



Characteristics of Nonagricultural Temporary Workers (H-2B)

Fiscal Year 2007 Report to Congress

Annual Submission

May 1, 2009



Homeland
Security

Foreword

MAY 01 2009

I am pleased to present the following report, "H-2B Annual Report for Fiscal Year 2007," which has been prepared by U.S. Citizenship and Immigration Services, Service Center Operations. The report has been compiled in accordance with Section 416(d)(2) of the American Competitiveness and Workforce Improvement Act of 1998, as amended by Section 406 of the REAL ID Act of 2005 (division B of Public Law 109-13).

The report provides the information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year, the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year, and the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee


The Honorable Arlen Specter
Ranking Member, Senate Judiciary Committee

The Honorable John Conyers, Jr.
Chairman, House Judiciary Committee

The Honorable Lamar Smith
Ranking Member, House Judiciary Committee

Inquiries relating to this report may be directed to Department of Homeland Security Office of Legislative Affairs at (202) 447-5890.

Sincerely,



Onchi Wiggins
Assistant Secretary
Office of Legislative Affairs

Executive Summary

Section 416(d)(2) of the American Competitiveness and Workforce Improvement Act of 1998, as amended by Section 406 of the REAL ID Act of 2005 (division B of Public Law 109-13), requires the Secretary of Homeland Security and the Secretary of State to submit, on an annual basis, information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year, the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year, and the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

The data contained in this report is for the Fiscal Year 2007 and is accurate as of March 2009.

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I. Legislative Requirement

This report was prepared in accordance with Section 416(d)(2) of the American Competitiveness and Workforce Improvement Act of 1998, as amended by Section 406 of the REAL ID Act of 2005, which requires that:

Beginning in fiscal year 2007, the Secretary of Homeland Security and the Secretary of State shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate--

(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

II. Background

To fulfill this requirement, the Department of Homeland Security (DHS) has compiled this report on H-2B nonimmigrants from information provided by the Department of State (DOS), the Department of Labor (DOL) and three components within DHS: U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE).

Regarding the number of aliens who were issued H-2B visas or otherwise provided H-2B status, please note that, upon approval by USCIS of an H-2B petition, an alien may be accorded H-2B status through:

- Admission by CBP at a port of entry as an H-2B nonimmigrant after issuance of an H-2B nonimmigrant visa by State;
- Admission by CBP at a port of entry as an H-2B nonimmigrant without a visa, in the case of certain Canadian, Bermudan and Bahamian residents; or
- Change of status to H-2B nonimmigrant status granted by USCIS.

The data contained in this report is for the Fiscal Year 2007.

III. Data Report

Section 3.1 – Countries of origin of aliens who were issued H-2B visas by the Department of State

Based on information provided by DOS, the countries or territories of origin of aliens who were issued H-2B visas are as follows:

Nationality	Number	Nationality	Number
Albania	18	Antigua & Barbuda	5
Argentina	621	Armenia	3
Australia	1,209	Austria	72
Azerbaijan	0	The Bahamas	0
Bangladesh	1	Barbados	181
Belgium	15	Belize	205
Bermuda	0	Bolivia	171
Bosnia-Herzegovina	2	Brazil	833
Bulgaria	1,136	Burundi	1
Cameroon	2	Canada	2
Chile	255	China (Mainland)	302
China (Taiwan)	19	Colombia	133
Costa Rica	1,179	Côte d'Ivoire	2
Croatia	8	Cuba	5
Czech Republic	176	Denmark	10
Dominica	2	Dominican Republic	1,146
Ecuador	57	Egypt	4
El Salvador	815	Estonia	8
Ethiopia	0	Fiji	1
Finland	8	France	49
Germany	70	Ghana	22
Great Britain & Northern Ireland	1,549	Greece	1
Grenada	11	Georgia	2
Guatemala	4,546	Guyana	4
Haiti	4	Honduras	686
Hong Kong, S.A.R.	0	Hungary	32
Iceland	1	India	702
Indonesia	436	Iran	2
Ireland	70	Israel	999

Italy	41	Jamaica	14,682
Japan	205	Jordan	1
Kazakhstan	0	Kenya	2
Korea - South	157	Latvia	5
Lebanon	6	Lesotho	4
Lithuania	55	Macau	0
Macedonia	13	Malawi	0
Malaysia	0	Mali	1
Mauritius	1	Mexico	85,206
Moldova	250	Mongolia	2
Namibia	8	Nepal	171
Netherlands	49	Netherlands Antilles	0
New Zealand	564	Nicaragua	249
Nigeria	1	Norway	6
Pakistan	5	Panama	86
Paraguay	8	Peru	270
Philippines	2,652	Poland	384
Portugal	10	Qatar	0
Romania	2,640	Russia	19
St. Kitts and Nevis	2	St. Lucia	40
St. Vincent and the Grenadines	2	Samoa	0
Serbia and Montenegro	538	Singapore	1
Slovakia	173	Slovenia	21
South Africa	1,902	Spain	23
Sri Lanka	5	Sweden	79
Switzerland	12	Tanzania	0
Thailand	17	Trinidad and Tobago	200
Turkey	115	Ukraine	365
Uruguay	47	Uzbekistan	8
Venezuela	420	Vietnam	19
Zambia	1	Zimbabwe	9
Unknown POB or Stateless	2		

Section 3.2 – Occupational information on, and compensation paid to, aliens who were issued H-2B visas or provided H-2B status

This information is available on the DOL website Public Disclosure page at <http://www.flcdatacenter.com/CaseH2B.aspx>. Please note that the DOL database provides information on the total number of labor certification applications issued, denied, and partially issued. Accordingly, because an approved labor certification is, with limited past exception, a prerequisite to approval of an H-2B petition, only occupational information and compensation figures from the DOL database for persons on whose behalf a labor certification was actually or partially issued should be included (i.e., data relating to denied labor certifications should not be included).¹

¹ It should be noted that, currently, unlike DOL, DHS does not specifically capture this type of information in its databases. Such information is nevertheless included, together with the underlying H-2B nonimmigrant visa petition, as part of each individual alien's immigration file.

Section 3.3 – H-2B Visas or Status Revoked or Otherwise Terminated

During the period from October 1, 2006, through September 30, 2007, USCIS revoked or otherwise terminated a total of 135 approved petitions, which would have authorized a total of 2,826 H-2B positions.

USCIS Monthly Breakdown

Month	Number of Petitions	Number of Beneficiaries	Month	Number of Petitions	Number of Beneficiaries
Oct 2006	5	395	Nov 2006	3	54
Dec 2006	52	952	Jan 2007	8	115
Feb 2007	12	139	Mar 2007	23	244
Apr 2007	1	21	May 2007	4	87
Jun 2007	2	16	Jul 2007	6	355
Aug 2007	10	316	Sep 2007	9	132

During the period from October 1, 2006, through September 30, 2007, DOS revoked 56 H-2B and 56 H-2R returning worker² visas.

CBP cancelled the visas of 207 aliens who were found inadmissible at ports of entry and ICE removed 194 aliens who were found deportable after admission to the United States. The cancellation or termination information from CBP and ICE is not available on a month-to-month basis.

² The “returning worker provisions” of INA sec. 214(g)(9), 8 U.S.C. 1184(g)(9) (2007) expired September 30, 2007. Under these provisions, H-2B aliens who were already counted towards the H-2B numerical limit during one of the three fiscal years preceding the fiscal year of the requested employment start date were not counted again against the numerical limit.

Section 3.4 – Number of aliens who were provided H-2B nonimmigrant status during FY 2007 and FY 2006

During the period from October 1, 2006 through September 30, 2007, 135,060 aliens, including 69,320 returning workers, were issued H-2B visas or otherwise acquired H-2B status. This figure includes:

- A total of 129,547 H-2B visas issued by DOS (69,320 returning workers)³;
- A total of 2,218 requests for change of status to H-2B approved by USCIS; and
- A total of 3,295 aliens admitted without visas by CBP (3,294 Canadians and one Bahamian).

During the period from October 1, 2005 through September 30, 2006, 127,184 aliens, including 50,854 returning workers, were issued H-2B visas or otherwise acquired H-2B status. This figure includes:

- A total of 122,541 H-2B visas issued by DOS (50,854 returning workers);
- A total of 1,944 requests for change of status to H-2B approved by USCIS; and
- A total of 2,699 aliens admitted without visas by CBP (2,687 Canadians, one Bermudan and 11 Bahamians).

³ This number exceeds the annual statutory limit of 66,000 because some aliens already counted under the H-2B cap are simply obtaining visas to reflect their already approved H-2B status (i.e., multiple admissions).