



Characteristics of H-2B

Nonagricultural Temporary Workers

Fiscal Year 2016 Report to Congress

Annual Submission

July 14, 2017



Homeland
Security

*U.S. Citizenship and
Immigration Services*



Foreword

July 14, 2017

On behalf of the Department of Homeland Security, I am pleased to present the Fiscal Year 2016 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 E. Grassley
Chairman, Senate Committee on the Judiciary

The Honorable Diane Feinstein
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 "Ben Cassidy".

Benjamin Cassidy
Assistant Secretary for Legislative Affairs

Executive Summary

The Department of Homeland Security (DHS) has compiled this Fiscal Year (FY) 2016 report on H-2B nonimmigrants from information provided by Department of State (DOS), Department of Labor (DOL), and three components within DHS: U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE).

This report includes data for each half of FY 2016.

Highlights

- A total of 85,202¹ aliens were issued H-2B visas or otherwise acquired H-2B status in FY 2016.
- 84,626 H-2B visas were issued by DOS.
- The top five H-2B visa issuance countries in FY 2016 were:
 - Mexico – 72.2%
 - Jamaica – 11.3%
 - Guatemala – 4.3%
 - South Africa – 2.3%
 - Great Britain and Northern Ireland – 1.4%
- 280 requests for change of status to H-2B were approved by USCIS. In such cases, a visa is not required.
- 296 crossings of visa-exempt H-2B workers were processed by CBP.²

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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 FY 2016, Semiannual Report to Congress, Part 2.

² For FY 2016, all 296 crossings of visa-exempt H-2B workers came from Canada. See 8 C.F.R. 212.1(a) 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. 105-277, tit. IV, 112 Stat. 2681-641, as amended by section 406 of the *REAL ID Act of 2005*, Pub. L. 109-13, div. B, 119 Stat. 302, enacted May 11, 2005, 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;
- qualified workers in the U.S. are not available to perform 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.

See Title 8 Code of Federal Regulations (8 C.F.R.) § 214.2(h)(6) (ii)(B) and (iv)(A). 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 on Guam, from the Governor of Guam. *See* 8 C.F.R. § 214.2(h)(6)(iii)(A) and (C). H-2B petitions may request multiple workers if the workers will be performing the same service, for the same period of time, and in the same location.. *See* 8 C.F.R. § 214.2(h)(2)(ii). An H-2B worker must also be from a list of “Eligible Countries,” as designated by DHS in a notice published in the Federal Register, unless it is determined to be in the U.S. interest that a foreign worker from any country not on this list be granted H-2B status. *See* 8 C.F.R. § 214.2(h)(6)(i)(E).

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 2016

Based on information provided by DOS, the nationalities of workers who were issued H-2B visas in FY 2016 are as follows:

Nationality	Number	Nationality	Number
Antigua and Barbuda	6	Jamaica	9,570
Argentina	43	Japan	232
Australia	36	Lithuania	135
Austria	15	Macedonia	8
Barbados	14	Mexico	61,128
Belarus	1	Moldova	5
Belgium	1	Montenegro	9
Belize	276	Netherlands	36
Brazil	90	New Zealand	34
Bulgaria	293	Nicaragua	101
Canada	4	Nigeria	3
Chile	54	Norway	1
Colombia	42	Panama	75
Congo-Kinshasa	1	Peru	20
Costa Rica	290	Philippines	835
Croatia	8	Poland	206
Czech Republic	169	Portugal	16
Denmark	5	Romania	670
Dominican Republic	181	Russia	3
Ecuador	13	Saudi Arabia	1
El Salvador	572	Serbia	564
Finland	1	Slovakia	80
France	9	Slovenia	5
Germany	3	South Africa	1,977
Great Britain & Northern Ireland	1,160	South Korea	1
Greece	16	Spain	34
Guatemala	3,654	Sweden	11
Honduras	828	Switzerland	1
Hungary	68	Thailand	5
India	1	Turkey	40
Ireland	298	Ukraine	643
Israel	5	Uruguay	1
Italy	19	Grand Total	84,626

Section 3.2 – Occupational information on, and compensation paid to, workers who were issued H-2B visas or provided H-2B status in FY 2016

DOL posts this information for the latest quarter and for previous fiscal years on its website at <http://www.foreignlaborcert.doleta.gov/performance/cfm>.³ The data also includes information about the certification, partial certification,⁴ withdrawal, and denial of temporary employment certification applications.

Guam Department of Labor (Guam DOL) collects similar information but does not routinely publish this information on its website. Please see the Appendix for a chart displaying occupational and compensation data for all H-2B applicants in FY 2016.

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

From October 1, 2015, through September 30, 2016, USCIS revoked or otherwise terminated 27 approved H-2B petitions covering a total of 336 H-2B positions.⁵

USCIS Monthly Breakdown of Revocations:

Month	Number of Petitions	Number of Beneficiaries	Month	Number of Petitions	Number of Beneficiaries
Oct. 2015	1	8	Apr. 2016	1	1
Nov. 2015	1	1	May 2016	4	11
Dec. 2015	0	0	Jun. 2016	5	26
Jan. 2016	2	21	Jul. 2016	1	39
Feb. 2016	1	1	Aug. 2016	5	66
Mar. 2016	4	151	Sep. 2016	2	11

During this same period, CBP denied admission to 81 aliens who were found inadmissible at ports of entry,⁶ and ICE removed 67 aliens who were found removable after admission to the United States.

DOS initially refused 11,375 H-2B visas during FY 2016.⁷ However, 3,838 of these workers subsequently overcame the reasons for the visa refusal, and the affected workers were granted

³The legislative requirement described in Section I 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 such data, including compensation paid to H-2B workers. DOL routinely publishes such information online at the link provided.

⁴A “partial certification” occurs when the DOL 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.

⁵These statistics represents a revision from the *H-2B Nonagricultural Temporary Worker Visa and Status Fiscal Year 2016 Semiannual Report to Congress, Part 2*. That report indicated that USCIS revoked or otherwise terminated 10 approved petitions consisting of 190 workers for the first half of FY 2016, and 16 approved petitions consisting of 143 workers for the second half of FY 2016. The statistics in this report reflect the most recent and accurate information.

⁶This number includes those beneficiaries who received a visa and those who are visa-exempt. However, no visa-exempt beneficiaries were found inadmissible in FY 2016. The countries of origin for inadmissible beneficiaries were: El Salvador, Great Britain, Guatemala, Honduras, Jamaica, Mexico, Moldova, Nicaragua, and Romania.

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.

H-2B visas. Therefore, during FY 2016, DOS refused the visa applications of a net total of 7,537 H-2B workers.

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

Section 3.4 – Number of aliens who were provided H-2B nonimmigrant status during FY 2016 and FY 2015

In FY 2016, a total of **85,202** aliens were issued H-2B visas or acquired H-2B status absent issuance of an H-2B visa. This includes:

- 84,626 H-2B visas issued by DOS;
- 280 requests for change of status to H-2B approved by USCIS, which are cases in which a visa is not required; and
- 296 crossings of visa-exempt H-2B workers processed by CBP.⁸

In FY 2015, a total of **70,179** aliens were issued H-2B visas or acquired H-2B status absent issuance of an H-2B visa. This includes:

- 69,683 H-2B visas issued by DOS;
- 228 requests for change of status to H-2B approved by USCIS, which are cases in which a visa is not required; and
- 268 crossings of visa-exempt H-2B workers processed by CBP.⁹

⁸ For FY 2016, all 296 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 2015, all 268 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.

Appendix – Guam DOL chart displaying occupational and compensation data for all H-2B applicants in FY 2016

O*Net Code	Job Title	No. of Positions Certified	Rate of Pay on Cert	Unit of Pay on Cert
11-9051	Restaurant Manager	1	\$17.90	Hour
11-9051	Executive Assistant Manager (F&B)	1	\$89,000.00	Annum
13-1161	Market Research Analyst	1	\$18.63	Hour
17-3012	Electrical Drafter	1	\$29.83	Hour
25-3021	Scuba Instructor	2	\$19.72	Hour
27-1023	Floral Designer	2	\$12.75	Hour
29-1141	Chemotherapy Registered Nurse	4	\$25.75	Hour
29-1141	Intensive Care Unit Registered Nurse	5	\$25.75	Hour
29-1141	Medical Telemetry Unit Registered Nurse	12	\$25.75	Hour
29-1141	Neonatal Intensive Care Unit Registered Nurse	10	\$25.75	Hour
29-1141	Obstetrics-Gynecology (OB-GYN)/Intensive Maternal Unit (IMU) Registered Nurse	8	\$25.75	Hour
29-1141	Operating Room Registered Nurse	8	\$25.75	Hour
29-1141	Surgical Unit Registered Nurse	12	\$25.75	Hour
29-2033	Nuclear Medicine Technologist	1	\$35.21	Hour
29-2034	MRI Technologist	1	\$26.00	Hour
29-2034	Radiologic Technologist	5	\$18.93	Hour
31-9011	Massage Therapist	4	\$9.92	Hour
31-9011	Spa Therapist	11	\$21,000.00	Annum
35-1011	Chef	2	\$13.88	Hour
35-1011	Chef De Cuisine	2	\$85,000.00	Annum
35-1011	Specialty Sous Chef	1	\$13.88	Hour
35-1011	Specialty Chef (Italian Cuisine)	1	\$35,000.00	Annum
35-1011	Specialty Chef (Thai Cuisine)	1	\$35,000.00	Annum
35-1012	Figaro Coffee Shop Supervisor	1	\$10.38	Hour
35-1021	Spa Manager	1	\$40,000.00	Annum
35-2012	Camp Cook	2	\$10.54	Hour
35-2012	Camp Cook	13	\$11.85	Hour
35-2014	Specialty Cook (Chinese)	4	\$9.14	Hour
35-2014	Specialty Cook (Teppan)	1	\$9.14	Hour
35-2014	Specialty Cook	1	\$9.17	Hour
35-2014	Specialty Cook	17	\$9.20	Hour
35-2014	Specialty Cook	20	\$9.78	Hour
35-9031	Guest Relations Host / Hostess, Restaurant	1	\$8.25	Hour

O*Net Code	Job Title	No. of Positions Certified	Rate of Pay on Cert	Unit of Pay on Cert
37-3011	Landscaper	10	\$8.81	Hour
37-3011	Landscape Gardener	30	\$8.98	Hour
39-5012	Bridal Stylist	2	\$10.13	Hour
39-9021	Caregiver	1	\$10.20	Hour
39-9031	Fitness Instructor	1	\$18.95	Hour
39-9031	Les Mills Group Exercise Instructor and Trainer	1	\$18.95	Hour
43-4051	Wedding Service Attendant	3	\$14.04	Hour
47-1011	Architectural Drafter	0	\$18.58	Hour
47-2031	Carpenter	805	\$13.56	Hour
47-2031	Carpenter	192	\$14.20	Hour
47-2031	Shipwright Carpenter	14	\$14.11	Hour
47-2051	Cement Mason	506	\$12.87	Hour
47-2051	Cement Mason	220	\$14.33	Hour
47-2073	Heavy Equipment Operator	33	\$13.77	Hour
47-2073	Heavy Equipment Operator	14	\$15.40	Hour
47-2073	Heavy Equipment Operator	0	\$17.17	Hour
47-2111	Electrician	144	\$15.45	Hour
47-2111	Electrician	48	\$18.83	Hour
47-2111	Electrical Maintenance Technician	1	\$11.15	Hour
47-2131	Insulator / Lagger	14	\$17.76	Hour
47-2141	Painter	18	\$14.60	Hour
47-2152	Pipefitter	10	\$16.80	Hour
47-2152	Pipefitter	10	\$17.53	Hour
47-2152	Plumber	84	\$14.96	Hour
47-2152	Plumber	0	\$17.41	Hour
47-2152	Reinforcing Metal Worker	8	\$12.56	Hour
47-2161	Plasterer	10	\$10.98	Hour
47-2171	Electrician	1	\$15.45	Hour
47-2171	Reinforcing Metal Worker	299	\$12.56	Hour
47-2171	Reinforcing Metal Worker	49	\$13.62	Hour
47-2171	Sheet Metal Worker	2	\$15.17	Hour
47-2211	Sheet Metal Worker	10	\$15.17	Hour
47-2211	Welder	0	\$16.09	Hour
47-2221	Structural Steel Worker	18	\$13.22	Hour
47-2221	Structural Steel Worker	6	\$13.34	Hour
47-3013	Assistant Solar (PV) Installer	17	\$11.20	Hour
49-1011	Crew Leader	3	\$23.35	Hour
49-3021	Automobile Body Repairer	6	\$11.60	Hour
49-3023	Automotive Master Mechanic	2	\$13.71	Hour

O*Net Code	Job Title	No. of Positions Certified	Rate of Pay on Cert	Unit of Pay on Cert
49-3023	Mechanic	4	\$13.71	Hour
49-3042	Construction Equipment Mechanic	1	\$17.63	Hour
49-3042	Equipment Mechanic	18	\$14.14	Hour
49-3042	Heavy Equipment Mechanic	11	\$14.14	Hour
49-3042	Heavy Equipment Mechanic	8	\$15.15	Hour
49-3042	Heavy Equipment Mechanic	4	\$17.63	Hour
49-3042	Heavy Equipment Mechanic	1	\$18.50	Hour
49-3051	Marine Mechanic	8	\$17.99	Hour
49-9021	Air Conditioning and Refrigeration Mechanic	19	\$15.73	Hour
49-9021	Air Condition Mechanic	4	\$15.73	Hour
49-9021	Air Condition Mechanic	0	\$16.76	Hour
49-9021	Chiller Technician	1	\$16.76	Hour
49-9021	HVAC Mechanic	5	\$15.73	Hour
49-9021	HVAC Maintenance Mechanic	0	\$16.76	Hour
49-9021	HVAC Technician/Specialist	1	\$16.76	Hour
49-9024	HVAC Mechanic	18	\$16.76	Hour
49-9031	Food Service Equipment Technician	1	\$18.14	Hour
49-9043	Laundry Maintenance Technician	4	\$14.40	Hour
49-9043	Maintenance Mechanic	3	\$13.82	Hour
49-9043	Maintenance Worker Machinery	7	\$14.40	Hour
49-9062	Biomedical Equipment Specialist	1	\$15.00	Hour
49-9071	A/C Maintenance Technician	8	\$12.54	Hour
49-9071	General Maintenance & Repair Worker	6	\$12.54	Hour
49-9071	HVAC Maintenance Tech	10	\$12.54	Hour
49-9071	Maintenance Mechanic	1	\$12.54	Hour
51-2021	Motor Rewinder	3	\$15.54	Hour
51-2099	Shutter Fabricator / Assembler	5	\$10.01	Hour
51-3011	Baker	6	\$9.26	Hour
51-4041	Machinist	1	\$16.65	Hour
51-4041	Machinist	1	\$17.16	Hour
51-4121	Welder	24	\$16.09	Hour
51-4121	Welder	4	\$17.92	Hour
51-4121	Welder / Fitter	3	\$17.35	Hour
51-4121	Welder / Fitter	14	\$17.92	Hour
51-9061	Quality Control Inspector	2	\$17.00	Hour
51-9122	Painter / Blaster	15	\$13.99	Hour
53-7021	Tower Crane Operator	3	\$20.14	Hour