

H-2B Visa Allotment Increased in Advance of Summer Season

Article By:

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At the end of March 2019, the Trump Administration announced that it would release another 30,000 H-2B visas for seasonal employees for use through the end of September 2019. The annual allocation had been capped at 66,000 for the full year. In 2017 and 2018, the Administration [increased the allocation by 15,000 visas](#). However, on January 1, 2019, the Department of Labor's iCert system crashed when [over 96,000 H-2B visas were requested](#). The unprecedented number of requests may have led to the unprecedented increase in the allocation.

The White House Office of Information and Regulatory Affairs (OIRA) has concluded its review of the increase. The OIRA is moving forward with the additional 30,000 visas. The new rule was released in the [Federal Register on May 8, 2019](#).

The additional visas will only be available to businesses who can attest to "irreparable harm," *i.e.*, a risk of closure absent the visas. Moreover, the additional visas will only be available to "returning workers," classified as those who have received H-2Bs at least once in the past three years (2016, 2017, 2018). The Department of Homeland Security (DHS) believes that these requirements will ensure national security and protect the U.S. workforce. Returning workers have already been vetted. They have shown that they will return home at the end of their temporary stay. DHS's ability to require proof of irreparable harm will further prevent abuse.

This move provides some welcome relief to businesses in summer tourist areas where the ability to hire foreign workers can be key to keeping their businesses open. Last year, there were many hardship cases. [Governor Larry Hogan of Maryland said](#) "[a] second year of hardship could permanently damage Maryland's seafood industry, causing these iconic family businesses to close and having a devastating impact on jobs in our state."

Employers will be able to use previously certified labor certifications as long as the new start date is no more than 45 days after the certified start date. Jackson Lewis attorneys are available to assist you in making H-2B filings and can answer any questions you may have about the newly released visas.

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