



“Sponsoring” Foreign Employees from Abroad for Seasonal Positions

What you might want to know about H-2b classification...

1. How this Presentation Can Help

- Items 2-11 explain the H-2b option, including the general legal requirements and expenses, and explain some aspects of employing foreign workers that are commonly misunderstood.
- Items 12-17 describe IMERICA CONSULTING and how it can help meet your needs for seasonal workers. They also introduce Romania and Romanian workers.
- For more specific information, see #18.

2. What Do We Mean by “H-2b”?

- H-2b is a classification under US immigration law for foreign workers “sponsored” by US employers for temporary non-agricultural jobs.
- Most H-2b jobs are seasonal, but the classification can be used to meet many different temporary employment needs.
- An H-2b worker will not be approved to fill a permanent year-round job on a temporary basis.

3. What Do We Mean by “Sponsor”?

- In this context, the popular term “sponsor” refers to the employer who files paperwork to get the job and foreign worker approved for H-2b classification by the Department of Homeland Security.

- H-2b workers approved to work for the “sponsoring” employer are not only restricted to employment with the approved “sponsor” only, but maintain their US immigration status only as long as they maintain the approved H-2b employment.

4. Obligations of “Sponsorship”

- “Sponsorship” does not obligate the “sponsor” to employ a given H-2b worker if its business needs change. A “sponsoring” employer may dismiss an H-2b worker at any time for cause related to poor performance. Without cause, the only obligation of a “sponsor” who dismisses an H-2b worker before the end of the approved seasonal period (which varies from employer to employer) is to pay for the return transportation home if the worker requests it.

5. Can H-2b Workers Change Jobs?

- H-2b workers are not free to take other jobs on the US job market, and are not eligible for state unemployment benefits. However, they may be “sponsored” by other employers for seasonal work and commence new employment if and when US authorities approve. If approved through the required process in each case, an H-2b worker may be employed concurrently in more than one job. Each job would have to qualify for H-2b classification.

6. Who qualifies?

Standards for H-2b employers and employees

- Any US employer who can demonstrate a temporary need and a shortage of US workers to meet the temporary need is generally eligible to “sponsor” H-2b workers.
- Needs of H-2b jobs in the US vary. Unskilled persons who speak no English, needed to perform repetitive tasks requiring minimal supervision, may suffice in one case. A PhD with special skills and proficiency in multiple languages may be needed in another case.
- Any foreign person who meets training, experience, language proficiency, and other requirements of the temporary employment is potentially eligible.

7. How many H-2b workers can be “sponsored”?

- A US employer can “sponsor” as many H-2b workers as necessary to meet seasonal need(s) as long as it substantiates the need(s) and demonstrates unavailability of US workers.
- Each different type of job (for example, lifeguard, landscaper, or housekeeper) requires separate processing and approval, but the employer may include as many H-2b aliens as needed in a single request for approval of a specific type of job (for example, a single employer may request 18 housekeepers on one petition and 6 lifeguards on another if both are needed).
- There is no minimum or maximum number of seasonal job types that a given employer can fill or number of H-2b workers needed to fill each type of job. For example, a large employer that demonstrates eligibility could sponsor 10 to 50 H-2b workers each for 5 to 10 different seasonal job types.

8. H-2b Wages and Working Conditions

- A “sponsoring” employer must pay the wage that the state labor authority agrees is appropriate for the type and location of the H-2b job.
- The working conditions offered to H-2b workers must be the same as offered to US workers in the same jobs.
- If a US employer would be required to pay overtime to US workers, it would have to pay overtime to H-2b workers at the same rate.
- Accommodations for lodging and subsistence of H-2b workers are not dictated by US law. Some employers offer both at no cost, some offer one or the other at reduced cost, and some offer no assistance with either lodging or subsistence.

9. Are Fees Involved?

The basic answer is yes... but how much?

- Some employers who “sponsor” US workers hire immigration lawyers to handle processing on their behalf. Legal fees depend upon the attorney selected and the work to be done.
- Some employers choose non-attorney US agents to handle processing and recruitment of workers. Many such agents charge no fees to the

employer and collect their fees from the workers through foreign agents who actually recruit and select the workers.

- Some employers choose to handle processing themselves.
- Aside from legal or agent service fees, the employers must pay processing costs that range from about \$350 to \$1350 per type of job to be filled (regardless of # of workers). \$1000 of the higher fee is optional, but commonly paid for expedited processing.
- Fees for foreign agent services are typically paid by the workers.

10. H-2b Process: General Description *(three basic steps)*

- **STEP ONE:** Employer (or employer representative) applies for certification through state and federal labor authorities that no US workers are available for particular seasonal jobs.
- **STEP TWO:** Employer (or rep) files a petition with the US immigration authority for approval to fill a specific seasonal job with the number of seasonal workers for which the need was certified in step one. If any of the named foreign workers is already in the United States under H-2b status working for another employer, the new employer asks at this step for approval of change of H-2b employment and new Forms I-94.
- **STEP THREE:** Foreign workers identified generally (“unnamed workers”) or by name on the approval notice issued at step two apply to US consulates in their home country for H-2b visas.

11. Understanding “Visas” *(a commonly misunderstood term!)*

- A visa is a travel document issued by a US consulate in an alien’s home country. It allows the visaholder to board a common carrier bound for the United States and to apply for admission to the United States under the classification of the visa.
- There are dozens of different temporary visa classifications, of which H-2b is one.
- Only 66,000 H-2b visas may be issued per year. In 2005 returning H-2b workers were exempted from being counted within this number because

the maximum number of visas was consistently being exhausted before all US employers could get the seasonal workers they needed.

- Once a visaholder enters the United States, his visa is irrelevant unless he has to travel outside the United States and return.
- If a visaholder is admitted to the United States, he is issued a Form I-94 Arrival-Departure Record by the US immigration inspector at the port of entry. This document is endorsed with a temporary classification such as H-2b for the period of time that he may stay or work.
- The Form I-94 is the worker's proof of immigration status and work authorization document, but it is valid only for employment with the "sponsoring" employer.
- H-2b aliens may change H-2b employment, but only after approval of the US immigration authority and receipt of a replacement Form I-94 relating to the new employment.

12. About Imerica Consulting

- Imerica Consulting (IC) is a foreign agent with a license in Romania to recruit Romanian citizens for US jobs. IC complies fully with all requirements of Romanian law governing placement of Romanians in foreign jobs.
- IC operates in a close-knit team of highly educated English-speaking professionals who work together to recruit and select workers for US jobs, teach English at all proficiency levels, provide a variety of general and customized training, arrange insurance and transportation for all of its clients, and design tours of Romania for its US clients to experience Romanian culture and interview workers (if desired).

13. Role of Imerica Consulting

- IC matches qualified employees directly with its US employer clients' needs. Since IC works directly with US employers, no US agent is involved or necessary.
- IC meticulously interviews applicants, identifies those who best fit the employers' needs, and develops/conducts custom training to meet the US client employer's needs.

- ICs careful recruitment and selection process is carefully designed and conducted to weed out candidates who might leave the US jobs and violate US immigration status.
- IC offers one-stop-shopping if desired by its US employer clients -- including all H-2b processing -- in cooperation with its US attorney partner.

14. IC's Expertise

- IC has placed over 200 H-2b workers and is planning to place Romanians in over 150 more US jobs in spring and fall of 2006.
- US employer clients of IC use IC's services year after year because they are pleased with both IC selectees and IC services.
- IC's Romanian staff is managed by Romanian attorneys personally trained in the United States in US immigration law. A highly experienced US immigration lawyer provides constant support and assistance to IC, IC client workers, and IC client employers.
- IC's services are so expert and meticulous that the visa refusal rate of IC selectees is less **than 5%**.

15. Why Romanian Workers?

- Romania is located in Eastern Europe: east-west between the Black Sea and Hungary and south-north between Serbia/Bulgaria and Moldova/Ukraine. Its culture and language are quite different from its neighbors.
- Romania has a beautiful mountainous countryside in which the prize-winning US movie Cold Mountain was filmed. The famous Danube River flows through Romania, which also features the Carpathian Alps.
- Romanian culture and language are similar to those of France, Italy, and Spain. Most Romanians speak at least one foreign language and together comprise one of the most multilingual populations in the world.
- Romanian people generally have a high level of English proficiency and commonly speak English with very little accent.

- Romanians have a very high educational level -- its students consistently achieve top world ranking in math, science, computer engineering, and languages.

16. Typical Romanian Workers

- Since Romania is scheduled to join the European Union in January 2007, prices and land values are rising rapidly. However, wages and salaries in Romania remain very low. Romania is now an important US ally.
- Many Romanians seek US jobs because of the opportunity to earn wages that will help them buy property, start businesses, and educate their children at home.
- Since highly educated young and single Romanians who speak good English are quite likely to prefer to stay in the United States than to return home, IC generally chooses to place workers who leave their families at home during the seasonal assignments. These people send their wages home to support and enhance the living standard of their families and help themselves get ahead.
- Typical workers vary in English proficiency, according to employer needs, but are reliable and hardworking.
- Because of their positive work ethics and attitudes, It is common for Romanian H-2b workers to be invited to return to the same seasonal employment year after year.

17. Importance of Communication

- IC is committed to excellent communication with its client workers and employers.
- Since the consequences of misunderstandings and violations are so serious, it is extremely important to IC for all parties to know and comprehend the details of their US employment and US immigration status. IC is aware that the “grapevine” provides misinformation that can be harmful to both the H-2b workers and their US employers.
- IC maintains close communication with both H-2b workers and employers throughout the employment periods and is always available to help resolve misunderstandings, problems, and emergencies.

- IC also maintains close communication with US authorities. It provides the US consulate in Bucharest with comprehensive updates about H-2b workers and sends information to the Department of Homeland Security if and as necessary.

18. More Information

- For general information about Imerica Consulting and the H-2b process, visit IC's website at www.imerica.org
- For specific questions about H-2b employment or to discuss your specific needs, please e-mail contact_ny@imerica.org