



## ALERTS

### DOL And USCIS Urge Employers To File H-2B Visas For Spring, Summer 2020 In January

December 3, 2019 | [Southeast Michigan](#) | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Dallas](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [Raleigh](#) | [Salt Lake City](#) | [San Diego](#) | [South Bend](#) | [Washington, D.C.](#)

The U.S. Department of Labor (DOL) and U.S. Citizenship and Immigration Services (USCIS) are urging [employers seeking H-2B visas](#) for the second half of the 2020 fiscal year – April 1, 2020, through Sept. 30, 2020 – to immediately apply for a temporary labor certification and file a petition with the USCIS. To be eligible for H-2B visas, the application must be filed before the semi-annual cap of 33,000 is met.

In recent years, the Office of Foreign Labor Certification (OFCL) has seen an overwhelming increase in the number of H-2B visa applications, as labor certifications typically spike in early January for temporary and seasonal jobs in the spring and summer. Because the demand for H-2B visas remains high, employers should consider starting the process in December by filing a Prevailing Wage Determination.

The H-2B visa program allows U.S. companies to hire foreign workers to fill non-agricultural temporary jobs during peak seasons in sectors such as landscaping, forestry and hospitality, which are heavily dependent on seasonal workers to alleviate labor shortages. These are far from the only industries that can hire H-2B workers. Other common users of the H-2B visa include the construction industry, where short-term, one-time need can drive hiring; tourism-related industries; and athletics entities with a defined, seasonal schedule.

The DOL process for obtaining an H-2B certification is a two-step process for employers:

1. Interested employers must first file a complete and accurate Form

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## RELATED PRACTICE AREAS

Immigration and Global Mobility Services  
Immigration Pathfinder Program

ETA-9141, Application for Prevailing Wage Determination.

2. Once the Application for Prevailing Wage Determination has been reviewed and a wage determination issued by the OFLC, employers must file an ETA 9142B request for a temporary labor certification with the Department of Labor to demonstrate a need to address a temporary labor shortage.

The DOL then reviews the ETA 9142B and, once the request has been accepted, instructs employers to complete certain mandatory recruitment steps.

This is then followed by a third step involving USCIS:

3. If the employer confirms that no qualified U.S. workers have applied for the position, an employer receives a temporary labor certification and must timely file an H-2B petition with USCIS covering the specified number of workers it seeks to temporarily hire.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work, including Tejas Shah at (312) 214-5619 or [tejas.shah@btlaw.com](mailto:tejas.shah@btlaw.com), Mercedes Badia-Tavas at (312) 214-8313 or [mbadiatavas@btlaw.com](mailto:mbadiatavas@btlaw.com), or Michael Durham at (574) 237-1145 or [m.durham@btlaw.com](mailto:m.durham@btlaw.com).

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