TIPS AND TRICKS FOR FILING A SUCCESFUL H-2B APPLICATION

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What is an H-2B Visa

There are four uses for the H-2B Visa.

1. A One Time Occurrence

- Major Sporting Event
- Startup of a Company
- A One-Time Contract

2. **Seasonal Need**

- No Permanent Workers
- Tied to a specific Season

3. Peakload Need

- Need to supplement permanent workers
- Will not become part of regular business operation

4. Intermittent Need

- Perform services or labor for short periods occasionally

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How Many Visas are available

- 66,000 visas available per year
  - Divided into two halves of the fiscal year
    - 33,000 available April – September
    - 33,000 available October – March
  - Congress can authorize additional visas. Fiscal years 2017 - 2022 additional visas were issued for returning workers and citizens of Haiti, El Salvador, Guatemala and Honduras



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LABOR CERTIFICATION Timing is Key

- July 1-3 for a Start Date of October 1.
- December 31 for a Start Date of April 1.
  - Regulations require ETA 9142B to be submitted 75-90 days before the start date of need-In practice DOL sets the deadline
  - However, before you can file a temporary labor certification, you need prevailing wage determination to submit ETA 9142B, so add a minimum of 30-60 additional days to start the process.
  - DOL processes ETA 9142Bs in groups – need to submit ETA 9142B at the 90 day mark (January 1-3)
  - Add time for State registration with the SWA



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Exception

- §655.17 Emergency situations.
- (a) *Waiver of time period.* The CO may waive the time period(s) for filing an *H-2B Registration* and/or an *Application for Temporary Employment Certification* for employers that have good and substantial cause, provided that the CO has sufficient time to thoroughly test the domestic labor market on an expedited basis and to make a final determination as required by §655.50.

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Your Bible for Filing H-2B Temporary Labor Certification

- 20 CFR 655 and https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers.



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