

Congress makes getting labor tough

The climate in Washington D.C. is anti-immigrant with government agencies focusing on solving the problem of illegal alien workers.

By RON HALL/ Managing Editor

Many landscape contractors rely upon Hispanic labor to install and maintain clients' landscapes. Most of these workers come from Mexico. It's getting tougher every day to find these workers. Here's why.

While Congress hasn't passed any new laws concerning immigration since 1996, it's told governmental agencies that it's time to start enforcing the laws that are on already the books. These laws are designed to stem the flow of illegal immigrants. To this — and to the hiring of more border patrol and Immigration and Naturalization Service (INS) enforcement officers — some landscape contractors, particularly those that compete against firms with large numbers of seasonal migrants, say "hooray!"

They're everywhere?

Undocumented workers in the U.S. workforce is a big problem. The INS believes there are about 5 million undocumented aliens in the United States.

James S. Holt, Ph.D., senior economist with law firm of McGuiness & Williams, LLP, Washington, D.C., says that a U.S. Department of Labor survey in 1996 found



that 40% of seasonal agricultural workers admitted to poll takers that they were illegal workers. INS audits of businesses employing foreign-born laborers often discover that 60% to 70% of the laborers are working with fake papers, says Holt.

New programs and increased cooperation between governmental agencies are making it increasingly easy to identify them. The Social Security Administration, the Internal Revenue Service and the federal and state departments of labor are starting to share data. This data, including the growing pool of tax revenues collected from laborers with phony social security numbers, leads many people in government to believe that most newly arrived immigrants are not legally entitled to work here.

Avoiding a hassle

Many landscapers have already put systems in place to deal with this problem. They realize they can't afford to have their

Landscape business owner Joe Loyet, St. Louis, MO, right, has used Mexican-born crews for years. He says they are good workers.

workers, even a percentage of them, taken away in midseason by an INS audit.

Angie Lubenow with Munie Outdoor Services, Inc., Belleville, IL, says that one way that her firm checks out workers with suspicious work documents is to call Social Security (800/772-1213) and see if

that worker's social security number matches his name.



Angie Lubenow, Munie Outdoor Services, Belleville, IL, says it helps to build a strong relationship with local INS office.

Because of discrimination laws, an employer can only do this after that person has been hired or after he leaves the job.

"We took a real proactive approach," said Lubenow of her company's efforts to hire only properly documented workers. This included building a relationship with the local INS office.

But even the most conscientious landscape firm that employs foreign-born Hispanic workers can unwittingly hire illegal ones. False documents are easy to come by.

Slim pickins'

Labor contractor Robert Wingfield says the available supply of legally documented Hispanic laborers in the United States is drying up. Most were made "legal" in 1986 under a one-time amnesty provision in the Immigration Reform Act of that year.

Owners of small landscape businesses can still apparently find small numbers of these "legal" workers if they're persistent enough. Ken Heltemes, owner of A Growing Concern, Raleigh, NC, says that every fall he needs a little extra help with seeding and aerating. About a decade ago, he found some workers, again Hispanic, by walking up to them and asking them if they knew of anybody who wanted to work from August through October. Surprisingly, one said that he did and, over the course of several years, he returned each fall with friends or relatives.

"It was important that we got off on the right foot with them," says Heltemes, who got some language help from a local high school Spanish teacher. He says he was strict with safety training and work rules, but



Ken Heltemes, A Growing Concern, Raleigh, NC, used a local high school Spanish teacher to help him bridge the communication gap.

fair with pay and hours, the two things that the Hispanic workers are most concerned about.

Heading south

If you need more than a few laborers, you'll probably have to bring them in from Mexico or a Central American country. And, it's getting tougher every day to bring new seasonal workers into the United States, says Wingfield. For all practical purposes, this can only be accomplished through a program known as H-2B. Meeting the requirements of H-2B is time-consuming, and it can be costly.

Even so, Wingfield says that if a landscape business owner needs labor badly enough, he can, with some exceptions, still get laborers south of the border. Wingfield is president of Amigos, Dallas, a firm that helps U.S. companies through the process of obtaining foreign-born Hispanic labor.



Robert Wingfield, president of Amigos, Dallas, TX, advises landscapers hoping to get laborers through the H-2B program to give themselves 90-120 days.

While the new Congress isn't expected to legislate away the flow of "legal" foreign-born workers this term, the mood in Washington is definitely anti-immigrant.

That's why Congress is stepping up enforcement of immigration law through a larger INS. Also, within several years, employers nationwide should be able to check to see job applicants' documents are in order by contacting government agencies over the telephone. There are several regional pilot projects in place now. Participation in this program, to date, has been voluntary.

Employers with illegal laborers stand

the possibility of losing these workers at a moment's notice should their operations be audited by the INS. This could become increasingly likely given the anti-immigrant mood in Washington D.C. □

Guestworker amendment sacrificed

Congress sacrificed the Agricultural Job Opportunity Benefits and Security Act of 1998 (AgJOBS) in October. But agribusiness interests, including groups like the American Nursery and Landscape Association, are likely to continue to seek a law allowing U.S. agriculture to use more labor from Mexico. It could also mean more available labor for landscape nursery owners, although landscape contractors would not qualify.

AgJOBS, if approved, would have reformed the H-2A agricultural guest worker program and allowed the importation of "an unlimited number of foreign laborers," said Mario Obledo, president of the National Coalition of Hispanic Organizations, which opposed the measure. Organized labor also opposed the measure, claiming that the farm labor supply is adequate and that U.S. residents, as well as other guest workers, would suffer if more workers were allowed to enter the country.

It looked like the amendment stood a good chance of becoming law. It passed the U.S. Senate in July, but in October, congressional leaders and White House staff compromised on an appropriations bill that excluded AgJOBS.

Expect more discussion in the new Congress about farm labor and the need for a revised agricultural work visa program. □