G A O
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Highlights

H-2A VISA PROGRAM

Modernization and Improved Guidance Could Reduce Employer Application Burden

Why GAO Did This Study

The H-2A visa program allows U.S. employers anticipating a shortage of domestic agricultural workers to hire foreign workers on a temporary basis. State workforce agencies and three federal agencies—the Departments of Labor, Homeland Security, and State review applications for such workers. GAO was asked to examine (1) any aspects of the application process that present challenges to agricultural employers, and (2) how federal agencies have addressed any employer challenges with the application process. GAO analyzed Labor and DHS data; interviewed agency officials and employer representatives; and conducted site visits in New York, North Carolina, and Washington.

What GAO Recommends

GAO recommends that (1) Labor and DHS use their new electronic application systems to collect data on reasons applications are delayed and use this information to improve the timeliness of application processing; (2) Labor allow employers to submit one application for groups of similar workers needed in a single season; and (3) Labor review and revise, as appropriate, its guidance to states regarding methods for determining the acceptability of employment practices in employers' applications. DHS and Labor agreed with the recommendation to collect additional data and Labor agreed with the recommendation to update its guidance. Labor disagreed with the recommendation it allow employers to apply once per season. GAO believes the recommendation is still valid and that a single application does not preclude timely testing of the labor market as workers are needed.

View GAO-12-706. For more information, contact Revae Moran at (202) 512-7215 or moranr@gao.gov

What GAO Found

Over 90 percent of employer applications for H-2A workers were approved in fiscal year (FY) 2011, but some employers experienced processing delays. For example, the Department of Labor (Labor) processed 63 percent of applications in a timely manner in FY 2011, but 37 percent were processed after the deadline, including 7 percent that were approved less than 15 days before workers were needed. This left some employers little time for the second phase of the application process, which is managed by the Department of Homeland Security (DHS), and for workers to obtain visas from the Department of State (State). Although workers can apply for visas online, most of the H-2A process involves paper handling, which contributes to processing delays. In addition, employers who need workers at different times of the season must repeat the entire process for each group of workers. Although the agencies lack data on the reasons for processing delays, employers reported delays due to increased scrutiny by Labor and DHS when these agencies implemented new rules and procedures intended to improve program integrity and protect workers. For example, in FY 2011, Labor notified 63 percent of employers that their applications required changes or additional documentation to comply with its new rules, up sharply from previous years.

Percentage of Employer Applications Requiring Changes or Additional Documentation (FY 2006-2011)
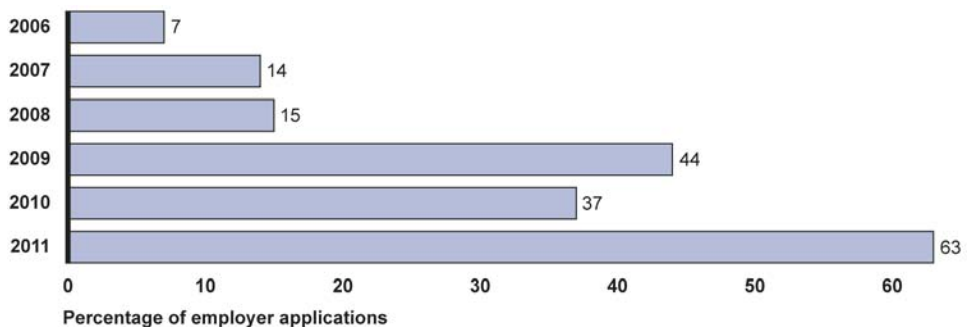
Source: GAO analysis of Department of Labor data.

Federal agencies are taking steps to improve the H-2A application process. Labor and DHS are developing new electronic application systems, but both agencies' systems have been delayed. Labor also recently began using e-mail to resolve issues with employers, and all three agencies provided more information to employers to clarify program requirements. Even with these efforts, some employers view Labor's decisions as inconsistent. For example, some employers received different decisions about issues such as whether they can require workers to have experience in farm work and questioned the methods states used to decide whether the job qualifications in their applications were acceptable. We found states used different methods to determine acceptable qualifications, which is allowed under Labor's guidance.

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United States Government Accountability Office