



# H2B:

## The legal alternative

**Savvy contractors are already making this system work for them and there's room for more legal immigrants. Don't miss this opportunity for quality workers!**

BY ROBERT E. REAVES

**A**sk most landscape managers to make one wish and, in most cases, they would wish for a reliable, skilled workforce made up of local citizens. That wish probably won't come true, since most Americans shun hard labor positions in the landscape industry. Illegal workers from Mexico now make up a large portion of the seasonal landscape labor force in most areas of the country.

Work site raids have become a low priority of the Immigration and Naturalization Service (INS). It has now initiated a less intrusive process: making appoint-

ments with businesses and auditing employee work documents. The major enforcement focus is now at the border, where the U.S. Border Patrol is expected to swell to more than 20,000 members in the next few years.

Unless we build a wall extending the length of the U.S.-Mexico border or send in the military, many believe there's no way to control the influx of illegal immigrants into this country. As long as they see the United States as the promised land, the steady flow will continue. And this means plenty of workers for low-skilled jobs in the landscape industry.

### Devil in the details

The U.S. government is looking for ways to get a better control over the illegal alien situation. One idea that seems to be gaining ground with congressional leaders is a streamlined visa program allowing companies to hire foreign workers on a temporary basis.

Joe Greene, director of the INS district office in Denver, is skeptical. "With a guest worker program, the devil is always in the details," he says. "How do you control people to ensure that if they come in to work, they leave if it's temporary?"

There's an existing visa program for seasonal workers known as H2B, which allows up to 66,000 immigrant workers into this country per year. Controlled by the U.S. Department of Labor and the INS, it

grants American companies permission to hire foreign workers on a temporary basis — up to 10 months at a time — as long as they can prove they were unable to find U.S. workers to fill the positions.

H2B's biggest advantage is the higher probability of finding workers already skilled in landscape maintenance. And because the worker is legally in the United States, there won't be the usual problems with the INS. Many landscape contractors say the source of Mexican workers with green cards has dried up, another reason to use H2B.

### Advantages for the workers

What's in it for the foreign worker? Under the H2B visa program, workers receive protection under the Fair Labor Standards Act, which stipulates that workers are to receive overtime, at least minimum wage and pay income taxes.

Many criticize H2B, especially the paperwork that comes with it. To facilitate the process, some landscape contractors hire an H2B agent — labor contractor — to take care of it. Labor contractors locate workers with landscape skills and see their clients through the entire process.

### Do-it-yourself options

Is it a requirement to use an H2B agent to secure H2B workers? No.

Although it is more time consuming to handle the entire process on your own, it is

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entirely feasible. You'll also save around several thousand dollars the agent would have charged as a fee.

The first step is to work with your state's workforce commission and the U.S. De-

partment of Labor. Make sure you put a dollar value on the time it takes you to work through the certification process. Compare it against the cost of using an H2B agent.

Even if you use an agent, you will still be required to write letters. Remember,

the H2B agent can't provide you with shortcuts around the legal process. In other words, don't get a false sense of security that the INS and U.S. Department of Labor will "look the other way" because you are involved with the program or working with an agent.

Use of the H2B program in the industry continues to grow. According to the U.S. Department of Labor, the program is so successful that the number of workers certified has more than doubled in the last two years.

"Two years ago, the Dallas regional office did not even certify workers in the H2B program for landscape and related jobs. We thought there were enough U.S. workers," says John Bartlett, certifying officer with the U.S. Department of Labor's Dallas office.

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## Top five reasons H2B workers quit

1. Housing is too expensive. Most H2B workers can only afford \$25 per week. The H2B housing should not be a direct company rental or it would fall under HUD standards.

2. Bad attitude from the foreman or supervisors. Use of foul language drives workers away.

3. No ride to and from work.

4. No evening recreation. These men are many miles from their families.

5. "Us" versus "them" atmosphere at work. They don't feel they are part of things.

*Note: Check your local Labor Certification Office at the U.S. Department of Labor/Employment Training Administration for more information.*

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"The Texas Workforce Commission proved to the U.S. Department of Labor that this was not the case."

**Give yourself lead time**

How long does H2B certification take? According to Bartlett, the average certification time frame is now 60 to 90 days.

For some contractors, the jury is still out. Several irrigation and landscape contractors admitted they were beginning to use the program, but were unwilling to make a statement at this time. Two major green industry trade associations said they could not officially endorse the program and preferred not to make an official comment.

Ed LaFlamme, branch manager of Tru-Green LandCare in New Haven, CT, brought in 10 H2B workers in 1999. He

had mixed results, noting that several workers asked to return to Mexico. "Before a contractor brings these workers all the way from Mexico, he should carefully screen them beforehand. You need to look for flexible people who are experienced and want to work in the landscape industry," he adds.



Ed LaFlamme

**Increase your success rate**

"One of the most difficult factors with H2B is figuring out how you will assimilate foreign workers into your community and your company," says Scott Evans, owner of C. Scott, Inc., a labor placement firm located in Bay City, TX.

Evans says the first step is to become a bilingual company. "Teach your staff Spanish and hold English classes for the Spanish-speaking workers."

The second step is to recruit from friends and family of existing employees. "When the employee knows a person in your company, they can blend into the company and community much faster," he says.

"It's also important to prepare a welcome package for each H2B worker. Give them a company greeting letter and a company pad to write their families on their first day. Offer to mail the letters for them."

Don't forget the welcome meal. "After a long trip from Mexico, a meal is always appreciated," says Evans.

*Robert E. Reaves is a turfgrass specialist with Van Waters & Rogers Inc. in Austin, TX.*

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