

15,000 Increase in H-2B Visas Comes with Strings Attached

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An additional 15,000 H-2B visas will be released in response to industry demand. The [USCIS will begin accepting petitions on July 19, 2017](#), for the fiscal year which ends on September 30, 2017. Petitions will be accepted until the 15,000 visas run out or until September 15, 2017, whichever comes first. This is only a one-time increase.

Although Secretary Kelly had been hesitant to release additional visas, Congress granted him the authority to increase the total number available in an effort to eliminate the hardship to U.S. businesses that have relied on these workers in the past, but were [unable to fill temporary, seasonal positions because the visas ran out on March 13, 2017](#).

The additional 15,000 H-2B visas come with new requirements. In order to file the petition, the employer must:

- Possess a certified Temporary Labor Certification (TLC) with a start date before October 1, 2017
- Ensure the start date on the petition matches the start date on the TLC (if the TLC has a start date prior to June 1, 2017, a new recruitment must be conducted)
- Submit an attestation stating the employer will suffer irreparable harm, defined as [“permanent and severe financial harm”](#) if it cannot hire all of the requested H-2B workers

Once the petition has been filed:

- A job order must be posted with the State Workforce Agency for five days within one business day of the filing
- One newspaper ad must be posted while the job order is running
- Applicants must be interviewed and a recruitment report must be prepared and maintained

While evidence of irreparable harm is not required, submitting some documentation could be helpful.

In any case, employers must maintain documentation of the harm for three years and present it if requested.

Once the petition is approved, the employee may need to obtain an H-2B visa before entering the U.S. Given the requirements, processing times, and the fact that new recruitments may have to be conducted, it can take up to eight weeks to put new H-2B workers on the payroll.

Although employers hoped for more, the 15,000 visas should provide some relief to those who are able to file quickly and satisfy the requirements of the new rule.

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