

## Essential Workers (H-2B)

### Temporary Alien Labor to Meet Temporary Needs (H-2B)

U.S. employers may petition for skilled or unskilled alien workers to meet temporary or seasonal needs in positions for which qualified U.S. workers are not available. It is important to note that both the services for which the employer requests H-2 labor approval and the employer's need for such services must be temporary. There is currently an annual cap of 66,000 visas for H-2B workers. There is no annual cap on visas for H-2A workers.

#### Labor Certification

The first step to hiring an H-2 worker from outside the U.S. is for the employer to apply for a temporary labor certification with the Department of Labor. These certificates are designed to assure that the admission of aliens to work in this country on a temporary basis will not adversely affect the job opportunities, wages, or working conditions of U.S. workers. The employer is required to file the labor certification with the I-129 petition. For specific procedures on filing, please visit the Department of Labor's Employment and Training Administration.

#### Dependents

Dependents (spouses and unmarried children under 21 years of age) of H-2 workers are entitled to H-4 status with the same restrictions as the principal. Dependents may not be employed under the H-4 classification.

Including more than one alien in a petition

A single petition may cover multiple workers if:

- they will perform the same services
- they will work in the same location
- they are included on the same labor certification and,
- they come from places that are served by the same U.S. consulate, or, if visa exempt, they will enter at the same port of entry.

It is not necessary to identify requested H-2A beneficiaries by name (unless only a single worker is needed) if they are unnamed on the underlying labor certification. H-2B beneficiaries must be named unless circumstances (e.g. emergencies) make identification by name impossible. The number of unnamed beneficiaries must always be stated on the petition.

### H-2B Skilled or unskilled worker

The H-2B classification applies to an alien coming temporarily to engage in non-agricultural employment which is seasonal or intermittent, to meet a peak load need, or to participate in a one-time occurrence.

#### Petition Document Requirements

Before filing this petition the U.S. employer must first apply for a labor certification from the Department of Labor to demonstrate that U.S. workers are not available and that wages and working conditions meet regional standards. The U.S. employer should file the petition with:

- Either an original single valid temporary labor certification from the Department of Labor (or the Governor of Guam if the proposed employment is solely in Guam), indicating that qualified U.S. workers are not available and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers; or
- An original notice from such authority that such certification cannot be made, along with evidence of the unavailability of U.S. workers and of the prevailing wage rate for the occupation in the U.S, and evidence overcoming each reason why the certification was not granted; and

Copies of evidence, such as employment letters and training certificates, that each named alien meets the minimum job requirements stated in the certification.