



ISSUE BRIEFING

SUBJECT: H-2B VISA PROGRAM

BACKGROUND: The H-2B program is vitally important to the landscape industry because of the difficulty in finding American workers willing and available to perform the manual labor associated with seasonal landscaping services. The difficulty in recruiting seasonal U.S. workers stems from the temporary nature of the positions, as well as the fact that these jobs require a great deal of manual labor.

Landscape companies and other seasonal employers that use the H-2B program help not only make local communities and green spaces more beautiful, but they also provide U.S. jobs and contribute to the local and national economy. Without access to the program, many landscape contractors may be forced to close their businesses or lay off American workers. A recent survey of approximately 500 H-2B employers by ImmigrationWorks USA found that 34 percent of employers would close their businesses if they could not hire H-2B workers. An additional 25 percent of employers said they would downsize or restructure the company.

Unfortunately, new Department of Labor (DOL) regulations will make this vital program virtually unworkable for seasonal employers. A final DOL rule, slated to go into effect around October 31, 2011 (moved up from January 1, 2012), will artificially increase H-2B hourly wages by approximately 50 percent. According to the DOL's own estimates, the rule will increase H-2B wages for landscaping services by about \$3.60 per hour. The actual cost to H-2B users could be far greater than the DOL's estimates because the DOL does not account for labor increases for similarly employed American workers or more experienced American workers whose pay should reflect the greater skill or experience level and be proportional to the hourly wage earned by lesser skilled workers. It also does not include additional payroll costs, workers' compensation insurance, overtime costs, and other associated increases.

A second DOL proposed rule, published in the March 18, 2011, *Federal Register*, would make the program even more expensive and complicated to use. For example, the rule would require employers to hire any qualified U.S. worker up to three days before the H-2B worker is scheduled to begin, even though the employer has already offered the job to the H-2B worker, assisted with the visa process, and paid transportation, housing, and other associated fees.

REQUESTED ACTION: Please encourage the DOL to rescind both the final H-2B wage methodology rule and the proposed H-2B rule.