

H-2A Employer Obligations – General Guidelines & Costs

Mandatory Employer Requirements for H-2A Workers

- Provide safe, clean & free housing for workers who cannot return ‘home’ at end of workday
- Pay in- and out-bound transportation as well as subsistence payment for travel periods
- Provide transportation to/from worksite, grocery, banking, laundry, medical, other needs
- Guarantee work for at least 75 percent of contract period
- Provide meals or kitchen facilities
- Provide workers compensation insurance for duration of contract
- Provide copy of work contract to each H-2A worker and have them sign.
 - The Bracero Group can provide a contract based on worker’s duties & Worker’s Rights Cards
- Must pay AEWR to H-2A workers and to domestic workers performing the same duties
- Provide timely worker’s pay with pay stub at least twice monthly & maintain accurate records
- Engage in ongoing recruitment through 50 percent of the work contract

Tax and withholding requirements for H-2A workers only

- FLSA wage requirements not applicable – overtime pay not required
- Employer does not withhold SS or Medicare for H-2A workers
- Voluntary Federal Income Tax withholding if employee agrees

Other Obligations:

- Reimbursement for visa-related expenses not initially covered by employer, such as transportation and sustenance to/from home. Must be reimbursed within 30 days to worker
- Report workers fired or that otherwise depart within two business days to DOL and USCIS
 - If this occurs, contact The Bracero Group immediately for assistance
- Notify workers that they must depart U.S. after contract period. Do this thru work contract
- Post Department of Labor (DOL) worker protection posters in English & Spanish at worksite
 - The Bracero Group can provide you with links to such signage for you to print
- Provide all tools, supplies, equipment, and training needed at NO charge to the worker
 - NOTE: Pesticide spraying/fertilizing require worker to be certified by completing pesticide safety training for handlers under the Worker Protection Standard (WPS)
- Retain recruitment report and records for three years
- Be sure to have your I-9 and other employment records in order in case of an audit

Challenges:

- Can be costly, yet there is no FLSA requirements nor SS & Medicare withholding
- May not be applicable for year-round positions, such as dairy workers
- Must hire any qualified domestic worker referred by DOL through 50% of the contract period
- Must offer same benefits, namely hourly wages, to all U.S. workers in same positions as H-2A workers, however US workers must be paid overtime under FLSA as well as SS and Medicare taxes withheld accordingly. As such, US workers will require a W2 at the end of the year.
- To pursue H-2A workers on your own, you must possess the time and diligence to file within prescribed timeframes, respond timely to Notice of Deficiencies and refile, and finally, you must have the ability to recruit foreign workers, and interact with foreign consulates to secure your worker’s visas!

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Why is the H-2A labor program beneficial?

- Despite these significant costs and challenges, usage of the H-2A program is significantly increasing across the country. The H-2A program is a way to “legally” recruit and obtain qualified and reliable workers when local jobseekers are scarce.
- There is an increase in the procuring of H-2A workers, but the process to obtain foreign workers through the H-2A process is complex and time consuming

Excellent source for more information found [here](#)

The Bracero Group has your back!

We will recruit workers, file all required paperwork, and secure “legal” workers while you maintain focus on your business.

Let us take OVER securing your H-2A labor needs!

Contact us at 830/456-2787

www.thebracerogroup.com

Estimated Application Costs*

(based on 1 worker recruited in Mexico)

• State Workforce Agency	no fee
○ Form ETA 790 and Housing inspection	
• Department of Labor – Certification Fee (\$100 + \$10 pp – at cost)	\$ 110.00
○ Form ETA 9142A	
○ US advertising	\$ 600.00
• USCIS – Application Fee (at cost)	\$ 460.00
○ Form 1-129	
• Foreign recruitment costs/fees (pass thru costs)	
○ Visa Fee	\$ 190.00
○ Hotel (\$55/night x 2)	\$ 110.00
○ Internal Transportation (from home to consulate/to-from consulate)	\$ 120.00
○ Meals	\$ 20.00
○ Bus Transportation to US	\$ 155.00
○ Mexican Recruiting/Contract fee	\$ 65.00
• The Bracero Group	
○ Contract fee	\$1,500.00
○ FedEx	\$ 20.00
TOTAL	\$3,350.00

*Costs subject to change at any time without notice. Government costs are set and are subject to change without notice. Government fees will not be up coded, but directly passed thru at cost. Costs exclude housing, housing utilities, transportation to/from worksite grocery store, bank, laundry, other locations, worker’s comp insurance, medical assistance, worker tools/supplies/machinery/training, guaranteed work for 75% of contract, etc. The Bracero Group charges an hourly rate for other services such as procuring housing, participating in housing inspection, screen/interviewing US workers, pursuing contract impossibility, assisting in SWA/DOL audit, travel expenses, hotel expense, per diems, etc.