



In order to issue an H-2B certification to an employer, the U.S. Department of Labor (Department) must determine that:

- ◆ The employer is unable to find enough qualified and available U.S. workers to perform the temporary services or labor they need, and therefore need to hire foreign workers.
- ◆ The hiring of H-2B workers will not have a negative impact on the pay and working conditions of American workers who perform similar jobs.

To participate in the H-2B program, an applicant must:

- ◆ Be an employer with a valid Federal Employer Identification Number (FEIN)
- ◆ Have a place of business (i.e., physical location) in the United States; and
- ◆ Have a means by which it can be contacted for employment.

The employer's job opportunity (opportunities) must be:

- ◆ Temporary (i.e., nine months or less, except one-time occurrences)
- ◆ Full-time (i.e., 35 or more hours per week)
- ◆ Non-agricultural employment within a specified area(s) of intended employment.



Employers who meet the requirements of the H-2B temporary non-agricultural program can hire nonimmigrant workers to come to the U.S. and perform non-agricultural services or labor for a temporary period. The employer must demonstrate that their need for these services or labor is temporary, even if the job itself is permanent or temporary.

Temporary need must be established as one of the following:

- **One-time occurrence**
- **Seasonal need**
- **Peakload need**
- **Intermittent need**

With the exception of a one-time occurrence need which can last up to three years, temporary need will not be approved for longer than nine months.

The Immigration and Nationality Act and regulations issued jointly with the U.S. Department of Homeland Security (DHS) establish employer requirements and worker protections with respect to wages and working conditions. The Department's Wage and Hour Division has responsibility for enforcing provisions of worker contracts and applicable employment laws.