



U.S. Worker Visa Programs

U.S. foreign labor certification programs are designed to ensure admission of workers to the United States from other countries will not adversely affect job opportunities, wages and working conditions of U.S. workers.

Permanent Workers. Under a permanent worker visa, the U.S. Department of Labor certifies that an employer has attempted but not found any qualified U.S. workers to accept the specific job at the occupation's prevailing wage and that employment of an immigrant will not adversely affect the wages and working conditions of similarly employed U.S. workers. The employer must hire the foreign worker full time and must pay at least the occupation's prevailing wage. Occupations with insufficient U.S. workers include physical therapists, professional nurses and college and university teachers in science and the arts.

Temporary or Seasonal Agriculture Workers (H-2A). To hire nonimmigrant foreign workers, agricultural employers must demonstrate there are insufficient U.S. workers and the employment of foreign workers will not adversely affect wages and working conditions of U.S. workers. Employers must guarantee employment at an established wage for at least 75 percent of the contract period, hire U.S. workers up to 50 percent of the contract period and provide housing, meals, transportation costs and workers' compensation insurance. The fee for employers is \$100 plus \$10 for each job opportunity certified up to \$1,000 for each certification granted.

Temporary Nonagricultural Workers (H-2B). Employers must show there are no qualified U.S. workers available for temporary, nonagricultural work of 10 months or less to hire foreign workers. There is a 66,000 annual limit on H-2B visas until 2005, when returning workers were exempted from those limits. In 2005, the most recent year numbers are available, the United States issued about 89,000 H-2B visas. Certification is issued to the employer, not the worker, and is not transferable among employers or workers. The H-2B program is the only legal, seasonal foreign worker visa program for non-agricultural employers. Industries using the program include construction contractors, resorts, restaurants and hotels. Half the visas are reserved for employers whose seasonal needs run from October through March with the other half for April through September.

Specialty Professional Workers (H-1B, H-1B1, H-1B2 and H-1B3). To hire a foreign worker for a specialty occupation, the job must be professional, requiring at a minimum a bachelor's degree in the field of specialization. A sponsoring U.S. employer must determine the job's prevailing wage.

H-1B employers temporarily hire foreign workers on a nonimmigrant basis in the specific specialties of science, medicine and health care, education, biotechnology and business. Current laws limit the number of H-1B foreign workers to 65,000.

H-1B1 employers request foreign workers from Chile and Singapore. Current laws limit the number to 6,800.

H-1B2 employers request work visas for employees coming temporarily to perform services of an exceptional nature relating to a cooperative research and development project administered by the U.S. Department of Defense.

H-1B3 visas apply to fashion models that are nationally or internationally recognized for achievements and will be employed in a position requiring someone of distinguished merit and ability.

Other Visas

Treaty Traders and Investors (E-1, E-2). The E categories are for aliens engaged in international trade or investment between the U.S. and the aliens' countries of nationality.

The E-3 program for Australian professionals is a new nonimmigrant visa category in legislation enacted on May 11, 2005. It sets a 10,500 limit on Australian nationals in "specialty occupations."

Nonimmigrant Nurses (H-1C). This program was re-instated on Dec. 20, 2006, in the Nursing Relief for Disadvantaged Areas Reauthorization Act for registered nurses working in health professional shortage areas. Only 500 are allowed annually.

Crew Members (D-1). Performance of dock work at U.S. ports by foreign vessel crews is generally prohibited. Port employers must certify that use of alien crews is the prevailing practice, there is no strike or lockout under way and that notice has been given to U.S. workers or their representatives. Employers in violation are liable for up to \$5,000 in fines for each crewmember, and vessels owned or chartered by the employer can be barred from all U.S. ports for up to a year.

Trainee Visa (H-3). Individuals can participate in training provided by a U.S. company that is unavailable in their home countries. Temporary alien participation in a special education training programs is allowed for children with physical, mental or emotional disabilities. The program has no cap.

Intra-Company Transfers of Managers or Executives of Multinational Corporations (L-1). Foreign workers can relocate to a corporate U.S. office after having worked abroad for the company for at least one year. The U.S. office must be a legal part of the foreign company.

Aliens with Extraordinary Ability and Support Visas (O-1 and O-2). The O category applies to aliens of extraordinary ability in the sciences, arts, education, business, athletics, arts, motion picture or television industries and the artist's or athlete's support staff. There is no cap.

Athletes, Entertainment Groups and Artists (P-1), (P-2) and (P-3). Athletes can come to the U.S. to temporarily perform at specific competitions individually or as part of a group as can aliens temporarily performing in a foreign-based entertainment group or an exchange or cultural program. Also eligible are essential support personnel. Individual athletes may be admitted for up to five years with one extension of up to five years. There are no travel restrictions. Group athletes may be admitted for up to a year with one-year extensions. P-1 athletes may also engage in part-time study in the U.S.

Religious Workers (R-1). This classification applies to a person in the U.S. temporarily to work as a minister of religion, as a professional in a religious vocation or occupation or for a nonprofit religious organization.

Canadian and Mexican Professionals under the North American Free Trade Agreement. Mexicans and Canadians can temporarily work in the U.S. in professional occupations specified in the North American Free Trade Agreement in TN status for up to one year with one-year extensions. There is no limit on times the status is granted, provided the stay remains temporary.

Sources: U.S. Department of Labor, U.S. Department of State, U.S. Citizenship and Immigration Service

