

THE H-2B PROGRAM

REQUESTED ACTIONS

>> PLEASE URGE YOUR PARTY LEADERS TO INCLUDE H-2B CAP RELIEF & REFORM IN ANY FINAL SPENDING PACKAGE FOR FY 24 AND FY 25.

>> PLEASE PASS COMPREHENSIVE H-2B CAP RELIEF AS A STANDALONE MEASURE OR AS PART OF ANY OTHER RELEVANT LEGISLATION TO PROVIDE A PERMANENT SOLUTION.

>> ASK YOUR ELECTED OFFICIALS TO PRESSURE DHS AND DOL TO EXPEDITE THE PROCESS OF RELEASING SUPPLEMENTAL VISAS IN THE COMING YEARS FOR THE SECOND HALF OF FY24 PRIOR TO THE APRIL 1ST DAY OF NEED DATE.

>>BACKGROUND

A lack of H-2B workers during the past few years has forced many businesses to turn away customers, scale back service and cancel planned capital equipment purchases. In some cases, businesses were forced to lay off American workers whose jobs are supported by H-2B workers or shut down their operations entirely. We expect reduced capital expenditures, additional layoffs, and business closures in 2023 and 2024 if Congress does not pass immediate H-2B cap relief, we cannot afford to wait until next year to act, by then it will be too late for the businesses that rely on the H-2B program.

Fewer H-2B visas coincide with fewer jobs for Americans. 2022 research found that a drop in H-2B program admission in a specific community did not boost labor market opportunities for U.S. workers but rather, if anything, worsened them because opportunities for U.S. workers suffered without having enough H-2B workers to assist with seasonal/temporary labor needs.

The H-2B visa program is pivotal to the success of many different businesses (landscaping and groundskeeping, amusement parks and carnivals, restaurants, hospitality, seafood, and many other industries) due to the seasonality and type of the available work. The H-2B visa program allows companies to hire well compensated foreign workers, only when domestic workers are not available for the work. In addition to providing seasonal labor, the H-2B visa program has a very positive impact on hiring more U.S. workers within the companies as they can operate at a greater capacity, retain their full-time workers, and contribute to their local economies. Statistics indicate that the landscape industry and other seasonal workers help support many upstream and downstream jobs. Every H-2B worker is estimated to create and sustain 4.64 American jobs.



THE NEED FOR WORK IS REAL

For FY 2023, the 33,000 first half cap was met on September 12, 2022, and the 33,000 second half cap was met on February 27, 2023. The supplemental visa cap for returning workers needed between April 1st and May 15th was reached on March 30th. On October 12, 2022, the Department of Homeland Security (DHS) in conjunction with the Department of Labor (DOL), reported that it will be issuing a regulation that will make an additional 64, 716 H-2B temporary nonagricultural worker visas for fiscal year (FY) 2023. These visas are in addition to the 66,000 H-2B visas that are normally allocated each fiscal year. The supplemental visas include an allocation of 20,000 visas to workers from Haiti and the Central American countries of Honduras, Guatemala, and El Salvador. The remaining 44,716 supplemental visas will be available to returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years.

In January 2022, the DOL announced that it received 7,875 H-2B applications requesting 136,555 worker positions for the April 1st second half cap start date. This was a record and a 41% increase over last year (FY21). This was the first time the Administration provided supplemental H-2B visas for the first half cap of FY 22. The rule established immediate release of an additional 20,000 H-2B visas for FY 2022 positions with start dates on or before March 31, 2022. 13,5000 visas allocated for H-2B returning workers (2019,2020, or 2021) and then 6,500 allocated for Northern Triangle Countries (El Salvador, Guatemala, and Honduras).

For the second cap of FY 22 they released 35,000 supplemental H-2B visas with 23,5000 for returning workers and 11,5000 for workers from Northern Triangle Countries. For FY 2022 DHS/DOL released a total of 55,000 additional supplemental visas. In FY 23 the administration released the maximum number of supplemental visas which was close to 10,000 more than FY22.

As the nation struggles through the worst labor crisis in decades seasonal businesses, like the landscape industry, will be decimated without supplementing our domestic workforce with much needed returning guest workers. The landscape industry already faces daunting challenges based on the seasonality and manual nature of our work when trying to recruit domestic workers. These inherent challenges are now only compounded as the nation is mired in an unprecedented labor shortage.

We are urging Congress to implement real reforms to the H-2B process and provide non-discretionary demands on this administration to release additional visas in a timely manner when there is a demonstrated need for seasonal workers.

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SOLUTION- RETURNING WORKER EXCEPTION

The Returning Worker Exception is legislation set to provide permanent H-2B cap relief through reinstating the returning worker exception which was in effect from 2005-2007 and again in 2017. It aims to reenact the returning worker exception that would exempt returning workers from counting against the 66,000-cap if the H-2B worker is a returning worker in any of the previous three fiscal years.

The returning worker exception is a tried-and-true smart policy. Many H-2B workers choose to return to the same employer year after year because of the positive experience and being treated as integral members of the organization. For H-2B employers, the returning worker exception provides a degree of certainty and reliability that they will not face a workforce shortage. They also appreciate the option to hire previous workers who have been trained and understand their business, while also providing much needed cap relief. The returning workers exception also assists in mitigating against the possibility of H-2B workers absconding or H-2B employers mistreating their workers. It is a smart policy that rewards those that are using the program the way it was intended to be used, as a supplement to their American workforce during peak seasons if domestic temporary workers are not available.

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