

# Is H-2B right for you?

**Little-known details about the application process from this industry expert will save you time and trouble**



The H-2B visa can sometimes solve a company's inability to find a dependable labor source.

BY JEFF WEST

**T**o H-2B or not to H-2B? That is the question many companies in various seasonal industries are asking themselves more and more often. As little as four years ago, most service companies in the United States hadn't even heard of an H-2B visa, let alone decided whether to pursue one.

## H-2B defined

The H-2B visa has recently become popular with a number of industries that have had difficulty finding a dependable labor source.

In laymen's terms, the H-2B visa is a tempo-

rary seasonal work visa for companies that cannot find enough domestic labor to run their business. To be eligible for an H-2B visa, your company must prove that the jobs it's trying to fill are temporary and seasonal in nature. For example, if you own a landscape company and lay off workers in the fall or winter due to weather, you would be a prime candidate. If your landscape company is located in, say, Arizona, you must prove you have a peak season by showing noticeable fluctuation in your payroll over several years.

## Finding the workers

Approximately 90% of workers who arrive in the U.S. under H-2B visas are Mexican immigrants; the remaining 10% come from Canada,

Most workers who apply for a seasonal job want to start working as soon as possible, not two or three months down the road.



the Caribbean and other Latin American countries.

If you apply for H-2B visas without the assistance of a labor or H-2B contractor, you'll be responsible for recruiting your own workers as well as making sure they have legitimate passports and no previous problems with the Immigration and Naturalization Service (INS). You may also have to take a trip to the appropriate consulate you indicated on your H-2B visa application. This could be a good thing if the consulate you listed was in Jamaica because you could write off your vacation and take care of your labor needs in one trip! On the flip side, if you listed a consulate in Mexico (the most common consulate listing) and your application was delayed, you might have to wait in line for hours in triple digit temperatures.

#### Don't delay

The first thing to realize when pursuing an H-2B visa is that you can't wait two weeks before you need workers to start the application process. The earliest you're allowed to apply is 120 days before you need workers. Expect the process to take 90 to 120 days before you receive INS authorization. If you're a first time filer, give yourself 150 days because you'll probably place a comma in the wrong place in

the job description and delay your application indefinitely.

#### Is it right for you?

If you think H-2B is the answer to your labor woes, think again. Realize the following five things:

1. If you're looking for cheap labor, you shouldn't use this program. Companies with this attitude have had experiences.
2. H-2B workers are looking to work at least 50 hours a week.

3. Housing costs should be around 15% of the average monthly wage. Remember, these guys are working for your company to save money for family.

4. You will need to set up a housing arrangement before your workers arrive, which means finding bedding, cooking utensils, etc.

5. If you're looking for a way to legalize your illegal workers, you'll be disappointed!

#### H-2B simplified

The first application for an H-2B visa is with your state's employment security agency or department of labor. This will determine the prevailing wage your company will be required to pay the workers.

The next step, the recruiting process, takes at least 30 days. This process begins with a

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## H-2B remains your best option

Despite the economy falling deeper into recession after the terrorist attacks on America Sept. 11th, labor companies say the need for additional labor is still high and predict it will remain high.

"The grass isn't going to stop growing," said Robert Wingfield, president of Amigos Inc., a Dallas-based labor contracting firm that supplies U.S. businesses with Mexican seasonal workers. "So far, I've only had one client cancel their order for workers, and that wasn't a landscape company."

"From an immigration standpoint, everything has slowed down considerably," says labor contractor Jeff West, president of GTO International, Rochester, MI. West said he expects less demand for immigrant workers in industries such as hospitality and food service, but U.S. landscape companies will still need seasonal help.

"Even though there will be workers unemployed, they don't tend to gravitate to the Green Industry because the work is seasonal and involves a lot of physical labor," he said.

Terry Foley, with Foley Enterprises, Austin, TX, another sizable labor contracting firm focusing on the Green Industry, said that one of the biggest problems her firm faces is companies that wait until the last minute to start processing their H-2B employees.

"We're kind of chewing our nails, but we do that every year about this time," she said.

This year in particular, she cautioned, companies needing seasonal immigrant help should begin the process immediately. "They have to supply so much documentation to substantiate their need that it's taking them longer."

Like West, Foley doesn't see the pool of recently unemployed U.S. workers desiring the jobs typically filled by H-2B workers. "Part of me thinks that the people who are getting laid off are in high tech and related jobs and they will not work on landscape crews. They will stay on unemployment first."

— Ron Hall

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classified ad that runs in a daily local newspaper for three consecutive days, usually including Sunday. The ad's wording is dictated by the State Department of Labor. Once the recruiting period is over, you have to supply the State with your results.

Once the recruitment period has ended, the State forwards your results along with

your application to the U.S. Regional Department of Labor. Your application will probably sit on someone's desk for at least four weeks before anyone grants approval or rejection.

The last step is to file with the INS. If you want really good service, you can write a check for \$1,000 and the INS will guarantee your application will be

processed within 15 days of receiving your check. If you want the regular service, you only pay \$110 and processing could take from 15 to 45 days.

### Passport, please

Don't think you're out of the woods once the INS has authorized your company to obtain an H-2B visa. The passports you've submitted to the U.S. Consulate must be approved.

Every worker you sponsor for an H-2B visa must have a valid and up-to-date passport. A Mexican male must prove he has completed his military requirements with a validated military card. Without the military card, he can obtain a temporary passport for three months, but only under the pretense that he will start his military obligation within one year.

Also, if workers have any previous problems with U.S. immigration or a police record in the United States or Mexico, they will be rejected.

— Jeff West is president of GTO International LLC, a labor recruiting company based out of Rochester, MI. He can be reached at 810/797-4422, or visit [www.gtointl.com](http://www.gtointl.com) for more information.

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## Premium Service Policy

The INS's \$1,000 Premium Service Policy for application processing was enacted in June of 2001. I will at this time plead the 5th amendment if asked my opinion of this new policy (just in case someone with a good memory from the INS is reading this)! I wonder if this policy will catch on with other companies? Can you imagine having to pay McDonald's an extra dollar if you want your food warm? I might be willing to pay that in some instances...

— Jeff West