



# Characteristics of Nonagricultural Temporary Workers (H-2B)

Fiscal Year 2008 Report to Congress

Annual Submission

May 1, 2009



Homeland  
Security

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## Foreword

I am pleased to present the following report, "H-2B Annual Report for Fiscal Year 2008," 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

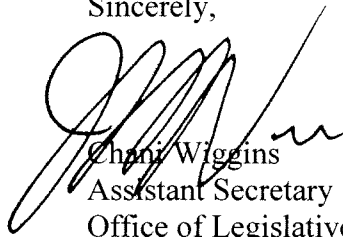
The Honorable Arlen Specter  
Ranking Member, Senate Judiciary Committee

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 the Department of Homeland Security Office of Legislative Affairs at (202) 447-5890.

Sincerely,



Chani 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 2008 and is accurate as of February 2009.

# Table of Contents

I. Legislative Requirement .....	1
II. Background .....	2
III. Data Report .....	3
Section 3.1 – Countries of origin of aliens who were issued H-2B visas by the Department of State .....	3
Section 3.2 – Occupational information on, and compensation paid to, aliens who were issued H-2B visas or provided H-2B status.....	5
Section 3.3 – H-2B Visas or Status Revoked or Otherwise Terminated.....	6
Section 3.4 – Number of aliens who were provided H-2B nonimmigrant status during FY 2008 and FY 2007 .....	7

# 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 2008.

### 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	5	Antigua & Barbuda	0
Argentina	555	Armenia	0
Australia	948	Austria	31
Azerbaijan	1	The Bahamas	1
Bangladesh	2	Belgium	11
Bermuda	1	Bosnia-Herzegovina	5
Belize	271	Bolivia	334
Barbados	134	Burundi	0
Brazil	767	Bulgaria	235
Canada	2	Chile	264
China	341	Cameroon	0
Colombia	105	Costa Rica	452
Cuba	0	Czech Republic	72
Denmark	5	Dominica	0
Dominican Republic	325	Ecuador	13
Egypt	2	El Salvador	767
Estonia	4	Ethiopia	1
Fiji	1	Finland	8
France	44	Germany	54
Ghana	4	Great Britain & Northern Ireland	1,352
Greece	1	Grenada	0
Georgia	0	Guatemala	3,740
Guyana	3	Haiti	3
Hong Kong, S.A.R.	1	Honduras	678
Croatia	10	Hungary	10
Iceland	0	Indonesia	447
India	298	Iran	0
Ireland	58	Israel	1,496
Italy	23	Côte d'Ivoire	0

Jamaica	8,453	Jordan	0
Japan	221	Kazakhstan	2
Kenya	1	Korea - South	36
Latvia	2	Lebanon	5
Lithuania	22	Macau	1
Mali	3	Malawi	1
Mexico	59,756	Macedonia	7
Malaysia	1	Moldova	271
Mongolia	1	Mauritius	1
Namibia	24	Nepal	316
Netherlands Antilles	0	Netherlands	29
Nicaragua	146	Norway	4
Nigeria	1	New Zealand	356
Panama	60	Paraguay	14
Peru	285	Philippines	3,872
Pakistan	1	Poland	151
Portugal	19	Qatar	1
Romania	1,916	Russia	11
South Africa	1,857	Singapore	0
St. Lucia	114	Spain	27
Sri Lanka	0	Serbia and Montenegro	383
St. Kitts and Nevis	0	St. Vincent and the Grenadines	0
Slovakia	111	Slovenia	25
Sweden	55	Switzerland	15
Tanzania	2	Thailand	15
Trinidad and Tobago	124	Turkey	273
Taiwan	8	Ukraine	244
Uruguay	10	Uzbekistan	6
Venezuela	26	Vietnam	75
Samoa	1	Unknown POB or Stateless	1
Zambia	0	Zimbabwe	3



## 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.flcdatabase.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).<sup>1</sup>

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<sup>1</sup> 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, 2007, through September 30, 2008, USCIS revoked or otherwise terminated a total of 59 approved petitions, which would have authorized a total of 1,342 H-2B positions.

#### USCIS Monthly Breakdown

<b>Month</b>	<b>Number of Petitions</b>	<b>Number of Beneficiaries</b>	<b>Month</b>	<b>Number of Petitions</b>	<b>Number of Beneficiaries</b>
Oct 2007	5	88	Nov 2007	7	80
Dec 2007	3	44	Jan 2008	4	148
Feb 2008	5	297	Mar 2008	6	6
Apr 2008	0	0	May 2008	4	95
Jun 2008	4	92	Jul 2008	8	304
Aug 2008	4	12	Sep 2008	9	176

During the period from October 1, 2007, through September 30, 2008, DOS revoked 121 H-2B and 8 H-2R returning worker<sup>2</sup> visas.

CBP cancelled the visas of 181 aliens who were found inadmissible at ports of entry and ICE removed 29 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.

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<sup>2</sup> 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 2008 and FY 2007

During the period from October 1, 2007 through September 30, 2008, 95,849 aliens, including 1,054 returning workers, were issued H-2B visas or otherwise acquired H-2B status. This figure includes:

- A total of 94,304 H-2B visas issued by DOS (1,054 returning workers)<sup>3</sup>;
- A total of 636 requests for change of status to H-2B approved by USCIS; and
- A total of 909 aliens admitted without visas by CBP (883 Canadians, 23 Bermudans, and 3 Bahamians).

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);
- 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).

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<sup>3</sup> 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).