

H-2B Visas in High Demand for Fiscal Year 2019

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On December 6, 2018, U.S. Citizenship and Immigration Services (USCIS) reached the [statutory numerical limit or “cap” on the number of petitions for temporary nonagricultural workers](#) “who may be issued H-2B visas or otherwise granted H-2B status” for the first half of fiscal year (FY) 2019, thus completing one of the briefest cap periods for the first half of the year in more than five years. In addition, USCIS announced that the total number of cap-subject H-2B petitions received exceeded the number of H-2B visas available, suggesting that demand for the temporary visa continues to grow.

To ensure a fair and orderly process of H-2B visa numbers, USCIS therefore “conducted a lottery on December 11, 2018, to randomly select petitions received on December 6. As a result, USCIS assigned all petitions selected in the lottery the receipt date of December 11. Premium processing service for petitions selected in the lottery also began on that date.”

In fiscal years 2017 and 2018, Congress approved the issuance of an additional 15,000 H-2B visas after learning that U.S. employers were struggling to find enough qualified U.S. workers to fill all their open positions. H-2B visas are capped at 66,000 visas per fiscal year, but that cap is divided equally between the first half (October 1 through March 31) and second half (April 1 through September 30) of the fiscal year.

The H-2B visa program is designed to allow employers to bring foreign workers to the United States to provide temporary nonagricultural labor when there are not enough U.S. workers available to perform the employers’ work. Employers may petition for H-2B visas when they need to temporarily supplement their staff based on a one-time, seasonal, intermittent, or peak-load need. The H-2B visa covers a variety of jobs including those as hotel staff, housekeepers, janitors, amusement park workers, landscapers, and warehouse workers, among others.

The H-2B filing period for the second half of FY 2019 begins on January 1, 2019, at 12 midnight Eastern Standard Time. The semi-annual cap for April through September is expected to be met on the same day the filing period opens. To equitably address the high demand, the U.S. Department of Labor [announced](#) in July 2018 that it would select H-2B applications for adjudication based on the order in which they are received. Most notably, the time of receipt will be recorded down to the millisecond for all H-2B applications received after July 3, 2018.

In the meantime, USCIS continues to accept cap-exempt H-2B petitions for employees who are

already present in the United States and who seek to extend their stay or change the terms of their employment or their employers.

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National Law Review, Volume VIII, Number 353

Source URL: <https://natlawreview.com/article/h-2b-visas-high-demand-fiscal-year-2019>