

Highlights of [GAO-10-1053](#), a report to the Chairman, Committee on Education and Labor, House of Representatives

Why GAO Did This Study

The H-2B visa program assists U.S. employers anticipating a shortage of domestic nonagricultural workers by permitting them to hire nonimmigrant foreign workers temporarily. The program is overseen by several agencies, including the Department of Labor (Labor), the Department of Homeland Security's United States Citizenship and Immigration Services (USCIS), and the Department of State. Employers often hire labor recruiters or other intermediaries to assist with the process of obtaining labor certifications and finding foreign workers. GAO was asked to determine if there were examples of recruiters and employers engaging in illegal or fraudulent activity within the H-2B visa program.

GAO reviewed recent closed civil and criminal court cases involving H-2B workers, obtained data from Labor and USCIS on H-2B visas issued in fiscal years 2008 and 2009 and in first 6 months of fiscal year 2010, and interviewed advocacy groups that represent H-2B workers in litigation. In addition, GAO made undercover calls and site visits to recruiters, posing as H-2B employers and foreign H-2B workers and asked a series of questions related to legal requirements of the program. GAO also visited several H-2B housing and work site locations. Case studies and results of tests and site visits cannot be projected to the entire population of H-2B employers and recruiters.

View [GAO-10-1053](#) or [key components](#).
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H-2B VISA PROGRAM

Closed Civil and Criminal Cases Illustrate Instances of H-2B Workers Being Targets of Fraud and Abuse

What GAO Found

GAO reviewed 10 closed cases over the last 5 years that involved H-2B employers and recruiters that violated various labor laws or settled allegations of violations outside of court. These 10 cases involved diverse employers in different industries with employees in 29 states with violations in areas such as employers failing to pay promised wages, overtime, or both; employers charging H-2B workers exorbitant fees; and employers and recruiters submitting fraudulent documentation to government officials. For example, in one case H-2B workers became indebted to their employer through a series of arbitrary charges. The employer then forced workers to take second jobs at local fast food restaurants to pay these debts. The table below provides a summary of cases where H-2B workers rights were violated.

Cases of Fraud and Abuse within the H-2B Program

Industry, location	Details
Hotel - South Dakota	<ul style="list-style-type: none"> Hotel owners forced H-2B workers to work in substandard conditions, confiscated workers' passports, and threatened workers that they would be sent home in a "box" if they disobeyed orders. In 2008, the couple was found guilty on nine counts, including conspiracy, holding people in peonage, making false statements, and visa fraud.
Construction and foreign contract labor firm - Louisiana	<ul style="list-style-type: none"> Workers from India paid at least \$20,000 for H-2B visas to enter the United States but were never employed by the construction company. The construction company owner pled guilty to conspiracy, and the other conspirators were found guilty of 1 count of conspiracy, 14 counts of encouraging and inducing illegal immigration, and 1 count of money laundering.
Labor broker, hospitality employers, and immigration attorney - Virginia	<ul style="list-style-type: none"> Conspirators fraudulently obtained H-2B certification from Labor for over 3,800 individuals, leased workers to undisclosed businesses not listed on the visa petitions, defrauded the government of \$7.4 million in payroll taxes never remitted to the Internal Revenue Service. The conspirators pled guilty to charges including conspiracy, visa fraud, and tax evasion charges that were linked to an international organized crime ring.

Source: GAO analysis of court files.

GAO personnel found that most recruiters they called or visited posing as prospective H-2B employers and workers did not encourage our undercover agents to violate program rules. Of the 18 recruiters in multiple states we contacted, 15 appropriately did not offer any advice on violating H-2B program rules. However, during three calls, H-2B recruiters did provide suggestions on how to circumvent program rules, such as providing "good excuses" to help "weed out" prospective U.S. workers or recouping costs through "off-the-book" transactions to avoid restrictions on pay deductions. Additionally, GAO found that H-2B workers contacted during the site visits to their housing locations were generally pleased with their living and working conditions. However, at one location the H-2B workers were afraid to speak with outside individuals for fear of retaliation from their employer.