the requested workers will be participating in [during] the spring and summer months, and why workers will not be needed from July 21 onward;
3. If the employer had no previous employees in the requested occupation, what activities the farmer participated in for this occupation outside of the requested dates of need;
4. A monthly summary of the number of cattle being cared for per month for the past three years;
5. A monthly summary of the number of crops being produced per month for the past three years (may be signified by measurements, *i.e.*, pounds, bushel boxes, etc.); and
6. Other evidence and documentation that similarly serves to support a temporary need. In the event that the employer is a new business, without an established business history and activities, or otherwise does not have the specific information and documents itemized above, the employer is not exempt from providing evidence in response to this Notice of Deficiency. In lieu of the documents requested, the employer must submit any other evidence and documentation relating to the employer's current business activities and the trade industry that similarly serves to justify the dates of need being requested for certification.<sup>21</sup>

On September 22, 2022, Employer responded to the CO's NRM with a letter further explaining the job duties in question.<sup>22</sup> In its response, Employer discussed a need for work that extends past the requested time period.<sup>23</sup> Employer stated that it keeps an average of 600 cattle monthly, which would need to be monitored closely in the hotter months as well as during the Spring mating season.<sup>24</sup> Employer recognized the need for a worker extending beyond July, but in order to be compliant with applicable regulations Employer ended the requested employment period in July so the worker could return to his/her home country.<sup>25</sup> Employer claimed that the farmer would again submit a temporary labor request after expiration of the proposed time period if the farmer found the arrangement profitable.<sup>26</sup> In its conclusion, Employer stated that it had never employed workers before and did not know whether to label the work contract as temporary or seasonal, but would do anything necessary to be in compliance with the program.<sup>27</sup> Employer did not provide any additional documentation or evidence to justify its need for temporary labor.<sup>28</sup>

On September 27, 2022, CNPC informed Employer via electronic mail that its response was still deficient because it had failed to describe the seasonality of the hay crop it wished to grow.<sup>29</sup> CNPC directed Employer to provide the crop's seasonal dates and other evidence and documentation similarly serving to support a seasonal need.<sup>30</sup>

Employer responded on September 27, 2022 with a letter describing its hay farming practices, but did not submit supporting documentation or evidence.<sup>31</sup> Employer's response letter identified the seasonal dates of hay farming to span the period from February until early fall.<sup>32</sup>

On October 4, 2022, the CO issued a Final Determination letter denying temporary labor certification pursuant to 20 CFR § 655.103(d).<sup>33</sup> Therein, the CO determined that Employer had not overcome its

---

<sup>21</sup> *Id.* at 84-85.

<sup>22</sup> *Id.* at 77-78.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at p. 76.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 75.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 54-62.

application's initial deficiency because it failed to demonstrate that the job opportunity in question was seasonal or temporary.<sup>34</sup> Regarding Employer's need for cattle work, the CO found that Employer failed to distinguish different levels of production indicative of a seasonable need.<sup>35</sup> Furthermore, the CO noted that Employer admitted the need for the cattle job extends beyond the requested time period and Employer only ended the opportunity in July to fit the requirements of the H-2A program.<sup>36</sup> The CO found that Employer's hay crop need also failed to qualify because the seasonal need for the crop did not align with the requested time period.<sup>37</sup> Consequently, the CO denied Employer's application on the grounds that Employer could not establish a temporary need for additional labor due to its inconsistent statements of need and the lack of supporting documentation.<sup>38</sup>

On October 13, 2022, Employer timely filed an administrative review appeal of the CO's denial.<sup>39</sup> In its appeal letter, Employer stated that its need for temporary labor is due to the farmer's old age and its desire to sustain job requirements and get things reorganized in order to run its business sufficiently.<sup>40</sup> Employer explained that its initial request was for a temporary worker and it did not explicitly request the CNPC to change its request to seasonal in nature; rather, Employer asked the CNPC to change its application if necessary to be in compliance with the program's requirements.<sup>41</sup> Employer then asserted that despite the year round nature of the labor request, Employer needed help "whether the application is deemed seasonal or temporary."<sup>42</sup>

This matter was assigned to the undersigned administrative law judge on November 4, 2022, and the administrative file was received on the same date. The undersigned issued a *Notice of Case Assignment and Briefing Order* on November 7, 2022; however, no briefs were filed by the Parties.

#### Applicable Law

The H-2A agricultural guest worker program, codified at 8 U.S.C. § 1101(a)(15)(H)(ii)(a), allows United States employers to petition the government for permission to employ foreign workers to perform agricultural labor or services on a temporary basis. Employers who seek to hire foreign workers through this program must first apply for and receive a "labor certification" from the Department of Labor (8 U.S.C. § 1188(a)(1); 8 C.F.R. § 214.2(h)(5)(A)).

Throughout the labor certification process, the employer bears the burden of proving it qualifies for temporary alien labor certification.<sup>43</sup> Therefore, if the employer appeals an unfavorable decision by the CO, the employer must first demonstrate it is entitled to certification and then show that the CO's determination was based on facts that are materially inaccurate, inconsistent, unreliable, or invalid, or are based on conclusions that are legally impermissible and/or inconsistent with the underlying established facts.<sup>44</sup> In cases where an employer appeals a denial and requests an expedited administrative review by an ALJ, a CO's denial of certification must be upheld unless shown by the employer to be arbitrary,

---

<sup>34</sup> *Id.* at 56.

<sup>35</sup> *Id.* at 60.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 62.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 1.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *MacFarlane Pheasants, In (Missouri)*, 202-TLC-00060 (April 13, 2020); *Altendorf Transport, Inc.*, 2011-TLC-158, slip op. at 13 (Feb. 15, 2011); 20 C.F.R. § 655.161(a).

<sup>44</sup> *See Catnip Ridge Manure Application, Inc.*, 2014-TLC-00078 (May 28, 2014); *Five Guys Farms LLC*, 2021-TLC-00174, slip op. at 2,3 (July 14, 2021) (internal citations omitted).

capricious, or otherwise not in accordance with law.<sup>45</sup> An employer's bare assertion of need without either supportive documents or evidence is generally insufficient to carry its burden of proof.<sup>46</sup> Rather, the burden is on the applicant to provide the right pieces and to connect them so the CO can see that the employer has established a legitimate temporary need for workers.<sup>47</sup> Accordingly, applications for temporary labor certification are properly denied when the employer does not supply requested information or documentation.<sup>48</sup>

To qualify for the H-2A program, an employer must establish it has a need for "agricultural services or labor to be performed on a temporary or seasonal basis."<sup>49</sup> The corresponding regulations offer definitions for both "temporary" and "seasonal" terms:

[e]mployment is of seasonal nature where it is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle and requires labor levels far above those necessary for ongoing operations. Employment is of a temporary nature where the employer's need to fill the position with a temporary worker will, except in extraordinary circumstances, last no longer than 1 year.<sup>50</sup>

The temporary nature of a job opportunity is determined by "the nature of the need for the duties to be performed," not the nature of the duties themselves.<sup>51</sup> Accordingly, the whole situation must be taken into consideration, not just the specific job at issue.<sup>52</sup> The position should not be a permanent position disguised as a temporary one with short breaks between purported hiring periods.<sup>53</sup>

Likewise, in "seasonal" labor certification cases the ALJ must determine if the employer's needs are seasonal, not whether the particular job at issue is seasonal.<sup>54</sup> When making this determination, "it is necessary to establish when the employer's season occurs and how the need for labor or services during this time of the year differs from other times of the year."<sup>55</sup> Therefore, denial of certification is appropriate where the employer fails to provide any evidence that indicates a higher need for workers in certain months of the year as opposed to other months in the year.<sup>56</sup>

### Analysis

It is well established that the H-2A program is intended to fill requests for only temporary or seasonal labor needs, and therefore, the need for the particular position cannot be year-round, except in extraordinary circumstances.<sup>57</sup> In this case, the CO denied Employer's application on the basis that the employment sought was not temporary or seasonal in nature pursuant to 20 CFR § 655.103(d) and Employer's responses

---

<sup>45</sup> *GreenTop Acres*, 2020-TLC-00088, slip op. at 4 (July 8, 2020) (citing *J & V Farms, LLC*, 2016-TLC-00022, slip op. at 3 (Mar. 4, 2016)); *Midwest Concrete & Redi-Mix, Inc.*, 2015-TLC-00038, slip op. at 2 (May 4, 2015).

<sup>46</sup> *Lodoen Cattle Company*, 2011-TLC-00109 (citing *Carlos Uy III*, 1997-INA-00304 (Mar. 3, 1999) (en banc)).

<sup>47</sup> *AG-Mart Produce, Inc., d/b/a Satna Sweets, Inc.*, 2020-TLC-00085, slip op. at 7 (July 13, 2020) (citing *DTM Trucking, Inc.*, 2018-TLN-00174, slip op. at 4 (Oct. 10, 2018)).

<sup>48</sup> 20 CFR § 655.103(d); *AG-Mart Produce, Inc.* at 7 (internal citations omitted).

<sup>49</sup> 20 CFR § 655.161(a).

<sup>50</sup> 20 CFR § 655.103(d).

<sup>51</sup> *William Staley*, 2009-TLC-00009, slip op. at 4 (Aug. 28, 2009).

<sup>52</sup> *Haag Farms, Inc.*, 2000-TLC-00015 (Oct. 12, 2000); *Bracy's Nursery*, 2000-TLC-00011 (Apr. 14, 2000).

<sup>53</sup> *Tranel Ranch* 2019-TLC-00049, slip op. at 3 (May 22, 2019).

<sup>54</sup> *Pleasantville Farms LLC*, 2015-TLC-00053, slip op. at 3 (June 8, 2015).

<sup>55</sup> *Fegley Grain Cleaning*, slip op. at 3 (citing *Altendorf Transport, Inc.*, at 11).

<sup>56</sup> *Farm-Op Inc.*, 2017-TLC, slip op. at 7 (July 7, 2017) (citing *Lodoen Cattle Co.*, 2011-TLC-00109, slip op. at 5 (Jan. 7, 2011)).

<sup>57</sup> 20 CFR § 655.103(d).

did not overcome the deficiencies outlined in the CO's Notice of Deficiency and Notice of Required Modifications.<sup>58</sup>

### Temporary Nature

In this matter, Employer failed to establish a temporary need for non-recurrent farmworker labor lasting no longer than one year under ordinary circumstances.<sup>59</sup> As indicated by the CO, Employer's requested timeline for employment does not align with the nature of need for the duties to be performed.<sup>60</sup> On multiple occasions, Employer admitted its need for cattle and hay/crop labor extends past the requested work period.<sup>61</sup> Employer explained that it provided an end to its requested employment period in its application so it would be in compliance with the H-2A program requirements, not because there was not a continuing need for labor.<sup>62</sup> In fact, Employer stated that since its need would indeed extend past the requested time period, it intended to submit another request for additional labor once the time period expired if proven to be profitable.<sup>63</sup> Such statements indicate that Employer's proposed employment timeline was manufactured to fit the H-2A program's requirements, and consequently undermine any showing of Employer's alleged temporary need. Rather, Employer's responses demonstrate an ongoing need for recurrent labor with breaks between hiring periods, which is contrary to the purpose of the H-2A program.<sup>64</sup> No evidentiary documentation has been submitted to support a contrary conclusion. Therefore, after reviewing the administrative file in its entirety and examining the nature of Employer's need, the undersigned finds that Employer has not met its burden of establishing entitlement to temporary H-2A labor certification because it has not demonstrated that its need for labor or agricultural services is "temporary" in nature.

### Seasonal Need

Although Employer reportedly requested the CNPC to change its application to one of seasonal need if necessary to comply with the program's requirements,<sup>65</sup> Employer failed to distinguish different levels of production indicative of a seasonal need for cattle or hay/crop labor. In response to the CO's requests for additional information to justify such need, Employer simply cited a monthly average of 600 cattle requiring care, with the number of cattle appearing to remain consistent throughout all twelve months of the year.<sup>66</sup> Although Employer explained that cattle work was more demanding in the fall and winter months,<sup>67</sup> Employer also discussed at length the need for labor during the spring and summer months.<sup>68</sup> Furthermore, Employer's cited seasonal period for hay production reportedly lasts from February to early fall, which contradicts the requested employment period on its application.<sup>69</sup> These inconsistencies between Employer's application and subsequent responses are reflective of a year-round need for labor, as opposed to a seasonal need.<sup>70</sup>

Moreover, Employer failed to support its assertion of seasonal need with supporting documents or evidence as requested by the CO. Beyond its letters explaining the job duties for the requested position, the

---

<sup>58</sup> See AF, pp. 76, 79, 106.

<sup>59</sup> 20 CFR § 655.103(d).

<sup>60</sup> See AF, pp. 54-62.

<sup>61</sup> *Id.* at 75, 78.

<sup>62</sup> *Id.* at 78.

<sup>63</sup> *Id.*

<sup>64</sup> *Tranel Ranch 2019-TLC-00049*, slip op. at 3 (May 22, 2019).

<sup>65</sup> See AF, p. 1.

<sup>66</sup> *Id.* at 77-78.

<sup>67</sup> *Id.* at 104.

<sup>68</sup> *Id.* at 77-78.

<sup>69</sup> *Id.* at 5, 75. Employer's application requests a labor opportunity for the period of October to July.

<sup>70</sup> *Id.* at 77-78.

administrative file does not contain any additionally submitted documentation to support Employer's need for a seasonal worker. Although Employer reportedly does not have an established business history, it is not exempt from providing evidence requested by the CO in the NOD and NRM.<sup>71</sup> In this situation, the CO instructed Employer to submit "any other evidence and documentation relating to the employer's current business activities and the trade industry" to justify the requested dates of need on its application.<sup>72</sup> Despite this direction from the CO, Employer has not provided any additional material relating to its current business activities or the trade industry to clearly corroborate when Employer's season occurs and how the need for labor or services during this time of the year differs from other times of the year.<sup>73</sup> In the absence of such evidence, denial of certification is appropriate, as an employer's bare assertion of need without either supportive documents or evidence is generally insufficient to carry its burden of proof.<sup>74</sup> Therefore, the undersigned finds that Employer has not met its burden of establishing entitlement to temporary H-2A labor certification for "seasonal" labor or agricultural services, as it has not clearly shown that the requested employment is tied to a certain time of year by an event or pattern and requires labor levels far above other times of the year.

Based on the foregoing analysis, the undersigned concludes that the CO's decision in this matter was neither arbitrary and capricious, nor inconsistent with the underlying established facts and applicable law. Consequently, the CO's decision to deny Employer's application was a reasonable exercise of discretion and must be upheld.<sup>75</sup>

### **ORDER**

The Certifying Officer's Denial of Employer's Application for Temporary Employment Certification is hereby **AFFIRMED**.

**So ORDERED in Covington, Louisiana, on November 10, 2022.**

For the Board:

**CHRISTINE HILLEREN-WILKINS**  
Administrative Law Judge

---

<sup>71</sup> *Id.* at 85, 111.

<sup>72</sup> *Id.*

<sup>73</sup> *Fegley Grain Cleaning*, slip op. at 3 (citing *Altendorf Transport, Inc.*, at 11).

<sup>74</sup> 20 CFR § 655.103(d); *Farm-Op Inc.*, 2017-TLC, slip op. at 7 (July 7, 2017) (citing *Lodoen Cattle Co.*, 2011-TLC-00109, slip op. at 5 (Jan. 7, 2011)); *AG-Mart Produce, Inc.* at 7 (internal citations omitted).

<sup>75</sup> *GreenTop Acres*, 2020-TLC-00088, slip op. at 4 (July 8, 2020) (citing *J & V Farms, LLC*, 2016-TLC-00022, slip op. at 3 (Mar. 4, 2016)); *Midwest Concrete & Redi-Mix, Inc.*, 2015-TLC-00038, slip op. at 2 (May 4, 2015).