

# U.S. DEPARTMENT OF HOMELAND SECURITY

## Office of Legislative Affairs

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### **For First Time, DHS to Supplement H-2B Cap with Additional Visas in First Half of Fiscal Year**

**WASHINGTON**—The Department of Homeland Security (DHS) and the Department of Labor (DOL) today announced the forthcoming publication of a joint temporary final rule to make available an additional 20,000 H-2B temporary nonagricultural worker visas for fiscal year (FY) 2022. These visas will be set aside for U.S. employers seeking to employ additional workers on or before March 31, 2022.

This supplemental cap marks the first time that DHS is making additional H-2B visas available in the first half of the fiscal year. Earlier this year, USCIS received enough petitions for returning workers to reach the additional 22,000 H-2B visas made available under the FY 2021 H-2B supplemental visa temporary final rule.

The supplemental H-2B visa allocation consists of 13,500 visas available to returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. The remaining 6,500 visas, which are exempt from the returning worker requirement, are reserved for nationals of Haiti and the Northern Triangle countries of Honduras, Guatemala, and El Salvador.

“At a time of record job growth, additional H-2B visas will help to fuel our Nation’s historic economic recovery,” **said Secretary Mayorkas**. “DHS is taking action to protect American businesses and create opportunities that will expand lawful pathways to the United States for workers from the Northern Triangle countries and Haiti. In the coming months, DHS will seek to implement policies that will make the H-2B program even more responsive to the needs of our economy, while protecting the rights of both U.S. and noncitizen workers.”

DHS intends to issue a separate notice of proposed rulemaking that will modernize and reform the H-2B program. The proposed rule will incorporate program efficiencies and protect against the exploitation of H-2B workers.

The H-2B program permits employers to temporarily hire noncitizens to perform nonagricultural labor or services in the United States. The employment must be of a temporary nature for a limited period of time, such as a one-time occurrence, seasonal need, or intermittent need. Employers seeking H-2B workers must take a series of steps to test the U.S. labor market. They must also certify in their petitions that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work for which they seek a prospective foreign worker. In addition, they must certify that employing H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. Additional details on these safeguards, and on eligibility and filing requirements, will be available in the temporary final rule and the [Cap Count for H-2B Nonimmigrants](#) webpage.