



Immigration Professor's Corner
by **Robert Perkins, Esq.**

H-2B Work Visas for Filipinos to Work in the USA

The most commonly used work visa in the past was the H-1B visa for professional workers. Recently though, that visa has been hard to get. This article briefly outlines one other option, the H-2B visa. Before beginning this process, though, Filipinos must have a US employer to sponsor them.

The H-2B visa is available for any type of job. To get this visa, a US employer must show that the job is temporary and that there are no US workers available in the area who meet the qualifications for the job. The employer must first file and obtain the prevailing wage. Then, the employer must list the job with the corresponding State Workforce Agency and file for Temporary Labor Certification with the US Department of Labor ("DOL"). This job listing must remain active until 21 days prior to the job start date. The DOL will then direct the employer to advertise and show that they are not able to find any US workers. Any US workers who might be qualified for the job must be interviewed and if one meets all the qualifications the case can be lost. It must be demonstrated that the only person who meets the requirements is the foreign national.

The employer must also show that their need for the employee is temporary, not permanent employment, meaning that the need for the employee will end in the near, definable future. The employer's request for labor can

be for a one-time occurrence, a seasonal need, a peak-load need, or an intermittent need. For a one-time occurrence, a person can get an H-2B visa for up to three years. For intermittent, seasonal, or peak load needs, the position can be for up to nine months, and can only be extended by going through the entire Department of Labor process again.

Upon DOL approval, the employer can then file with the United States Citizenship and Immigration Services (USCIS) where they again will have to demonstrate the temporary need. DOL approval is only advisory, so the USCIS can issue an H-2B without it if there are extenuating circumstances. The whole H-2B process can take at least 90-120 days to complete. Once the case is approved in the United States, the applicant can interview for this visa at the United States embassy in Manila. The applicant will have to show that he/she does not intend to permanently immigrate to the United States.

The H-2b visa is a viable option for some Filipinos who can connect to US employers (through friends, relatives, the internet) and also have strong ties to the Philippines (relatives, own a home, etc.).

To learn more about this visa, please call our offices nationwide at 888-439-4560.

