



H-2B Program for Temporary *Non-Agricultural* Workers

What is the H-2B visa?

The H-2B visa is a nonimmigrant visa program that allows U.S. employers to bring foreign nationals to the U.S. to fill low-skill, temporary or seasonal jobs in all sectors *except* agricultural work for which U.S. workers are not available. These jobs may include seasonal employment in industries such as seafood processing, hospitality, construction, landscaping, and forestry.

For how long can a worker stay in the U.S. on an H-2B visa?

Generally, U.S. Citizenship and Immigration Services (USCIS) grants H-2B classification for 10 months or less, at which time the worker returns to his or her home country. If the employer would like the worker to return for work the following year, the employer can request that USCIS renew the visa. It is also possible for a worker to change H-2B employers while still in the U.S. and have the original visa term extended for a temporary period.

Is there a cap on the number of H-2B visas issued?

Yes. The cap on the total number of H-2B visas issued in one year for the entire program is 66,000 visas. There is no limit on the number of those visas that any one country can receive. In fiscal year (FY) 2011, the cap was not reached; a total of 50,826 H-2B visas were issued to all eligible countries. There is no "carry over" of unused H-2B numbers from one fiscal year to the next.

How does the process work?

In order to apply for an H-2B visa, a worker must have a job offer from a U.S. employer. Employers typically work with recruiters in the foreign country who identify workers with the necessary skills for the job. Recruiters assist workers with gathering documents and completing visa paperwork. It is illegal under U.S. law for employers or recruiters to charge workers fees for job placement.

The following steps provide an overview of the process:

- **Step 1:** A U.S. employer files an application with the U.S. Department of Labor to demonstrate that there are no American workers who are able, willing, qualified, and available to do the temporary work. If approved, the employer receives a "temporary labor certification."
- **Step 2:** The employer files Form I-129, Petition for Nonimmigrant Worker, with USCIS, which requests H-2B workers and can specify from which country the workers should originate. This petition may or may not identify individual workers by name.
- **Step 3:** Once the Form I-129 is approved, prospective workers outside the U.S. apply for an H-2B nonimmigrant visa at the U.S. Embassy or consulate abroad.

What does a prospective worker need to know about the process at the U.S. Consulate?

The prospective worker will need to schedule a visa appointment at the U.S. Consulate, often with the assistance of a recruiter. At the time of the interview, the applicant will have to demonstrate to a consular officer that he or she is qualified to do the job sought, has sufficient ties to his or her home country and that the applicant will not overstay the visa. The consular officer will likely ask the applicant questions about his family (particularly spouse and children) remaining in the home country, employment history, property and business ownership, and financial resources. The applicant must conduct the interview alone and without the assistance of others, such as the employer, recruiter, a lawyer, or family member.

Where is more information available about employers hiring H-2B workers?

The most recent data available about employment opportunities through the H-2B program is available at: <http://www.foreignlaborcert.doleta.gov/quarterlydata.cfm>. *Historical* data about H-2B employment opportunities is available at: <http://www.flcdatacenter.com/CaseH2B.aspx>.

What costs do employers of H-2B workers pay?

H-2B employers often cover the costs of inbound and outbound transportation from the home country, but they do not pay for housing. DOL has proposed significant changes to the program, so the information provided in this fact sheet could change.

How much money is the worker paid?

Hourly pay can vary by many factors, such as the employer, sector or industry, type of work, and location of the job, however, the U.S. government oversees the setting of wages based on how much money other workers get paid to do similar work. Jobs must be temporary, full-time work of at least 35 hours per week.

Is there a minimum or maximum age for H-2B workers?

The minimum age can vary based on the type of employment and restrictions under state and labor laws, but H-2B workers are typically at least 18 years of age. There is no maximum age for workers, however, individuals must have the physical capacity to do the work required.

Does the H-2B visa lead to a “green card” (permanent residence) or U.S. citizenship?

No. The H-2B is a nonimmigrant visa issued for a limited period of time. It does not put workers on a path to permanent residence in the U.S. or American citizenship.

Can the spouse or children of an H-2B worker get a visa to the U.S.?

A spouse and unmarried children (under 21 years of age) of an H-2B worker may seek an H-4 nonimmigrant visa, but employers are not responsible for the travel or housing costs of family members. H-4 visa holders are not authorized to work in the U.S., but may attend school.

Resources for Additional Information:

- **U.S. Citizenship and Immigration Services (USCIS) (www.uscis.gov)**
 - H-2B Program Overview: <http://1.usa.gov/yNsAi>
 - Form I-129, Petition for a Nonimmigrant Worker: <http://1.usa.gov/10VcN>
 - Certain Fees May Not Be Collected From H-2 Workers: <http://1.usa.gov/nt5upD>

- **U.S. Department of Labor**
 - Hiring Foreign Workers Overview: <http://www.foreignlaborcert.doleta.gov/hiring.cfm>
 - H-2B Certification for Temporary Non-Agricultural Work Overview: <http://www.foreignlaborcert.doleta.gov/h-2b.cfm>
 - Office of Foreign Labor Certification H-2B FAQs: <http://www.foreignlaborcert.doleta.gov/faqsanswers.cfm#gotoh2>
 - Fact Sheet #78E: Job Hours and the Three-Fourths Guarantee under the H-2B Program (Feb. 2012): <http://www.dol.gov/whd/regs/compliance/whdfs78f.pdf>
 - Fact Sheet #78F: Inbound and Outbound Transportation Expenses, and Visa and Other Related Fees under the H-2B Program (Feb. 2012): <http://www.dol.gov/whd/regs/compliance/whdfs78f.pdf>
 - Foreign Labor Certification Forms: <http://www.foreignlaborcert.doleta.gov/form.cfm>

- **U.S. Department of State:**
 - Temporary Worker Visas: http://travel.state.gov/visa/temp/types/types_1271.html
 - Form DS-160 Online Nonimmigrant Visa Application: http://travel.state.gov/visa/forms/forms_4230.html
 - Pamphlet on Rights and Protections for Temporary Workers (available in English and Creole): http://travel.state.gov/visa/temp/pamphlet/pamphlet_4578.html

- **Contact information for the U.S. Embassy in Port-au-Prince, Haiti:**
h2nivpap@state.gov