

# Foreign Labor Certification:

International Talent Helping Meet Employer Demand



## Performance Report

March 28, 2005-September 30, 2006

Office of Foreign Labor Certification

**U.S. Department of Labor**  
Employment and Training Administration



# Table of Contents

Foreword from the Assistant Secretary .....	iii
ETA Certifying Positions Available for Foreign Workers .....	1
Admitting Foreign Workers into the United States .....	1
Permanent Labor Certification.....	2
A Re-engineered Permanent Foreign Labor Certification Process .....	2
Eliminating the Permanent Certification Backlog .....	5
Permanent Program.....	6
Industries, Occupations and Salaries.....	7
Regional Demand for Foreign Workers.....	8
Countries of Origin.....	10
Temporary Labor Certification Programs.....	12
Re-engineering the Temporary Programs.....	15
H-1B .....	15
H-2A .....	17
H-2B .....	18



# Foreword from the Assistant Secretary

August 1, 2007

Communities throughout the country are both realizing the benefits and facing the demands of the global economy. One of the constant challenges is identifying, educating or attracting human talent, which is perhaps the most important element in remaining competitive. Big cities and small towns alike are looking for hard-working, talented individuals who will make their respective regions home. When qualified and willing U.S. workers are not available locally, employers begin looking abroad. By law, their search for workers may involve the U.S. Department of Labor's (DOL) Foreign Labor Certification Programs.

This report provides a glimpse at DOL's role in supporting the dynamic U.S. economy through its Foreign Labor Certification Programs, and highlights the patterns and trends among employers and foreign workers. This includes highlighting countries of origin; occupations and industries whose employers request large numbers of temporary or permanent workers, as well as education levels for specific occupations sought by petitioning employers.

In the past year, DOL certified applications for workers from more than 180 countries to help meet American employers' need for talent. Like the generations of foreign workers who have come before them, these men and women have taken on every kind of job - from doctors and nurses to engineers and software architects to farmers and workers in the hospitality industry.


The Employment and Training Administration's (ETA) role in employment-based immigration programs is two-fold. First, ETA ensures that admittance of a foreign worker would not adversely affect the wages and working conditions of similarly employed U.S. workers. Second, through labor market tests, ETA confirms that there are no able, qualified, willing, and available U.S. workers for the jobs that employers are attempting to fill. ETA adheres to rigorous measures to maintain the integrity of the Foreign Labor Certification Programs under its jurisdiction. DOL certification accompanying an employer's visa application assures the Departments of Homeland Security and State that the required conditions have been met.

DOL's role in immigration is growing along with the pressures on our nation's immigration systems. In the 12 months ending September 30, 2006, DOL processed requests from employers for temporary or permanent labor certifications for over one million workers.

ETA reviews and processes employer applications under the H-1B, H-1B1, H-1C, D-1, H-2A, H-2B, E-3 and permanent Foreign Labor Certification Programs. On March 28, 2005, DOL initiated a new Program Electronic Review Management (PERM) system for the Permanent Labor Certification Program, which has dramatically improved the efficiency of processing employer requests.

Additionally, ETA has significantly reduced the backlog of permanent labor certification applications that remained from the previous program. Since March 2005, 93 percent of the nearly 363,000 unresolved cases have been processed at two Backlog Elimination Centers, and ETA remains on target to eliminate the entire backlog by September 30, 2007.

ETA is demonstrating its ability to meet the challenges and demands of immigration in a global economy. ETA's role aids employers seeking to remain competitive while protecting U.S. workers. In publishing data and information like this report, ETA is also pointing out labor market trends and occupational opportunities for Americans who are planning a first career or a career change. ETA is meeting its particular challenges; the benefits of the global economy are being felt around the nation.



Emily Stover DeRocco  
Assistant Secretary of Labor  
for Employment and Training



# ETA Certifying Positions Available for Foreign Workers

## Admitting Foreign Workers into the U.S.

The Immigration and Nationality Act (INA) regulates the admission of foreign nationals into the U.S. and designates the Secretary of Homeland Security and the Secretary of State as the principal administrators of its provisions. The U.S. Congress sets the ceiling of foreign workers that may enter the country in any given year. In a typical year, employment-based immigration represents about 13 percent of our nation's total immigration. Although the numbers fluctuate from year to year, employment-based immigration typically represents about 13 percent of our nation's total immigration. For the portion of employment-based visas that requires labor certification (not all do), the process generally involves the Department of Labor (DOL), the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) and the Department of State. Each year, demand continues to grow, steadily and visibly, across the programs administered by ETA's Office of Foreign Labor Certification.

### Helping Employers Meet an Unfilled Need; Protecting American Workers

The Employment and Training Administration (ETA) exercises a dual role in the labor certification process, aiding employers to fill what they regard as an unmet need within the American labor force and protecting the wages and working conditions of U.S. workers. In the service of employers, ETA receives and processes applications from employers who wish to obtain DOL's certification that a position is unfillable within the domestic labor market. The Secretary of Labor delegates her authority to make the determinations to ETA's Office of Foreign Labor Certification (OFLC). OFLC certifies that no

American workers are available, able, willing and qualified to do the work and that the salary offered will not adversely affect the wages or working conditions of workers similarly employed. Employers must demonstrate that they made reasonable efforts to recruit American workers for the position and that they will pay at least the wage prevailing for the occupation in the area of intended employment.

### Certifying Positions for Temporary and Permanent Workers

When an employment visa requires labor certification, position certification by OFLC is generally the first step in the process of employment-based admission into

the United States. Employers file labor certification applications with DOL on behalf of workers they are seeking to employ on a temporary basis under the following visa categories: H-1B, H-1B1, H-1C, E-3, H-2B, H-2A and D-1. Certification is not a guarantee of admission, since most programs have visa caps set by legislation and far more applicants are certified than there are visas available under the law.

In addition, employers may begin the process of securing permanent residence in the U.S. for a foreign worker based on their permanent need for specific job skills through the Permanent Labor Certification (PERM) Program.

# Permanent Labor Certification

Through the Program Electronic Review Management (PERM) system, employers may obtain permanent labor certification which can lead to lawful permanent residence, not citizenship, for foreign workers to fill permanent job vacancies in any occupation in which qualified U.S. workers have been recruited and are unavailable. As part of the application process, employers must perform a “labor market test” to determine whether there are any U.S. workers able, willing, qualified, and available in the community where the job will be performed. Employers must also document that employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers, and they must pay the foreign worker the prevailing wage for the occupation.



The INA caps the total number of employment-based immigrant visas (green cards) that may be issued in any fiscal year. The cap was raised in 1976 from 34,000 to 58,000 annually, and in 1990 to 140,000, which is the present level. Of those, approximately 80,080 may be issued in any fiscal year under green-card bound visa programs requiring labor certification. Though a labor certification is a first step toward issuing a green card to foreign workers under these programs, not all labor certifications necessarily lead to that result. Every year, some certified positions go unfilled because the visa cap has been reached. In some cases, employers who receive certifications do not file immigration petitions with USCIS; in other cases, petitions are not granted; in still other cases, the State Department finds cause not to issue visas, under a

petition approved by USCIS. Finally, some persons who receive visas never elect to come to the U.S.

## A Re-engineered Permanent Foreign Labor Certification Process

On December 27, 2004, DOL published a final regulation implementing the PERM Program. The re-engineered foreign labor certification process became effective on March 28, 2005. Labor certification requests filed under the new PERM rule are processed by two National Processing Centers; one each in Chicago and Atlanta. The program accepts the electronic filing of applications, thereby significantly reducing paperwork, and generally allows for prompt approval or

rejection of employer requests for labor certification.

Following the implementation of the new regulation, ETA implemented a data and performance reporting system to track the progress of application processing. September 30, 2006, marked the completion of the first full year of data collection under the new program. Most of the data presented in this report cover this first full fiscal year of operation, October 1, 2005, to September 30, 2006, while a more limited set of data is presented from the program effective date March 28, 2005, through September 30, 2006.

### Need for Process Re-engineering

Prior to the new regulation, foreign labor certification applications were accepted by State Workforce Agencies (SWAs) which, upon review and approval, were transmitted to staff in ETA Regional Offices for further processing. Procedures were not uniform and large regional differences had grown in the application of policy. An application backlog in the Permanent Labor Certification Program existed, along with stakeholder concerns. The program application process was thought to be:

- Too complex – frequently requiring an immigration attorney to navigate;
- Time-consuming and inefficient – due to backlogs, frequently

taking up to five or six years for an individual application to come up for review and be processed;

- Resource intensive and duplicative – a cumbersome, paper-laden process with Federal and state roles overlapping; and
- Devoid of technological innovation – a heavily paper-laden process.

### Increasing Demand upon the Certification Programs

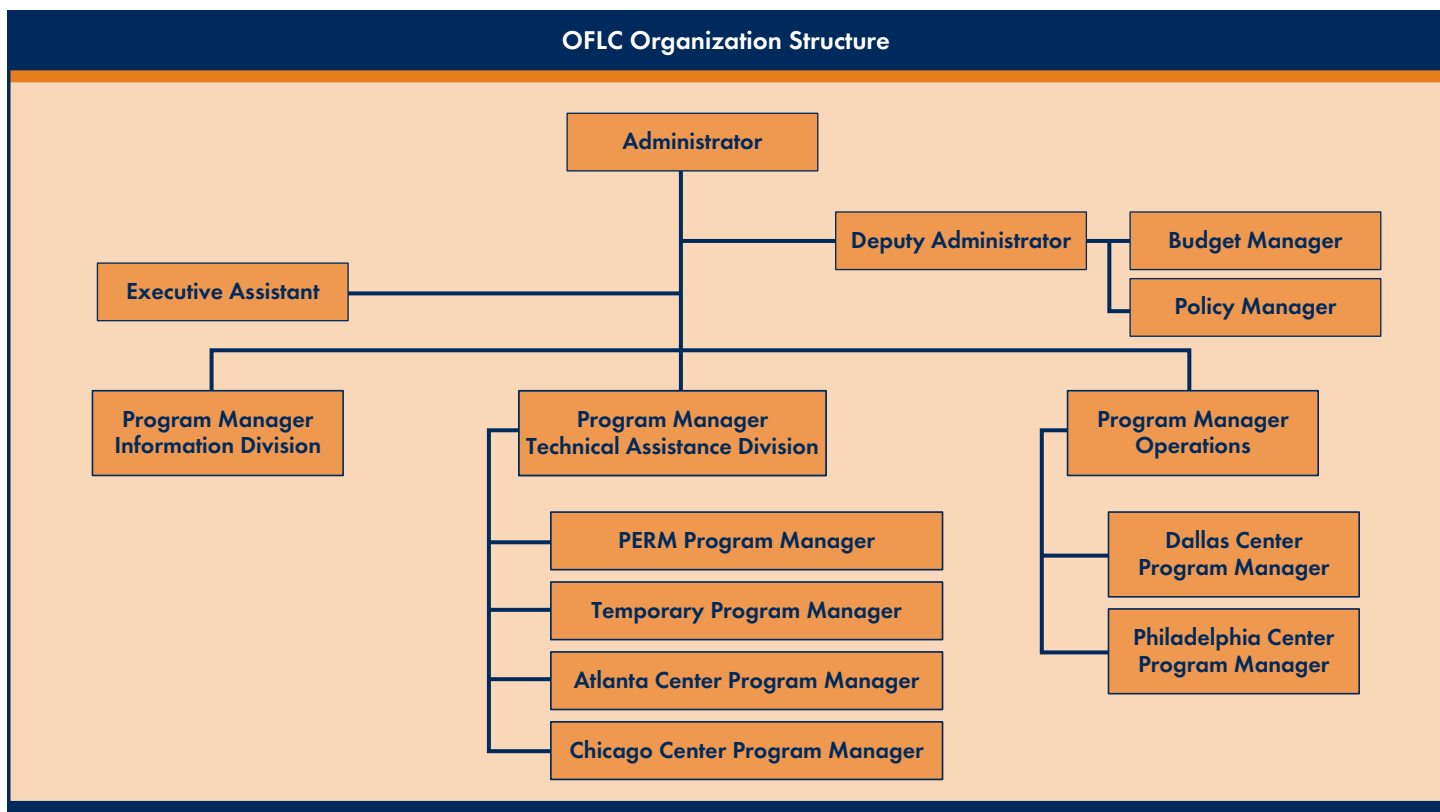
For more than a decade leading up to the PERM regulatory change, employer demand for foreign workers, both permanent and temporary, had been steadily and significantly increasing. ETA incurred added processing costs and staff workloads. With growing demand and a budget that fluctuated with appropriations, priority was given to compliance with statutory requirements. As staff activity intensified to process temporary applications under statutory deadlines, the backlog in the permanent program, which lacked similar requirements and whose individual cases normally took longer to clear, grew larger at an increasing rate. Ironically, striving for efficiencies in the temporary programs compounded the backlog in the permanent program. By March 28, 2005, the effective date of the the new PERM system, the backlog in the permanent program had reached a high of approximately 363,000 applications.

### Re-engineered Roles

After consolidating and reassigning roles in both the permanent and temporary labor certification programs, the Office of Foreign Labor Certification is now organized around a national office in Washington DC, supported by two Backlog Elimination Centers (BECs) and two National Processing Centers (NPCs). The BECs, located in Dallas and Philadelphia, are processing applications backlogged under previous program regulations.

The NPCs, located in Atlanta and Chicago, process applications filed since March 28, 2005, under the new, streamlined PERM program, as well as employer applications filed under the H-2A agricultural and H-2B non-agricultural temporary labor certification programs. H-1B Labor Condition Applications are largely filed electronically and processed exclusively by the automated system located in the national office. National office operations are divided by program – backlog, PERM, H-2A, H-2B, H-1B, etc. – and include separate policy and administrative components. Processing centers include Federal and contract staff and focus primarily on the review and processing of employer applications, and the implementation of foreign labor certification policy.

## OFLC Organization Structure



[www.foreignlaborcert.doleta.gov](http://www.foreignlaborcert.doleta.gov)

## Roles in Foreign Labor Certification Programs

Atlanta and Chicago National Processing Centers	State Workforce Agencies	OFLC National Office
<ul style="list-style-type: none"> <li>Process permanent labor certification applications (PERM)</li> <li>Deploy state-of-the-art technology to improve processing efficiency</li> <li>Focus greater attention on customer service</li> <li>Reduce processing times from years to several months</li> <li>Process "clean-case" (no issues) PERM applications in 45 to 60 days on average</li> <li>Process H-2A and H-2B applications forwarded from the SWAs</li> </ul>	<ul style="list-style-type: none"> <li>Issue prevailing wage determinations for temporary and permanent programs</li> <li>Receive applications under H-2A and H-2B programs</li> <li>Process job orders</li> <li>Conduct H-2A prevailing wage surveys</li> <li>Ensure H-2A housing inspections are conducted</li> </ul>	<ul style="list-style-type: none"> <li>Develops policy and regulatory frameworks</li> <li>Applies policies and procedures uniformly</li> <li>Develops state-of-the-art technology to improve processing efficiency and assist applicants</li> <li>Processes H-1B and H-1C applications</li> </ul>

## Eliminating the Permanent Labor Certification Backlog

The PERM regulation applies to all applications filed after March 28, 2005. The prior regulations continued to govern all applications filed prior to that date. Closing the former program also served to define the actual number of backlogged applications OFLC needed to process; all permanent labor certification applications submitted prior to March 28, 2005, and for which an ETA determination had not yet been made, had to be processed according to the pre-PERM rule. To accomplish this formidable task, ETA established Backlog Elimination Centers (BECs) in Philadelphia and Dallas. SWAs and ETA Regional Offices transferred nearly 363,000 cases to be processed by these centers. Consolidating the process has

combined previous state and Federal processing under one more efficient roof. Re-engineering the backlog case workflow has dramatically improved ETA's ability to respond and process these cases. Since the consolidation and re-engineering, the centers have reached impressive milestones:

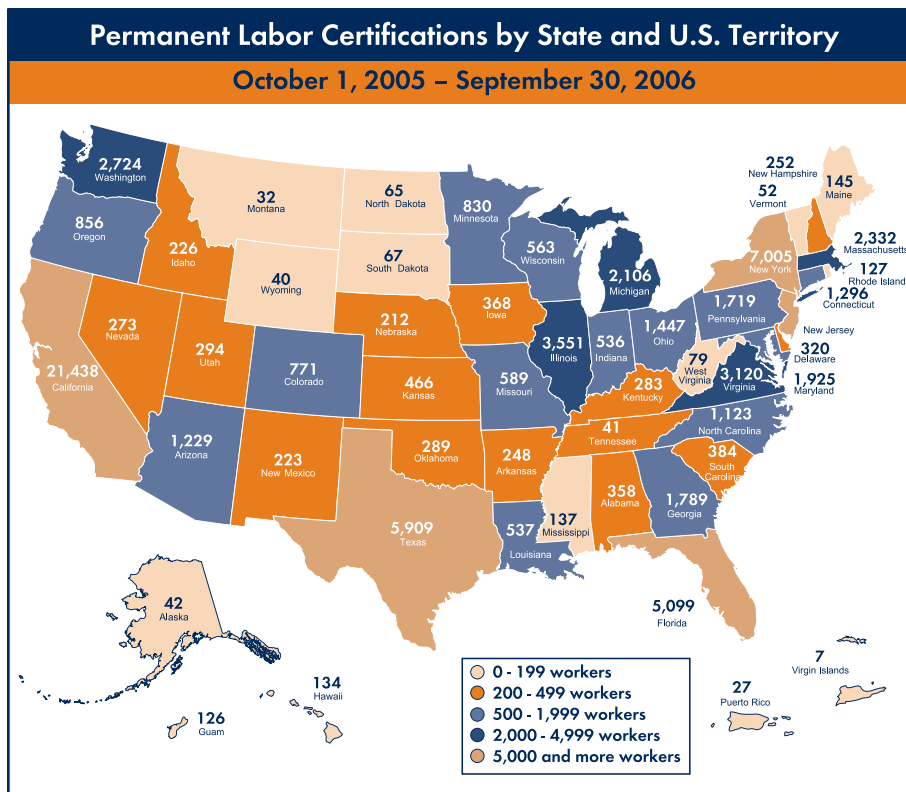
- Completion of 50 percent of cases was reached three weeks ahead of target.
- By September 28, 2006, 54 percent of cases had been completed.
- By August 1, 2007, 93 percent of cases had been completed.
- ETA projects that the final 7 percent of the cases will be processed by September 30, 2007.



## Permanent Program

Permanent Labor Certification Processing Efficiencies						
Certifications, October 1, 2005 - September 30, 2006						
	Q1	Q2	Q3	Q4	TOTAL	
<60 days	7,437	12,168	18,809	14,425	52,839	66%
>61-120 days	3,470	7,671	3,118	2,709	16,968	21%
>120 days	1,361	2,997	2,397	3,467	10,222	13%
<b>TOTAL</b>	<b>12,268</b>	<b>22,836</b>	<b>24,324</b>	<b>20,601</b>	<b>80,029</b>	<b>100%</b>

Efficiencies at the Chicago and Atlanta National Processing Centers are consistent, suggesting these efficiencies are a result of the overall re-engineering process and not unique to a processing location.

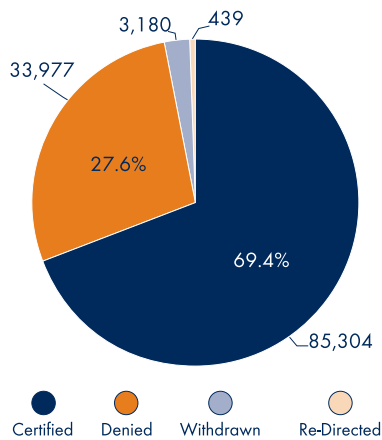


Between October 1, 2005, and September 30, 2006, OFLC certified more than 80,029 cases.

The top five states of intended employment for these permanent labor certifications were California, New York, Florida, Texas, and New Jersey.

### Permanent Labor Certification Cases by Processing Status

March 28, 2005 - September 30, 2006



**Total Applications Received** 140,465  
**Total Applications Processed** 122,900  
**Applications Still in Process** 17,565

- OFLC has certified 85,304 cases since March 28, 2005. Of that total, 48 percent (40,946 cases) were **certified within 30 calendar days** and another 20 percent (17,061 cases) were certified between 31 and 60 calendar days; and
- 82.4 percent (66,743 cases) involved employers sponsoring alien beneficiaries already working in the U.S. under another visa category (e.g., H-1B).

## Industries, Occupations and Salaries

### Permanent Certifications by Industrial Classification

October 1, 2005 - September 30, 2006

NAICS Code	Industry Title	Certifications
54	Professional & Technical Services	25,508
31-33	Manufacturing	12,835
61	Educational Services	5,778
62	Health Care & Social Assistance	5,609
72	Accommodation & Food Services	5,099
51	Information Technology	3,616
23	Construction	3,426
52	Finance & Insurance	3,376
44-45	Retail Trade	3,376
81	Other Services (except Public Admin)	2,821
42	Wholesale Trade	2,493
56	Admin Support & Waste Mgmt Svcs	1,916
48-49	Transportation & Warehousing	1,094
53	Real Estate	817
11	Agriculture/Forestry	631
71	Arts, Entertainment, & Recreation	346
55	Management of Companies	262
92	Public Administration	253
22	Utilities	197
21	Mining	144
	All Industry classifications	79,597
	No Industry Classification Available	432
	<b>TOTAL</b>	<b>80,029</b>

### Industries Employing Workers with Permanent Certifications

- Of the 80,029 cases certified between October 1, 2005, and September 30, 2006, over 25,000 were in professional and technical services, while 13,000 were in manufacturing.
- Over 5,000 were employed in accommodation & food services; over 2,500 in information technology.

### Occupations with more than 1,000 Permanent Foreign Workers Certified

October 1, 2005 – September 30, 2006, with Median Annual Salaries

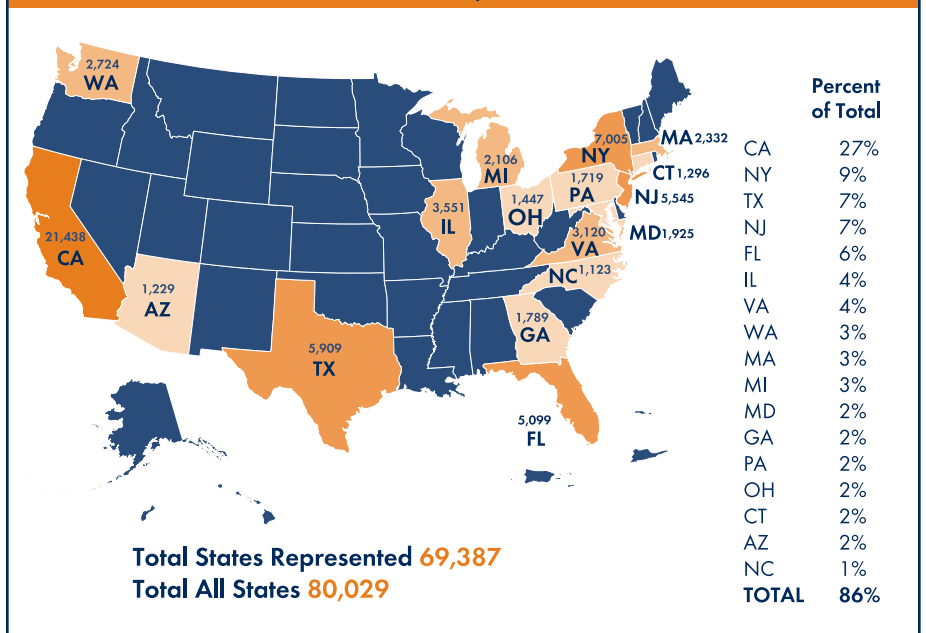
Occupational Code	Occupational Title	Number	Median Annual Salary
15-1031	Computer Software Engineers, Applications	8,423	\$77,002
15-1032	Computer Software Engineers, Systems Software	5,979	\$80,163
15-1051	Computer Systems Analysts	3,068	\$65,458
35-2014	Cooks, Restaurant	2,800	\$22,880
17-2072	Electronics Engineers, Except Computer	2,663	\$78,375
11-3021	Computer and Information Systems Managers	1,893	\$89,500
19-3021	Market Research Analysts	1,069	\$44,699
13-2051	Financial Analysts	1,605	\$73,611
17-2141	Mechanical Engineers	1,170	\$67,000
17-2071	Electrical Engineers	1,121	\$72,000
<b>Total</b>		<b>29,791</b>	
<b>Percent of PERM Certifications</b>		<b>37%</b>	

## Regional Demand for Foreign Workers

While permanent labor certifications are sought by employers in every state and region of the country, a large majority are sought in a much smaller set of states. Fifty-six percent of certifications are sought for workers in the five states of California, New York, Texas, New Jersey, and Florida. Fully 86 percent of permanent certifications were issued for workers in the 17 states depicted.

### States Receiving more than 1,000 Permanent Workers

October 1, 2005 - September 30, 2006



## Top Metropolitan Centers as Destinations in all Regions of the Country

A number of major metropolitan centers consistently appear in successive quarters among the top 10 destinations of permanently certified foreign workers. Each of the metropolitan areas listed may include a number of cities, e.g., Washington, DC, which includes numerous suburbs in Virginia nearly to Fredericksburg and in Maryland nearly to Baltimore.



Northeast:  
Washington, DC  
New York, NY  
Boston, MA  
Philadelphia, PA  
Pittsburgh, PA



Southeast:  
Miami, FL  
Atlanta, GA



Central:  
Houston, TX  
Chicago, IL  
Dallas, TX



West Coast:  
Los Angeles, CA  
Seattle, WA  
San Diego, CA  
San Francisco, CA

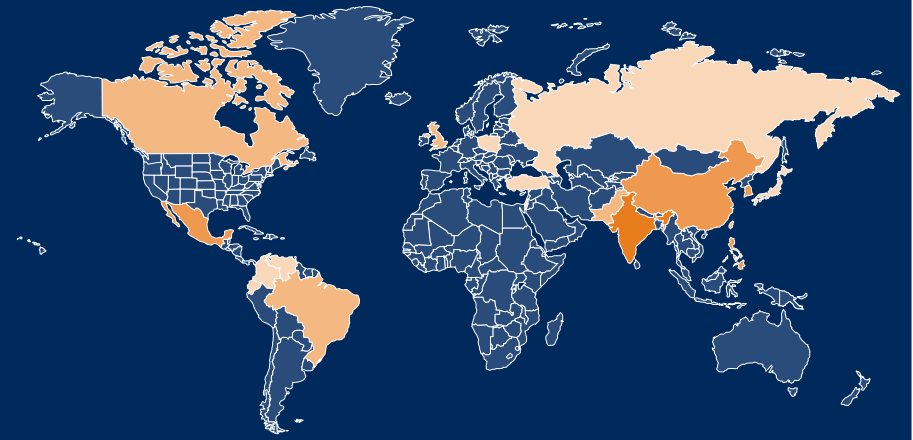
## Countries of Origin

While permanent labor certifications are sought for workers from 180 countries, most certifications are issued for workers from a much smaller subset of these. Seventy-seven percent of permanent worker certifications were issued for citizens of the 18 countries depicted; 55 percent were issued for workers from just the five countries of India, China, South Korea, Philippines, and Mexico. A comparison of these five is illustrative of broad patterns within the labor certification process.

The relationship among occupations, education levels, and median salaries is plainly evident: higher skilled occupations requiring higher levels of education command significantly higher salaries in the labor market.

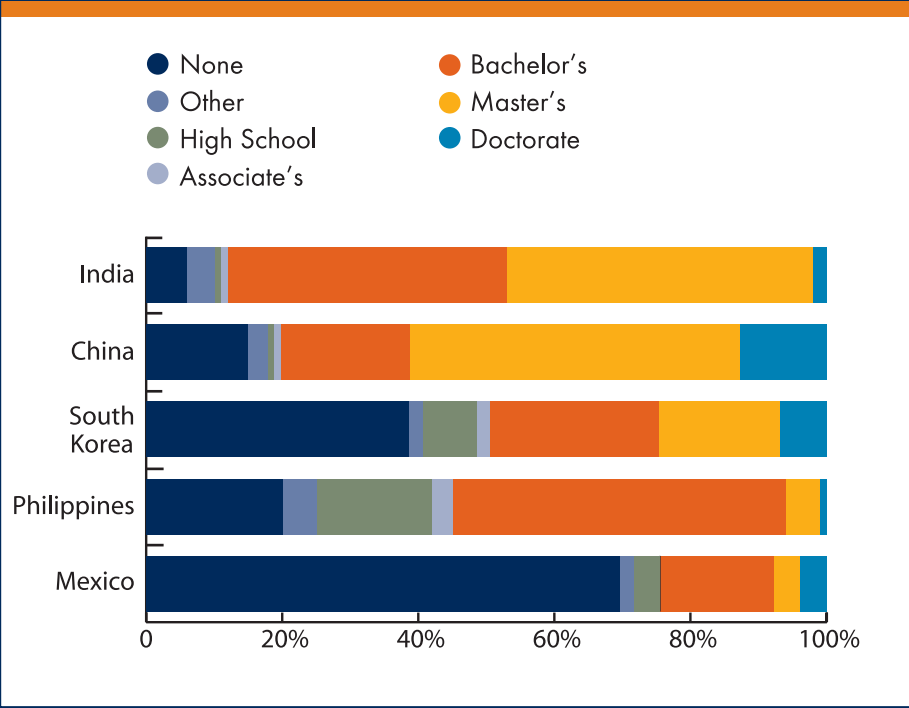
### Countries of Worker Citizenship with 800 or more Workers Permanently Certified with Leading Occupations for Countries having more than 5,000 Certifications

October 1, 2005 - September 30, 2006



		Country of Citizenship	Cases Certified	Percent of Total	Median Annual Salary	
India	<ul style="list-style-type: none"> <li>• Computer Software Engineer, Applications</li> <li>• Computer Software Engineer, Systems Software</li> <li>• Computer Software Analyst</li> <li>• Computer and IS Manager</li> <li>• Electronics Engineers, Except Computer</li> </ul>	India	22,645	28.3%	\$ 75,213	
		China	7,434	9.3%	\$ 70,000	
		South Korea	5,330	6.7%	\$ 55,148	
		Philippines	4,601	5.7%	\$ 52,395	
		Mexico	4,388	5.5%	\$ 42,002	
China	<ul style="list-style-type: none"> <li>• Computer Software Engineer, Systems Software</li> <li>• Computer Software Engineer, Applications</li> <li>• Cooks, Restaurant</li> <li>• Electronics Engineers, Except Computer</li> <li>• Financial Analysts</li> </ul>	Canada	2,190	2.7%	\$ 86,220	
		Pakistan	1,965	2.5%	\$ 64,500	
		Brazil	1,693	2.1%	\$ 61,797	
		United Kingdom	1,695	2.1%	\$ 82,775	
		Taiwan	1,587	2%	\$ 60,342	
South Korea	<ul style="list-style-type: none"> <li>• Cooks, Restaurant</li> <li>• Chefs and Head Cooks</li> <li>• Shop and Alteration Tailors</li> <li>• Tailors, Dressmakers, and Custom Sewers</li> <li>• Electronics Engineers, Except Computer</li> </ul>	Colombia	1,354	1.7%	\$ 34,382	
		Ecuador	1,166	1.5%	\$ 30,971	
		Poland	1,170	1.5%	\$ 34,840	
		Japan	1,183	1.5%	\$ 48,776	
		Venezuela	978	1.2%	\$ 49,026	
Philippines	<ul style="list-style-type: none"> <li>• Chefs and Head Cooks</li> <li>• Secondary School Teachers</li> <li>• Accountants and Auditors</li> <li>• Accountants</li> <li>• Medical and Clinical Laboratory Technologists</li> </ul>	Turkey	868	1.1%	\$ 58,906	
		Russia	818	1%	\$ 69,500	
		Israel	800	1%	\$ 55,000	
		Mexico	<ul style="list-style-type: none"> <li>• Cooks, Restaurant</li> <li>• Elementary School Teachers, Except Special Education</li> <li>• Chefs and Head Cooks</li> <li>• Laborers and Freight, Stock and Material Movers, Hand</li> <li>• Farm Workers, Farm and Ranch Animals</li> </ul>	<b>Top 5 include 44,398 or 55 percent of cases certified</b>		

### Education of Foreign Workers Certified from Countries having more than 5,000 Certifications



### Top 10 Employers Securing Certification of Citizens from Countries having more than 5,000 Certifications

India	China	South Korea	Philippines	Mexico
Intel	Intel	Intel	NY City Dept. of Education	Sun Logistics Group
Microsoft	Microsoft	Foster Poultry Farms	RX Staffing & Home Care	Dallas Independent School District
Motorola	Motorola	Clean Textile Systems	Bay Staffing & Home Care	Tuls Cattle Company
J&M Assoc. of MS	Foster Poultry Farms	Motorola	Swann Special Care Center	KEL-GP LLC Leonard et al
Sun Microsystems	Mountaire Farms	Golden State Health Ctrs.	Foster Poultry Farms	Hewlett-Packard
Covansys	Google	Mountaire Farms	Glotel	Northern Painting
Oracle	Yahoo!	Complete Industries	HCA Healthcare	Matt Redd
Cisco Systems	Panda Express	The Korea Daily	Eagle Healthcare	Microsoft
Indo-Ameri Soft LLC	Harrison Poultry	Sudbury Express	RCG Information Tech.	Houston Independent School District
Igate Mastech	Oracle	LG Electronic Alabama	Los Angeles School District	JPI Inc.

# Temporary Labor Certification Programs

## Temporary Labor Certification

Each foreign labor certification program is the product of unique circumstances, exhibits a specialized purpose and design and enjoys its own set of constituencies. The programs are of immense interest to U.S. workers and their advocates, the employers who rely on them, the foreign workers who benefit from them, the attorneys and human resource professionals whose work depends on understanding and effectively negotiating their requirements and members of Congress. Every one of whom has any number of constituents touched by the foreign labor certification process. Foreign labor certification programs serve an exceedingly diverse set of stakeholders, each of whom is impacted in a very real way by the nature – and effectiveness – of the work the programs perform.

### H-1B, H-1B1, H-1C and E-3: Temporary Professional Workers in Specialty Occupations

These programs respond to employers' need for temporary, professional workers. Traditionally, the H-1B program has attracted foreign workers in high-technology industries, engineering and other specialized fields like architecture; also fashion models, teachers, computer programmers, medical doctors and physical therapists. The specialty occupation must require a bachelor's degree or equivalent and the foreign worker must possess at least a bachelor's degree or its equivalent.

By law, except in certain instances, these programs do not require

a labor market test. However, employers must attest to DOL that wages offered are at least equal to the actual wage paid by the employer to other workers with similar experience and qualifications for the job in question, or alternatively, pay the prevailing wage for the occupation in the area of intended employment, whichever is greater.

The H-1B1 program models H-1B requirements and establishes a 6,800 visa carve-out from the 65,000 H-1B annual cap for Chilean and Singaporean nationals working in specialty occupations. H-1B and H-1B1 visas are valid for three years initially, with extensions up to a total of six years and, in limited circumstances, additional extensions in one-year increments.

The H-1C program is focused narrowly on the particular professional specialty occupation of registered nurses. The visa program was re-established in 2006 to help secure registered nurses for hospitals in certain disadvantaged areas. The program has an annual cap of 500 visas. The Chicago metropolitan area is the location that has received the largest number of H-1C certifications.

The E-3 program applies the same streamlined requirements as H-1B1 and a separate numerical cap (10,500) to Australian nationals in specialty occupations. E-3 visas are valid for two years initially and renewable indefinitely in two-year increments. Visa extensions generally require a new labor certification. While H-1B and H-1B1 visas require non-immigrant worker

petitions be filed with and approved by USCIS, E-3 visas do not require submission of a petition to USCIS. Foreign workers with a copy of a DOL E-3 certification provided by the sponsoring employer may go directly to an appropriate U.S. consulate.

In accordance with the INA, ETA is required to certify applications in these programs within seven days unless the applications are found to be incomplete or contain obvious inaccuracies.

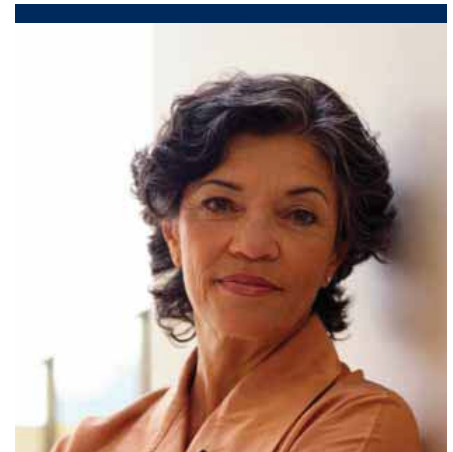
### H-2A: Temporary or Seasonal Agricultural Occupations

The H-2A non-immigrant program is designed to ensure an adequate supply of short-term agricultural labor, while also protecting U.S. farm workers through a labor market test and appropriate wages and working conditions. Certification is issued most often for 10 months. Positions requiring longer periods are considered permanent, year-round and not temporary.

Certification may be based on an employer’s request for multiple, unnamed workers in a given job class. Most occupations (e.g. field hands) require unskilled or low-skilled labor, while a few (e.g. operators of combines) require specialized skills. ETA is required to respond to employers within seven days of filing and to issue a determination at least 30 days prior to the date work is scheduled to begin. There is no visa cap on the H-2A program.

### H-2B: Temporary and Non-agricultural Occupations

The H-2B non-immigrant program permits employers to hire foreign workers to meet a temporary need in non-agricultural industries. The employer’s temporary need must be less than one year and based on a one-time occurrence, a seasonal need, a peak load or an intermittent need. Certification may be based on an employer’s request for multiple, unnamed workers in a given job class. In addition to logging, common H-2B



Summary of Temporary Program Certifications*			
October 1, 2005 - September 30, 2006			
	H-1B	H-2A	H-2B
Determinations of Employer Labor Condition Applications (LCAs)	385,835	6,717	11,267
LCAs resulting with Certification	377,656	6,550	9,182
Workers Requested	652,312	64,146	247,287
Workers Certified	630,885	59,110	199,734

\*Includes both e-filed applications and fax-back applications, which represent less than one half of one percent of applications.

occupations include jobs in hospitality, forestry, outdoor amusement, housekeeping, professional sports, landscaping and construction industries.

Most positions are low skilled, though some cases require highly specialized skills (e.g. operation of sophisticated logging equipment). The H-2B program is labor market-tested to determine the availability of U.S. workers, and the employer must offer the prevailing wage to the foreign worker for the occupation in the area of intended employment. Current law limits the number of workers who may be issued a new visa or granted H-2B status to 66,000 annually.

### D-1: Longshore Occupations at U.S. Ports

Employers who wish to employ foreign crewmembers to perform longshore activities at U.S. ports may file an application with DOL. The Department has developed special procedures for Alaska. Once DOL accepts the attestation for filing, it notifies the Department of Homeland Security. The employer may then utilize alien crewmembers for the longshore work at the location(s) cited in the attestation in accordance with statutory requirements and regulations.

#### H-1B, H-1B1, H-1C and E-3 Programs

- Non-immigrant
- Temporary workers in specialty occupations
- H-1B often called the IT visa and with education requirements
- Generally no labor market test
- H-1B Status for up to 6 years
- H-1B 65,000 annual visa cap
- H-1B1 is very similar, applying to Chile and Singapore
- E-3 is similar, applying to Australia
- H-1C program is for registered nurses at hospitals in disadvantaged areas and has an annual visa cap of 500.

#### H-2B Program

- Non-immigrant
- Temporary workers, non-professional, non-agricultural
- Work less than one year
- Labor market tested
- 66,000 annual visa cap

#### D-1 Program

- Non-immigrant
- Temporary workers in longshoring occupations in U.S. ports.
- Duration: up to two years
- Protections: employer attestation
- State of Alaska exceptions

#### H-2A Program

- Non-immigrant
- Temporary or seasonal workers in agriculture
- Labor market tested
- Employer must meet worker protections (e.g., wages, housing, transportation)
- No annual visa cap

## Re-engineering the Temporary Programs

The re-engineering of the Permanent Foreign Labor Certification Program also included examination and proposals to reform aspects of each of the temporary programs. As with the Permanent program, the primary objectives were to improve processing efficiency and ensure consistent interpretation of policies and procedures with all applications. Highlights of this reform project include:

- Modernizing the H-2A application system (2003).
- Implementation of the H-1B1 program for Chile and Singapore (2003) and the E-3 program for Australia (2006).
- H-2B application system re-engineered (2005).
- H-1B e-filing fully implemented and facsimile applications eliminated (2005).

## H-1B

### Non-immigrant Specialty Occupations

As has become the annual pattern, DOL issued many more position and worker certifications in the last year for H-1B workers than could be admitted under the annual cap. The demand for workers who are highly educated and highly skilled in specialized occupations showed no sign of abating. For example, certifications for the single job title of programmer analyst exceeded the annual visa cap for all occupations by over 30,000. For every H-1B visa that may be issued under the annual cap, employers file over 10 requests for labor certifications. The tables and charts that follow highlight the top occupations where "IT visas" are sought, the top states where they are sought, and the top employers seeking labor certifications.



### Top 5 H-1B Employers\*

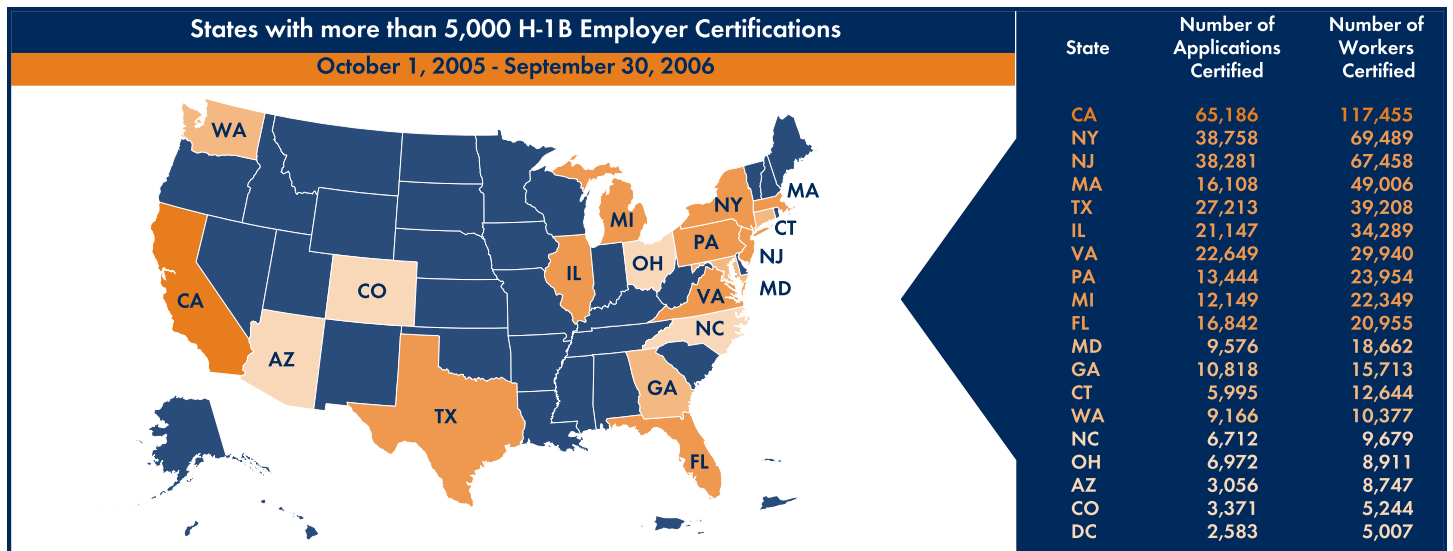
October 1, 2005 - September 30, 2006

Employer	Employer Applications Certified	Workers Certified
Infosys Technologies Ltd.	717	22,135
Wipro Limited	312	19,450
Cognizant Technology Solutions	350	10,435
MPHASIS Corporation	336	9,908
Patni Computer Systems, Inc.	1,232	7,774

\*Includes e-filed applications only; does not include fax-back applications, which represent less than one half of one percent of applications.

In 18 states and the District of Columbia, at least 5,000 H-1B labor condition certifications were issued for workers. In 10 states, more than 20,000 certifications were issued for workers, with nearly 120,000 issued in California, where certifications far exceeded other states. Seventy-two percent of H-1B certifications were issued for workers in the states depicted.

Top 5 Certified H-1B Occupations		
October 1, 2005 - September 30, 2006		
Occupations	Workers Certified	Employer Applications Certified
Occupations in Systems Analysis and Programming	302,303	148,920
Accountants, Auditors and Related Occupations	28,541	16,133
Architectural Occupations	25,831	4,962
Occupations in College and University Education	24,132	23,324
Other Computer-Related Occupations	20,949	15,671



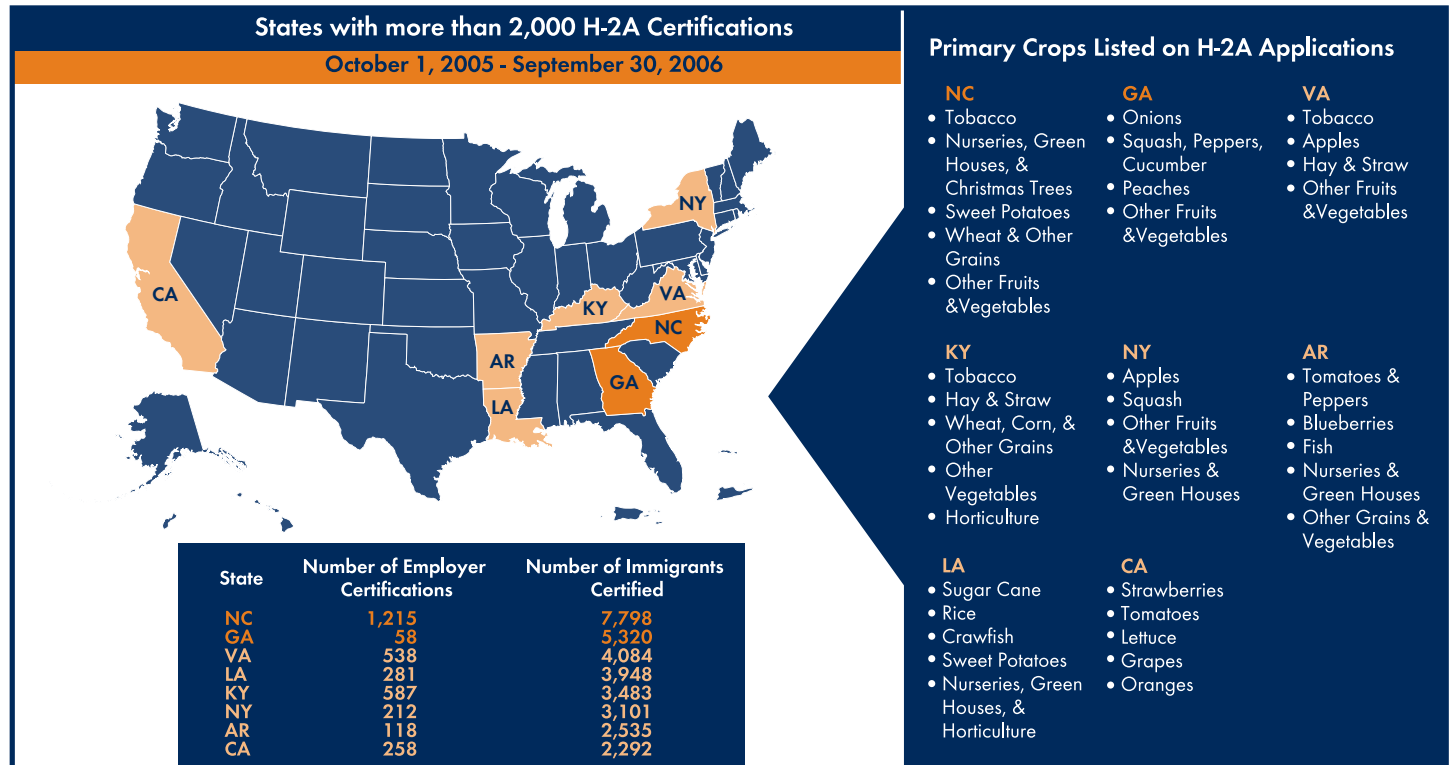
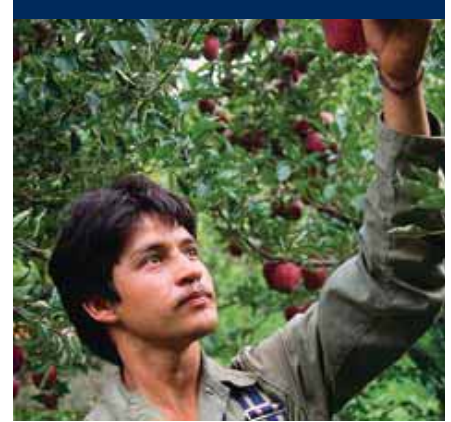
# H-2A

## Non-immigrant Agriculture Program

Between October 1, 2005, and September 30, 2006, more than 59,000 non-immigrant aliens were certified for H-2A status to work in a wide-array of agricultural labor and crop activities. During the same period, 6,551 employer-filed applications were certified. The largest number of H-2A certifications, nearly 50 percent, was issued for workers in just six southern states: North Carolina, Georgia, Virginia, Louisiana, Kentucky and Arkansas. Primary crop activity for the top eight states with H-2A

certifications are in the chart below. Other program highlights include:

- The number of H-2A workers requested for temporary agricultural employment increased 26 percent from 50,721 in fiscal year 2005 to 64,146 in fiscal year 2006.
- The number of H-2A workers certified increased 22 percent from 48,336 in fiscal year 2005 to 59,110 in fiscal year 2006.
- The numbers of employers certified under the H-2A program declined slightly from 6,602 in fiscal year 2005 to 6,550 in fiscal year 2006.



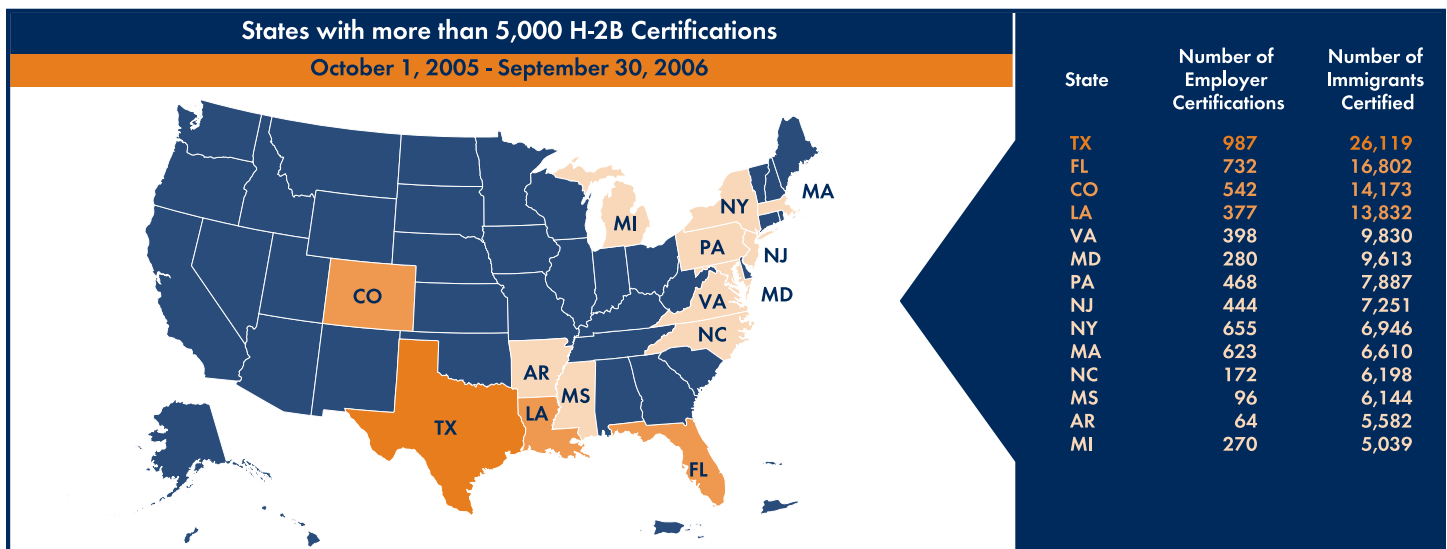
## H-2B

### Non-immigrant, Non-Agricultural, Non Specialty Occupations

Though the demand for H-2B visas once again exceeded the annual cap, the scale was not as large as the H-1B program. There were nearly four requests (247,287) for labor certification for every H-2B visa available under the annual cap (66,000). Landscaping laborers, cleaners, housekeepers, different types of construction workers and forestry workers were the top occupations certified. The tables and charts depict the top 10 occupations, the top five states and the top employers that received H-2B certifications between October 1, 2005, and September 30, 2006.

Top 10 Certified H-2B Occupations by Workers and Employers certified		
October 1, 2005 - September 30, 2006		
Occupational Title	Workers Certified	Applications Certified
Laborer, Landscape	62,208	2,959
Cleaner, Housekeeping	14,283	582
Construction Worker II	9,661	396
Forest Worker	6,477	62
Construction Worker I	5,863	223
Tree Planter	4,634	50
Dining Room Attendant	4,199	195
Stable Attendant	4,117	328
Kitchen Helper	3,604	272
Crab Meat Processor	3,252	46

Top 5 H-2B Employers		
October 1, 2005 - September 30, 2006		
Employer	Employer Applications Certified	Workers Certified
The Vail Corporation	40	2,189
TruGreen Landcare	42	1,894
The Brickman Group, Ltd.	28	1,541
American Pool Enterprises	1	700
Sun Valley Company	19	670





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