

# ISSUE BRIEFING

## July 2019



## H-2B

### BACKGROUND

Landscape businesses across the country are struggling to survive due to record low unemployment, a worker shortage and an arbitrary annual cap on the number of H-2B workers, putting the jobs of their American workers at risk.

A lack of H-2B workers during the few years has forced landscape businesses to turn away customers, scale back service and cancel planned capital equipment purchases. In some cases, businesses were forced to lay off American workers whose jobs are supported by H-2B workers or shut down their operations entirely. We expect reduced capitol expenditures, additional layoffs and business closures in 2020 if Congress does not pass immediate H-2B cap relief, we cannot afford to wait until next year to act, by then it will be too late for the landscape industry.

Landscape businesses need H-2B workers to supplement their American workforce when domestic workers are not available. The program is expensive and requires employers to undertake extensive recruitment of American workers, offer employment to any qualified American worker, gain approval from four government agencies, and pay a premium wage. The program relies on well-vetted returning workers who come to the U.S. for seasonal employment and then go home. These workers are not immigrants. They provide an opportunity for U.S. businesses to operate at a greater capacity, retain their full-time workers and contribute to their local economies. Seasonal workers help support many upstream and downstream jobs. Every H-2B worker is estimated to create and sustain 4.64 American jobs.

In a strong economy with record-low unemployment of less than 4%, the program's congressionally mandated cap of 66,000 visas (arbitrarily determined in 1990) is inadequate to meet the labor needs of seasonal landscape businesses. In fact, the U.S. Department of Labor (DOL) announced repeatedly during the past year that the number of job openings actually exceeds the labor pool.

### THE NEED FOR WORKERS IS REAL

The demand for H-2B seasonal workers continues to increase due to record-low unemployment and the continued challenges in recruiting temporary local workers. For FY 2019 DOL certified approximately 147,000 petitions including about 91,000 with an April 1 start date. DOL only issues final labor certification when it concludes that: 1) there are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and 2) that employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

On May 6, DHS released an additional 30,000 visas under the discretionary authority provided to it by the Fiscal 2019 Omnibus Appropriations Act, but this number did not meet the actual need of 91,000 workers certified by DOL, and was distributed after the designated April 1 date of need when critical business expectations and decisions need to be made. We are urging Congress to implement real reforms to the H-2B process and provide non-discretionary demands on this administration to release additional visas in a timely manner when there is demonstrated need for seasonal workers.

### REQUESTED ACTION

- Please urge your party leaders to include in final spending bills the H-2B cap relief & reforms included in the house-passed FY20 appropriations bill for the Department of Labor & the house appropriations committee-passed bill for the Department of Homeland Security.
- Please pass comprehensive H-2B cap relief as standalone measure or as part of any other relevant legislation to provide a permanent solution.
- Please provide H-2B cap relief that reflects actual demand and enact reforms that provide certainty for compliant employers.