



Characteristics of H-2B Nonagricultural Temporary Workers

Fiscal Year 2014 Report to Congress

Annual Submission



Homeland
Security

*U.S. Citizenship and
Immigration Services*



**Homeland
Security**

April 16, 2015

Foreword

On behalf of the Department of Homeland Security, I am pleased to present the Fiscal Year 2014 annual submission on the “Characteristics of H-2B Nonagricultural Temporary Workers.”

Pursuant to statutory requirements, this report is being provided to the following Members of Congress:

The Honorable Charles Grassley
Chairman, Senate Committee on the Judiciary

The Honorable Patrick J. Leahy
Ranking Member, Senate Committee on the Judiciary

The Honorable Robert W. Goodlatte
Chairman, House Committee on the Judiciary

The Honorable John Conyers, Jr.
Ranking Member, House Committee on the Judiciary

Inquiries relating to this report may be directed to me at (202) 447-5890.

Sincerely,

A handwritten signature in black ink that reads "Brian de Vallance".

Brian de Vallance
Assistant Secretary for Legislative Affairs

Executive Summary

The Department of Homeland Security (DHS) has compiled this Fiscal Year (FY) 2014 report on H-2B nonimmigrants from information provided by the Department of State (DOS), the Department of Labor (DOL), and three DHS Components U.S. Citizenship and Immigration Services (USCIS); U.S. Customs and Border Protection (CBP); and U.S. Immigration and Customs Enforcement (ICE).

Highlights

- A total of 68,681¹ aliens were issued H-2B visas or otherwise acquired H-2B status in FY 2014.
- 68,100 H-2B visas were issued by DOS.
- The top five H-2B visa issuance countries in FY 2014 were:
 - Mexico – 73.5%
 - Jamaica – 9.0%
 - Guatemala – 4.9%
 - South Africa – 2.6%
 - Great Britain & Northern Ireland – 2.3%
- 358 requests for change of nonimmigrant status to H-2B were approved by USCIS in which case a visa is not required.
- 223 crossings of visa-exempt H-2B workers were processed by CBP (223 Canadians).²

¹ This number includes H-2B beneficiaries who are exempt from the H-2B cap. For information regarding the H-2B cap, please refer to H-2B Nonagricultural Temporary Worker Visa and Status Report for FY2014, Semiannual Report to Congress, Part 2.

² For FY 2014, all 223 crossings of visa-exempt H-2B workers came from Canada. See 8 C.F.R. 212.1(a) and (b) for a list of aliens who are considered visa-exempt. This figure may include multiple admissions by the same individuals. Although an individual may cross the border numerous times (e.g., a Canadian residing in Windsor, Ontario, and commuting daily to work in Detroit, Michigan), he or she only counts against the H-2B cap on his or her first admission based on an approved petition.

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I. Legislative Requirement

This report was prepared in accordance with section 416(d)(2) of the *American Competitiveness and Workforce Improvement Act of 1998*, Pub. L. No. 105-277, tit. IV, 112 Stat. 2681-641, as amended by section 406 of the *REAL ID Act of 2005*, Pub. L. No. 109-13, div. B, 119 Stat. 231, which requires that:

Beginning in fiscal year 2007, the Secretary of Homeland Security and the Secretary of State shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate –

- (A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act [(INA)] (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;
- (B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and
- (C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

II. Background

Overview

The H-2B program allows U.S. employers to bring foreign workers to the United States to fill temporary nonagricultural jobs. *See* INA section 101(a)(15)(H)(ii)(b), 8 U.S.C. § 1101(a)(15)(H)(ii)(b). To petition successfully for this nonimmigrant classification, the employer must establish that:

- its need for the prospective worker's labor or services is temporary in nature – that is, based on a one-time occurrence, a seasonal need, a peakload need, or an intermittent need;
- there are not sufficient U.S. workers who are capable of performing the temporary work; and
- the employment of the H-2B nonimmigrant worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

Generally, before filing a petition with USCIS for H-2B workers, the employer must obtain a valid temporary labor certification from DOL or, if the worker(s) will be employed in Guam, from the Governor of Guam. *See* Title 8 Code of Federal Regulations (8 C.F.R.) § 214.2(h)(6)(iii)(A) and (C). H-2B petitions may request multiple workers, so long as the information provided in the H-2B petition, such as the job duties specified and worksite locations listed, match information provided in the temporary labor certification. *See* 8 C.F.R. § 214.2(h)(2)(ii).

Obtaining H-2B Status

After USCIS approves an H-2B petition, a worker may be granted H-2B status through:

- admission as an H-2B worker by CBP at a port of entry after issuance of an H-2B nonimmigrant visa by DOS;
- admission as an H-2B worker by CBP at a port of entry without a visa, in the case of certain Canadian and Bermudan citizens, Bahamian nationals, and British subjects resident in certain islands; or
- change of nonimmigrant status to H-2B granted by USCIS.

III. Data Report and Analysis

Section 3.1 – Countries of nationality for workers who were issued H-2B visas by the Department of State in Fiscal Year 2014

Based on information provided by DOS, the nationality of workers who were issued H-2B visas in FY 2014 are as follows³:

Nationality	Number	Nationality	Number
Antigua & Barbuda	7	Japan	289
Argentina	75	Kiribati	2
Australia	46	Latvia	1
Austria	12	Lithuania	66
Barbados	3	Macedonia	12
Belgium	3	Mexico	50,045
Belize	118	Moldova	121
Bolivia	3	Montenegro	1
Botswana	2	Namibia	1
Brazil	35	Netherlands	24
Bulgaria	252	New Zealand	50
Chile	16	Nicaragua	106
China	-1	Norway	3
Colombia	6	Panama	64
Costa Rica	255	Peru	12
Croatia	24	Philippines	889
Czech Republic	19	Poland	53
Denmark	1	Portugal	8
Dominican Republic	145	Romania	471
Ecuador	9	Russia	23
El Salvador	549	Serbia	152
Estonia	1	Singapore	1
Finland	1	Slovakia	78
France	3	Slovenia	11
Germany	8	South Africa	1,779
Great Britain & Northern Ireland	1,537	South Korea	19
Greece	2	Spain	52
Guatemala	3,304	Sweden	16
Haiti	6	Switzerland	2
Honduras	637	Taiwan	1
Hungary	36	Thailand	3
Iceland	1	Turkey	67
India	2	Ukraine	123
Iran	1	Uruguay	2
Ireland	258	Venezuela	-1
Israel	7	Zambia	1
Italy	15	Zimbabwe	3
Jamaica	6,152	Grand Total: 68,100	

³ Reasons for a negative number of visa issuances may include spoiled visas (i.e., visas that were physically destroyed or voided), revocations, or close-out of year-end cases.

Section 3.2 – Occupational information on, and compensation paid to, workers who were issued H-2B visas or provided H-2B status in FY 2014

DOL posts this information for the latest quarter and for previous fiscal years on its website at <http://www.foreignlaborcert.doleta.gov/performancecfm>.⁴ The data also includes information about the certification, partial certification,⁵ withdrawal, and denial of temporary employment certification applications.

Guam Department of Labor (Guam DOL) collects similar information. *See* Appendix.

Section 3.3 – H-2B visas or status revoked or otherwise terminated

From October 1, 2013 through September 30, 2014, USCIS revoked or otherwise terminated 23 approved H-2B petitions covering a total of 447 H-2B positions.

USCIS Monthly Breakdown of Revocations

Month	Number of Petitions	Number of Beneficiaries	Month	Number of Petitions	Number of Beneficiaries
Oct 2013	2	8	Apr 2014	3	89
Nov 2013	1	30	May 2014	0	0
Dec 2013	2	29	Jun 2014	5	39
Jan 2014	1	60	Jul 2014	1	60
Feb 2014	1	50	Aug 2014	1	1
Mar 2014	1	13	Sep 2014	5	68

During this same period, CBP denied admission to 235 aliens who were found inadmissible at ports of entry,⁶ thereby cancelling their visas. ICE removed 23 aliens who were found deportable after admission to the United States, thereby terminating their visas.

DOS initially refused 10,533 H-2B visas during FY 2014.⁷ However, 3,914 of these workers subsequently overcame the reasons for the visa refusal, and the affected workers were granted H-2B visas. Therefore, during FY 2014, DOS refused the visa applications for a net total of 6,619 H-2B workers.

The cancellation, termination, and visa refusal data from CBP, ICE, and DOS are not available on a month-to-month basis.

⁴The above-described legislative reporting requirement calls, in part, for occupation information on and compensation paid to aliens. The occupational information includes the position being petitioned for and the corresponding compensation information. DHS relies on DOL to electronically capture some of this data, including compensation paid to H-2B workers. DOL routinely publishes such information online at the link provided.

⁵A “partial certification” occurs when the Department of Labor Certifying Officer who issues the temporary labor certification (TLC) reduces either the period of need and/or the number of H-2B workers being requested. The employer will then receive an amended ETA Form 9142 and a Final Determination letter that includes the reasons for the partial certification.

⁶This number includes those beneficiaries who received a visa and those who are visa exempt. However, no visa-exempt beneficiaries were found inadmissible in FY14. The countries of origin for inadmissible beneficiaries were: Czech Republic, El Salvador, Guatemala, Honduras, Israel, Jamaica, Mexico, Moldova, Nicaragua, South Korea and Serbia.

⁷Reasons for a visa refusal typically include matters outside of the scope of USCIS petition adjudication, such as determinations of inadmissibility, findings of immigrant intent under section 214(b) of the INA, or findings that the petitioning employer or an agent, facilitator, recruiter, or similar employment service required the prospective H-2B worker to pay a prohibited fee at any time as a condition of employment.

Section 3.4 – Number of aliens who were provided H-2B nonimmigrant status during FY 2014 and FY 2013

In FY 2014, a total of **68,681** aliens were issued H-2B visas or acquired H-2B status absent issuance of an H-2B visa. This includes:

- 68,100 H-2B visas issued by DOS;
- 358 requests for change of nonimmigrant status to H-2B approved by USCIS in which case a visa is not required; and
- 223 crossings of visa-exempt H-2B workers processed by CBP (223 Canadians).⁸

In FY 2013, a total of **58,124** aliens were issued H-2B visas or acquired H-2B status absent issuance of an H-2B visa. This includes:

- 57,598 H-2B visas issued by DOS;
- 333 requests for change of nonimmigrant status to H-2B approved by USCIS in which case a visa is not required; and
- 193 crossings of visa-exempt H-2B workers processed by CBP (193 Canadians).⁹

⁸ For FY 2014, all 223 crossings of visa-exempt H-2B workers came from Canada. See 8 C.F.R. 212.1(a) and (b) for a list of aliens who are considered visa-exempt. This figure may include multiple admissions by the same individuals. Although an individual may cross the border numerous times (e.g., a Canadian residing in Windsor, Ontario, and commuting daily to work in Detroit, Michigan), he or she only counts against the H-2B cap on his or her first admission based on an approved petition.

⁹ For FY 2013, all 193 crossings of visa-exempt H-2B workers came from Canada. Please see Footnote 5 for additional information.

Appendix – Data provided by Guam Department of Labor displaying occupational and compensation data for all H-2B applicants in FY 2014 in Guam

O*NET Code	Job Title	No. of Positions Certified	Rate of Pay on Cert.	Unit of Pay on Cert.
11-3071	Inventory Control Manager	1	\$30.18	Hour
11-9051	Restaurant Manager	1	\$17.90	Hour
13-1022	Buyer	1	\$15.84	Hour
13-1151	Occupation Safety and Health Officer	1	\$17.38	Hour
15-1131	Computer Programmer	1	\$22.16	Hour
17-3011	Architectural Drafter	2	\$19.49	Hour
17-3011	Computer-Aided Design Technician (CADD Technician)	1	\$19.49	Hour
17-3012	Electrical Drafter	2	\$19.98	Hour
25-3021	Scuba Instructor	4	\$19.40	Hour
25-3021	Dive Instructor	2	\$19.56	Hour
27-2022	Golf Instructor	1	\$46,140.00	Annum
29-1141	Birthing Registered Nurse	8	\$25.75	Hour
29-1141	Emergency Registered Nurse	10	\$25.75	Hour
29-1141	Medical/Surgical/Operating Room Registered Nurse	13	\$25.75	Hour
29-1141	Pediatrics Registered Nurse	3	\$25.75	Hour
29-1141.03	Cardiac Catheterization Laboratory, Cardiology Registered Nurse	6	\$25.75	Hour
29-1141.03	Intensive Care Unit Registered Nurse	13	\$25.75	Hour
29-1141.03	Neonatal Intensive Care Unit and Obstetrics Nurse	5	\$25.75	Hour
29-2032	Echocardiographer	1	\$31.90	Hour
29-2032	Ultrasound Technician	1	\$31.90	Hour
29-2034	Radiologic Technologist	2	\$19.43	Hour
31-9011	Massage Therapist	4	\$9.84	Hour
31-9011	Massage & Body Care Therapist/Masseuse	5	\$9.92	Hour
35-1011	Chef	2	\$15.69	Hour
35-2012	Camp Cook	9	\$11.85	Hour

O*NET Code	Job Title	No. of Positions Certified	Rate of Pay on Cert.	Unit of Pay on Cert.
35-2014	Japanese Specialty Cook	4	\$8.77	Hour
35-2014	Japanese Specialty Cook	2	\$8.80	Hour
35-2014	Specialty Cook	1	\$9.08	Hour
35-2014	Specialty Cook	23	\$9.20	Hour
35-9031	Guest Relations Host/Hostess, Restaurant	1	\$8.14	Hour
37-3011	Landscaper	44	\$8.81	Hour
39-1021	Spa Supervisor/Trainer	1	\$20.88	Hour
39-6012	Concierge	1	\$11.55	Hour
39-9021	Caregiver (Disabled Adult)	1	\$10.09	Hour
39-9031	Les Mills Group Exercise Instructor and Trainer	2	\$17.74	Hour
39-9031	Les Mills Group Exercise Instructor and Trainer	1	\$18.17	Hour
43-4051	Wedding Service Attendant	2	\$14.04	Hour
47-1011	Automotive Master Mechanic	1	\$13.36	Hour
47-1011	Field Supervisor	6	\$14.66	Hour
47-1011	Field Supervisor	5	\$20.84	Hour
47-2031	Carpenter	1400	\$13.56	Hour
47-2044	Flooring Specialist	0	\$20.10	Hour
47-2051	Cement Mason	897	\$12.87	Hour
47-2073	Equipment Operator and Heavy Equipment Operator	73	\$13.77	Hour
47-2111	Electrician	194	\$15.45	Hour
47-2111	Electrician, Transportation Equipment	1	\$16.59	Hour
47-2141	Painter	12	\$14.60	Hour
47-2152	Pipefitter	10	\$15.79	Hour
47-2152	Pipefitter	10	\$16.80	Hour
47-2152	Plasterer	14	\$10.98	Hour
47-2152	Plumber	81	\$14.96	Hour
47-2171	Reinforcing Metal Worker	341	\$12.56	Hour
47-2211	Sheet Metal Worker	22	\$15.17	Hour
47-2221	Structural Steel Worker	23	\$13.22	Hour

O*NET Code	Job Title	No. of Positions Certified	Rate of Pay on Cert.	Unit of Pay on Cert.
49-1011	Crew Leader	1	\$23.27	Hour
49-2092	Electric Motor Repairer	2	\$18.50	Hour
49-2092	Motor Re-winder	1	\$19.47	Hour
49-2094	Electrical and Electronic Service Technician	1	\$22.13	Hour
49-3021	Auto Body Repair Technician	2	\$12.83	Hour
49-3021	Automobile Body Repairer	5	\$12.95	Hour
49-3023	Mechanic	2	\$13.91	Hour
49-3042	Heavy Equipment Mechanic	16	\$14.14	Hour
49-3042	Heavy Equipment Mechanic	6	\$15.15	Hour
49-3042	Equipment Mechanic	1	\$15.45	Hour
49-3051	Marine Mechanic	22	\$17.86	Hour
49-4032	Heavy Equipment Mechanic	4	\$14.14	Hour
49-9021	Chiller Technician	1	\$15.59	Hour
49-9021	HVAC Technician/Specialist	1	\$15.62	Hour
49-9021	Refrigeration Mechanic	1	\$15.62	Hour
49-9021	A/C and Refrigeration Mechanic	35	\$15.73	Hour
49-9021	HVAC Mechanic	3	\$16.21	Hour
49-9031	Food Service Equipment Technician	1	\$17.92	Hour
49-9043	Maintenance Mechanic	2	\$14.21	Hour
49-9062	Biomedical Equipment Specialist	1	\$22.55	Hour
49-9071	General Maintenance and Repair Worker	9	\$11.70	Hour
49-9071	A/C Maintenance Technician	7	\$12.17	Hour
49-9071	HVAC Maintenance Technician	7	\$12.17	Hour
49-9071	Maintenance Electrician	5	\$12.17	Hour
49-9091	Game Room Technician	0	\$15.72	Hour
51-1011	Laundry Supervisor	2	\$24.98	Hour
51-2041	Shipfitter	6	\$15.91	Hour
51-3011	Baker	7	\$9.08	Hour
51-3011	Baker	5	\$9.12	Hour

O*NET Code	Job Title	No. of Positions Certified	Rate of Pay on Cert.	Unit of Pay on Cert.
51-4041	Machinist	1	\$16.61	Hour
51-4121	Welder	46	\$16.09	Hour
51-4121	Welder, Fitter	18	\$16.80	Hour
51-9061	Quality Control Inspector	2	\$15.00	Hour
51-9071	Goldsmith	2	\$18.67	Hour
53-7021	Tower Crane Operator	3	\$19.28	Hour