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New rules for the H-2B visa program announced by the U.S. Departments of Labor and Homeland Security

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In response to recent court decisions that have created significant uncertainty around the H-2B temporary foreign nonagricultural worker program, the U.S. Departments of Labor and Homeland Security today announced an [interim final rule](#) to reinstate and make improvements to the program and a [final rule](#) to establish the prevailing wage methodology for that program.

These rules strengthen protections for U.S. workers, providing that they have a fair shot at finding and applying for jobs for which employers are seeking H-2B workers, while also providing that employers can access foreign workers on a temporary basis when U.S. workers are not available. The rules include several provisions to expand recruitment of U.S. workers, including more real-time recruitment efforts, requiring employers to offer work to former U.S. employees first, and establishing a national electronic job registry. They strengthen worker protections with respect to wages, working conditions, and benefits that must be offered to H-2B and U.S. workers covered by these regulations. They also establish the prevailing wage methodology for the H-2B program, reinstating the use of employer-provided surveys to set the prevailing wage in certain limited situations.

The Departments intend these rules to support our nation's businesses and the U.S. economy by expeditiously reinstating the H-2B program and bringing certainty, stability, and continuity to the program in reaction to litigation on multiple fronts that has threatened to terminate employers' ability to use H-2B workers. The new rules also provide interim transition procedures so that employers have time to adjust to the new rules.

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U.S. Citizenship and Immigration Services



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