

## H-2B Program Updates

### Deadline for 2024 H-2B Worker Applications

Employers who would like to hire H-2B workers for 2024 must begin the application process no later than October 1, 2023. This means that the groundwork for an application must be set up between now and October 1, 2023.

Business owners interested in applying for H-2B workers, or who would like to schedule an appointment to discuss this in more depth, should contact:

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Summary of the more important recent changes to the H-2B Program:

- **Quotas doubled.** The Administration has doubled the annual quota for H-2B workers from 33,000 to roughly 66,000 making it a much more viable staffing option for Door County employers.
- **Three-year waiver.** Once the employer establishes a “need” for seasonal workers, the U.S. Department of Labor will now grant the employer a waiver, for a 3-year period, of having to prove “need.”
- **Northern Triangle countries quota.** A separate quota has been established for workers from El Salvador, Guatemala, Honduras and Haiti. There is a government agency in El Salvador set up solely to recruit and screen workers on behalf of U.S. H-2B employers. The feedback from Door County employers who have hired workers from El Salvador has been overwhelmingly positive.
- **Returning Worker quota.** A separate quota has been established for workers who previously held an H-2B visa and have returned to their home countries. This establishes a large pool of prospective workers who have had extensive employment experience in the U.S. It also enables Door County employers to bring back the same workers in subsequent years creating a degree of continuity in your staffing.
- **Cap Exempt workers.** H-2B workers who are in the U.S. are considered "Cap Exempt." This means that so long as an employer obtains a labor certification for H-2B workers for the season, even if the aforementioned quotas are filled, the employer may still recruit and hire H-2B workers who are currently in the U.S.

### Is the H-2B Worker Program a good fit for you?

Some general factors to consider when deciding if the H-2B worker program is a good fit for your business:

Q. My business does not have a seasonal, or peak, period. Can I still employ H-2B workers?

A. The H-2B program is strictly for those businesses that have a “peak” in their season. If your staffing pattern is steady throughout the year, without a peak hiring period associated with the spring/summer/fall tourist season, you will **not** be able to petition for H-2B workers.

Q. What is the wage I have to pay H-2B workers?

A. You will have to pay the prevailing wage. The prevailing wage is determined by wage data collected by the DOL from employers for the same position, in the same geographic location, in the previous fiscal year.

Q. What is the maximum length of time I can employ H-2B workers?

A. Depending on your business need, you may be able to employ H-2B workers from April 1<sup>st</sup> through December 31<sup>st</sup>.

Q. How will the H-2B worker affect my U.S. workers?

A. Once the H-2B worker arrives in the U.S., you must pay your U.S. workers at least the prevailing wage you will pay to the foreign worker.

Q. What costs/expectations are associated with the H-2B Program?

- Transportation: from the place from which the worker has come to work, whether in the U.S. or abroad, to the place of employment, the employer will have to provide advance payment for transportation and subsistence (including meals and, to the extent necessary, lodging) from the place of recruitment to the place of employment.
- Return Transportation: upon completion of the work contract the employer will provide pay for the worker’s reasonable costs of return transportation and subsistence back home.
- Tools, equipment and supplies: The employer must provide workers, at no charge, all tools, supplies and equipment required to perform the job.
- Visa expenses: the employer must reimburse the worker for all visa, visa processing, border crossing, and other related fees, including those mandated by the government, incurred by the H-2B worker.
- Housing: housing must be arranged for the H-2B worker. Cost of housing may be incurred by the employer, by the worker, or any cost-sharing combination thereof.
- Transportation to and from the worksite: must be provided by the employer.

(Contact USITEX Law for the full list of legal and government filing fees)