

What should I know when looking for an H-2A agent?

Experience: You should ask an agent how many years experience the agency has in bringing in temporary foreign labor. This will enable you to look at their pricing structures and see if it is appropriate to their experience. Furthermore, you will be able to compare one agent's prices and experience levels to another's, to make an informed decision and get the most value for your money.

References: Ask the agent if they have a list of verifiable references that they are able to provide. You will be able to call other employers who have required temporary foreign labor and ask how successful this particular agent was in bringing in needed labor. Did the agent get the workers to the work site by the date of need? Did they fulfill all of the agreed upon services spelled out in the contract?

Successful applications: Ask the agent the ratio of successful foreign labor certification processes they have undertaken in the previous year. How many foreign labor certification applications has the agency attempted and how many have been rejected by the U.S. Department of Labor? This will give you more confidence that your labor needs can be met by the specific agent.

Fees if the application is rejected or your labor needs are met by U.S. workers: Make sure you know how much the agent will charge even if your application for foreign labor certification is rejected by the U.S. Department of Labor. While this is not the norm, it is still possible that you will not receive your foreign labor certification. Or, you might have your labor needs met by U.S. workers when the mandatory job advertisements and job listings with the Workforce Centers bring you enough employees. Will they refund all or part of the fees paid up front?

Agreement: Make sure you get a complete and detailed list of the services and duties that the agent will provide for his/her fees. This will ensure that there is a comprehensive understanding between you and the agent so each knows exactly what to expect from the other. Do not sign any blank application forms. Be sure you know exactly what you are signing since the agent will be representing you, the employer, and acting on your behalf. As a result, you will ultimately be responsible for any actions taken by the agent while representing your company.

Surety Bond: We recommend that the contract between you and the agent include a surety bond sufficient to cover your potential losses and liabilities if the agent fails to follow through on the contract. If your contract with the agent shows the agent as the employer of record, this should include possible failure to pay wages.

Fee to workers: We recommend that the contract include reassurances that foreign workers were not charged a fee, by the agent or any third party, to be considered for a particular job vacancy. This is against U.S. Department of Labor rules for the H-2A program and you would like to make sure that you are associated with a reputable agent.

What type of screening process the agent uses: Know what type of screening the agent does when recruiting workers for your labor needs. Do they verify a potential employee's past experience? Skill set? The ability to perform the requirements of the job? You want to ensure any new workers will have the capacity and motivation to complete the tasks related to the job vacancy.