

Current Cap Count for Non-Immigrant Worker Visas

	H-1B (FY 06)	H-1B Advance Degree Exemption (FY 05)	H-1B Advance Degree Exemption (FY 06)	H-2B (FY 05)*	H-2B 1st Half (FY 06)	H-2B 2nd Half (FY 06)
Cap	58,200**	20,000	20,000	35,000	33,000	33,000
Cases Approved	21,252	9,358	4,035	12,814	382	--
Cases Pending	27,788	792	3,849	3,870	7	--
Total	49,040	10,150	7,884	16,684	389	--
Date of Last Count	7/31/2005	7/28/2005	7/31/2005	7/25/2005	7/25/2005	--

*The 35K is an add-on to the normal FY'05 cap of 65K, which was reached before the end of FY'05. **6,800 are set aside for the H-1B1 program under terms of the U.S. -Chile and U.S.-Singapore Free Trade Agreements and to the extent unused can first be made available for general use on October 1, 2006, the start of FY 2007.

H-1B

Established by the Immigration Act of 1990 (IMMACT), the H-1B nonimmigrant visa category allows U.S. employers to augment the existing labor force with highly skilled temporary workers. H-1B workers are admitted to the United States for an initial period of three years, which may be extended for an additional three years. The H-1B visa program is utilized by some U.S. businesses and other organizations to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. The current annual cap on the H-1B category is 65,000.

H-1B Advance Degree Exemption

The H-1B Visa Reform Act of 2004, which took effect on May 5, 2005, changed the H-1B filing procedures for FY 2005 and for future fiscal years. The Act also makes available 20,000 new H-1B visas for foreign workers with a master's or higher level degree from a U.S. academic institution.

H-2B

The H-2B visa category allows U.S. employers in industries with peak load, seasonal or intermittent needs to augment their existing labor force with temporary workers. The H-2B visa category also allows U.S. employers to augment their existing labor force when necessary due to a one-time occurrence which necessitates a temporary increase in workers. Typically, H-2B workers fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service/processing, and resort/hospitality services.

On May 25, 2005, U.S. Citizenship and Immigration Services (USCIS) began accepting

additional petitions for H-2B workers as required by the Save Our Small and Seasonal Businesses Act of 2005 (SOS Act). The SOS Act allowed USCIS to accept filings beginning May 25, 2005 for two types of H-2B workers seeking work start dates as early as immediately:

1. For FY 2005: Approximately 35,000 workers, who are new H-2B workers or who are not certified as returning workers as set forth below, seeking work start dates before October 1, 2005
2. For FY 2005 and 2006: All “returning workers,” meaning workers who counted against the H-2B annual numerical limit of 66,000 during any one of the three fiscal years preceding the fiscal year of the requested start date. This means:
 - In a petition for a work start date before October 1, 2005 (FY 2005), the worker must have been previously approved for an H-2B work start date between October 1, 2001 and September 30, 2004.
 - In a petition for a work start date on or after October 1, 2005 (FY 2006), the worker must have been previously approved for an H-2B work start date between October 1, 2002 and September 30, 2005.

If a petition was approved only for “extension of stay” in H-2B status, or only for change or addition of employers or terms of employment, the worker was not counted against the numerical limit at that time and, therefore, that particular approval cannot in itself result in the worker being considered a “returning worker” in a new petition. Any worker not certified as a “returning worker” will be subject to the numerical limitation for the relevant fiscal year.