



THE H2-B VISA PROGRAM

EMPLOYER MANUAL



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THE H2- B VISA PROGRAM

The H2-B Visa Program has been in existence for several years. Over that time thousands of US companies have supplemented their permanent staff with temporary overseas personnel. H2-B visa employees have become an important staffing solution for many US corporations. Various industries have been the beneficiary of the Program, but most H2-B employees have contributed to the hospitality and tourism sectors.

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WHY HAS THE H2-B VISA PROGRAM BECOME SO SUCCESSFUL WITH US EMPLOYERS?

In recent years many US companies have encountered significant problems filling their entry level positions with qualified and motivated staff. As the American economy grew and society became increasingly affluent fewer people were willing to take on lesser-skilled jobs. Even the recession of 2001-2003 did little to alleviate the situation. Numerous companies are still struggling to fill their entry level jobs. What's more is that the basic labor market is expected to continue to deteriorate as the US economy picks up towards the end of 2004.

The H2-B Visa program has made it possible to recruit staff from countries where wages are well below the US average. As a result a wealth of motivated staff have been coming to the US from places such as Mexico, Chile, Argentina, South Africa and Eastern Europe.

Student Adventure focuses their recruitment efforts primarily in Eastern Europe. Significant pay differences, sound education and quality English language skills makes this region an ideal source for H2-B staff.



DOES MY BUSINESS QUALIFY FOR OBTAINING H2-B STAFF FROM OVERSEAS?

In order to successfully obtain authorization to import H2-B staff the Employer must show that it has a need for temporary staff under one of the following categories:

1. A one time occurrence.

The Employer must establish that it has not employed workers to perform the service(s) or labor in the past and that it will not need such workers in the future or that it has an employment situation that is otherwise permanent, but a temporary occurrence of short duration has created the need for temporary workers.

2. A seasonal need.

The employer must establish that the service(s) or labor is traditionally tied to a season of the year by an event or a business pattern and is of a recurring nature. The Employer must specify the period(s) of time in which it does not need the service(s) or labor. The employment is not seasonal if the period during which the services or labor is needed is unpredictable, subject to change or considered a vacation period for the employer's permanent employees.

3. A peak load need.

The Employer must establish that it regularly employs permanent workers to perform the services or labor at the place of employment and it needs to supplement its permanent staff on a temporary basis due to a seasonal or short-term demand with temporary employees who will not become a part of the regular operation.

4. An intermittent need.

The Employer must establish that it has not employed permanent or full-time workers to perform the services or labor, but occasionally or intermittently needs temporary workers for short periods.

In order to receive authorization to obtain H2-B employees your company will have to apply to the Department of Labor (DOL) in your state. Student Adventure consultants and our immigration attorneys will take care of all the necessary paper work.

However, your co-operation will be required to help us figure out the specific type of temporary personnel that your business may require.

NOTE:

It is important that you, the employer, understand the nature of the need you have for additional temporary employees. The Department of Labor will need that information to determine whether you are eligible for use of H2-B staff. Student Adventure consultants will be working with you to identify that need. Remember though that no one knows your company better than you do. Your input will therefore be crucial.



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HOW LONG CAN I KEEP MY H2-B STAFF?

In most cases we require that the employment duration is at least five months. It will be very difficult for us to supply employees for shorter periods of time, since people are generally looking for longer employment contracts to offset the cost of traveling to the US.

The employment duration of a typical H2-B worker would be 6-10 months. In most cases the employees would be able to come back to work for you for a consecutive period of time.

The maximum amount of time for which H2-B temporary workers may be used is 364 days.

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APPLYING TO THE DEPARTMENT OF LABOR

The rules of the H2-B Visa Program stipulate that foreign workers may only be brought into the US at such times when your company experiences higher than average business levels. The DOL needs to know that you have a bona fide need for additional employees. They also want to verify that these additional employees cannot be obtained within the US before they will allow importing workers from abroad.

Student Adventure co-operates with fully licensed immigration attorneys in supplying H2-B staff to our clients. The lawyers submit all the relevant paper work to the DOL on behalf of the Employer. This is to ensure that all documents are submitted in compliance with current regulations.

These are the documents that our Attorneys will have to submit to the DOL on your behalf:

1. A two-sided ETA 750- A form (Offer of Employment).

An authorized officer from your company will have to sign that form.

2. A summary of your need for temporary staff (it will be one of the categories described above).

This letter will have to be printed on your company letterhead and signed by an authorized officer representing your company. Student Adventure and our attorneys will be able to produce that letter. However, we will need your co-operation in doing so, since only you as the Employer possess a complete knowledge of your business need.

3. Any of the following documents must support the summary letter:

- a. contracts for the services/labor to be performed (i.e. the contract that you will sign with Student Adventure) or,
- b. inter-corporate work/development plan or,
- c. payroll records for seasonal employment or,
- d. order invoices and quarterly taxes for peak-load employment or intermittent need

The ETA 750-A form must be submitted to the Department of Labor at least 60 days (two months) but not more than 120 days (four months) before the anticipated start date of employment. However, the DOL often requires to also submit the names of the individuals that will be coming to the US at that time. It is, therefore, Student Adventure policy to submit the ETA 750 form closer to the "four month prior" mark to allow time for our organization to pre-screen the candidates. We would then in most cases be able to provide the DOL with the names of your prospective employees before the "two month" prior to the deadline.



ADVERTISING

The H2-B Visa Program rules require employers to place an advertisement in the press on the availability of the positions for which the employer seeks to obtain labor certification. The purpose of this is to prove to the DOL that the positions could not be filled from the local population.

The advertisement must contain the following information:

- Job title,
- temporary,
- duration of employment,
- number of openings,
- principal duties,
- minimum education and/or experience,
- days and hours,
- salary,
- name of business (do not include location).

The Department of Labor will be faxing instructions under separate cover and subsequent to any required amendments on application or case documents.

Please, be advised that you, the Employer, will be expected to cover any expenses that may result to you from placing the advertisements required by the DOL.

Student Adventure consultants will be working with you on the text of such an advertisement and on deciding where it should be posted.



VISA PETITIONING

After the DOL has granted labor certification, your application will be forwarded to the US Citizenship and Immigration Services (USCIS). The USCIS will look at your applications and issue petitions. The petitions are legal documents that your prospective employees will need to apply for a visa at their local US embassy or consulate.

At this stage your involvement will not be needed. The USCIS will simply analyze your application and mail the petition to our attorneys.



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APPLYING FOR A VISA

Once we are in possession of the petitions, we will be ready to have your future employees apply for a visa. In most cases they will need to go through an interview. Student Adventure will counsel all the candidates through this process. Usually, the applicants are given visas 2-3 weeks after the petitions have been deposited at the embassy.

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STUDENT ADVENTURE

THE RECRUITMENT PROCESS

Student Adventure will advertise your positions throughout Poland and/or other Eastern European countries. Through our extensive network of eight branches in Poland and our partner organization through out Europe we reach a substantial number of candidates.

We expect you to provide us with all the necessary job descriptions and requirements for the positions you need to fill. Student Adventure consultants will pre-screen the candidates and only present selected individuals. You will be able to see the resumes of the candidates and, if necessary, have them fill out any other paper work that your company may typically require in the process of hiring new employees.

It is also possible for a representative of your company to fly over to Poland to interview the candidates. Should this be your wish we will discuss all the relevant arrangements with you.

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OUR FEES

Student Adventure must cover numerous expenses during the recruiting process. Therefore we must also cover our company overheads, the direct cost of recruitment (e.g. advertising), pay commissions to our staff and partners and legal fees to our attorneys and so forth.

To cover our costs we charge prospective employees a fee for the work we do on their behalf. This keeps us responsive to your needs.

It is very likely that we can supply your H2-B staff at low cost or, as often happens, at no charge at all.

However, this depends on your requirements. Generally, the more employees you wish to have, the longer you allow them to stay and the more attractive the positions – the less expensive our services are.



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SIGNING A CONTRACT WITH STUDENT ADVENTURE

Before we can offer our assistance, we must sign a simple contract with your company. The most important elements of the contract include the number of employees needed, the positions to be filled and the duration of employment.

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