

## **XII. H-2B VISA/ STATUS – TEMPORARY AND SEASONAL WORKERS**

The H-2B non-immigrant program allows employers to hire foreign workers to come temporarily to the United States and perform temporary non-agricultural services or labor on a one-time, seasonal, peak load or intermittent basis. Temporary or seasonal employment opportunities in the United States sometimes offer foreign workers a better opportunity to provide for their families compared to those jobs which are available in their own native countries. Many American businesses gain from their competence to draw on international labor during periods of heightened productivity or demand. H-2B Visa/ Status is the solution for many of these needs.

Employer's need is considered temporary if it is a/ an:

**RECURRING SEASONAL NEED-** petitioner must prove that the service or labor for which it seeks workers is traditionally tied to a season of the year by an event or pattern; and of a recurring nature.

**PEAK LOAD NEED-** petitioner claiming a peak load need must prove that it regularly employs permanent workers to perform the services or labor at the place of employment, needs to temporarily supplement its permanent staff at the place of employment due to a seasonal or short-term demand, and the temporary additions to staff will not become part of the employer's regular operation.

**INTERMITTENT NEED-** petitioner must prove that it has not employed permanent or full time workers to perform services or labor; occasionally or intermittently needs temporary workers to perform services or labor for short periods.

**ONE-TIME OCCURRENCE-** petitioner claiming a one-time occurrence must prove that it has not employed workers to perform the service or labor in the past and will not need workers to perform the services or labor in the future; or an employment situation that is otherwise permanent, but a temporary event of short duration has created the need for a temporary worker.

H-2B visas or status are subject to an annual cap. Only 66,000 new H-2B visa/ status is set by congress per fiscal year. With 33,000 allocated in the first half of the fiscal year (October 1- March 31) and 33,000 to be distributed in the second half of the fiscal year (April 1- September 30). Unused numbers from the first half are made available for use by employers seeking to hire H-2B workers during the second half. That said, temporary worker must not crowd out a qualified US worker in the region of the said employment and the proposed employment must not unfavorably affect the working conditions of the similarly employed U.S. Workers.

To find out more about the procedural steps involved and an estimate of fees, call or email us today for your free in-depth consultation!