

HOTELS SAY THEY CAN'T FIND US-BORN WORKERS; STATISTICS SHOW THEY DON'T TRY HARD ENOUGH

The third in a three-part series.

**An NPG Forum Paper
by Edwin S. Rubenstein**

In this third and final entry to NPG's special series on the various businesses that continue to profit from ongoing illegal immigration we examine the hospitality industry. Recent headlines reveal some serious problems:

- A new hotel in Salt Lake City goes on a recruiting blitz for entry-level workers in order to staff-up. The number of applicants who respond: zero.
- A lodging group in Maine closes two of its inns because it simply can't find enough workers to keep the properties running.
- Several New York City hotels replace room service with food-delivery apps, citing staff shortages.

Guests are starting to notice the impact on everything, from longer lines and wait times at front desk check-ins to fewer food and beverage outlets. Industry executives are calling on the government to take action:

“We are at a critical moment for our industry,” says Chip Rogers, president and CEO of the American Hotel and Lodging Association (AHLA). For years Rogers and other hoteliers have called for **“immigration reform,”** noting that **“the domestic labor market alone cannot meet our workforce needs.”**¹

The US Labor Department recently estimated that the leisure and hospitality industry has roughly 1 million job openings, up from about 600,000 positions in 2015 and 350,000 in 2009.²

Immigrants make up 31% of the industry's workforce, although they make up just over 13% of the US population, according to the Deloitte Travel and Hospitality Outlook.³

But a shortage of qualified Americans? Really?

REALITY CHECK

Nearly 15 million Americans work in tourism and hospitality, according to US Labor Department estimates. This category is the fifth-largest industry in America, covering hotels, theme parks, and restaurants. **About 8 million are specifically in the hotel business.**⁴

But the AHLA says that 8 million is not enough. The hotel association wants to address the (alleged) labor shortage by making it easier for immigrants to work here.

The AHLA wants Congress to expand the H-2B visa program. Created in 1986 by the Immigration Reform and Control Act (IRCA), the visa is for foreign nationals **“...coming temporarily to the United States to perform other temporary services or labor, if unemployed persons capable of performing such services or labor cannot be found in this country.”**⁵

Many H-2B employees return year-after-year, supposedly providing **“critical staffing relief”** for small seasonal business and resort hotels.⁶

The number of H-2B visas issued is currently **“capped”** at 66,000 per year, but AHLA says it should be closer to 90,000 **“to meet demand.”** A few years ago, under pressure from liberal politicians like Maryland Governor Larry Hogan, federal lawmakers agreed to a temporary increase to 96,000.⁷

The H-2B visa program is controversial – and for good reason. Current visa rules make it easy for employers to **“game the system”** and bypass US-born workers willing and able to fill seasonal jobs:

VISA MYTH: Employers must pay their H-2Bs and American workers the same premium wage dictated by the Department of Labor (DOL).

FACT: DOL certification data shows that the H-2B program's prevailing wage rules allow, in the vast majority of cases, certification of temporary workers at wages well below state and national averages. (In landscaping jobs, H-2B wages undercut those of equally qualified US workers by nearly 25%.) **More outrageously, a federal appeals court found that the DOL allows some employers to present their own formulas for determining a prevailing wage rate - further exacerbating the wage disadvantage for American workers.**⁸

VISA MYTH: The Federal government deters exploitation of H-2B workers by imposing stiff financial penalties on employers who pay them less than the prevailing wage.

FACT: Financial penalties are trivial alongside the massive wage underpayment. In 2022, for example, Economic Policy Institute calculated nearly \$1.8 billion in total **"wage theft"** across seven industries heavily dependent on H-2B workers. Financial penalties totaled nearly \$115 million.⁹ These relatively light fines – amounting to just 6.4% of the reported wage theft – do not present much of a disincentive for bad behavior and they are simply written off as a cost of doing business.

VISA MYTH: Small hotels find complying with H-2B regulations particularly **"burdensome."**

FACT: While small hotels may be the face of hospitality industry lobbying efforts, they are by no means the only entities using the H-2B program. Mega-brands such as Hilton, Starwood, as well as Donald Trump's properties, are certified to hire H-2B workers directly each year. Any expansion of the visa program will benefit these major corporations, despite the fact that they can afford to set wages at a level sufficient to attract US workers.

VISA MYTH: The H-2B program requires potential employers to advertise job openings to American workers in advance. And they do...

FACT: But those help wanted ads are often placed in obscure newspapers hundreds of miles from the employer's local economy. Like a tree falling in the forest, they make no noise audible to unemployed – but qualified – Americans. **"Many employers discourage Americans from applying in the first place...They subject American workers to the most extreme, unreasonable, extraneous tests before they hire them. Tests they do not submit those foreign guest workers to because they can pay them lower wages. And when they are finally forced to hire an American worker because they face penalties from the Department of Labor if they don't, they try to make the conditions as bad as possible for them so they can fire them and then replace them with a foreigner."**¹⁰

VISA MYTH: The returning worker exemption is necessary because the H-2B program's 66,000 cap is not adequate to meet the needs of a growing economy.

Two points are worth mentioning here:

FACT #1: The fact that H-2B workers return year-after-year says more about the dismal job prospects and working conditions they face in their home countries than high labor standards in this country. In fact, the conditions many H-2Bs face here are not much better: **"They live in filth and squalor. They're charged exorbitant fees for their housing and their food. And their employers largely get away with it because they know these immigrant workers will not complain. They will not go to the authorities. They will not report it to the Department of Labor, because if they do, they go back to their home country."**¹¹

FACT #2: That 66,000 "cap" – although widely cited and accepted – is misleading. A plethora of visa extensions and exemptions inflate the actual number of H-2B visas that are available. In January 2024, for example, DHS announced it was **"...making available an additional 64,716 H-2B visas ...for fiscal year 2024, on top of the statutory cap of 66,000 visas that are available each fiscal year,"**¹² – i.e., nearly doubling the stated cap.

CAUSE AND EFFECT?

ILLEGAL BORDER CROSSINGS SURGE;

H-2B VISAS ISSUED PLUNGE

In June, July, and August of 2022 the State Department issued 33,370 H-2B visas; in the same three months of 2023, it granted 16,170 of them. That is a reduction of 51%.¹³

Why did the number of H-2B visas drop so dramatically? It's not because federal immigration officials suddenly sought to encourage US employers to hire qualified American job seekers rather than less expensive H-2Bs.

Au contraire: It's far more likely that asylum seekers surging across the SW border illegally found jobs with employers who had previously hired H-2B visa holders. Hotels are big users of the visa. Former President Donald Trump's Mar-a-Largo club and residence, for example, has employed H-2Bs for years.

The negative correlation between illegal border crossings and H-2B visa issuance may be one of the biggest immigration stories never told. To my knowledge, there is nothing in either government reports or the media about this trend. The silence could well be by design:

According to a report written by David North and

published by the Center for Immigration Studies: **“The data on [H-2B issuance] is nominally public, but must be pried out of 100+ page visa issuance datasets issued by the State Department...When the labor market is so loose that employers give up their access to a program offering [cheap, easily exploited] foreign workers, that should be news.”**¹⁴

A BLACK MARKET IN ILLEGAL HOTEL WORKERS

Many smaller resort hotels do not have sufficient staff to hire servers and cleaners themselves. They outsource the job to professional labor brokers who, for a fee, procure workers authorized to work in the United States and have their taxes withheld. The responsibility for filing the paperwork falls to the brokers.

At least that is the narrative surrounding what has become an all-too-common scam.

Case in point: two Key West labor brokers were convicted of providing about 100 illegal immigrants to Florida hotels and restaurants last year.¹⁵

Eka Samadashvili and David Pavliashvili are hardly the first labor brokers to send illegal workers to hotels and restaurants in the Florida Keys. And last August they were sentenced for the same fraud as other convicted brokers: they cut out the government entirely by not withholding federal income, Social Security, or Medicare taxes.

“The labor staffing companies entered into written contracts and verbal agreements with hotels, bars, and restaurants in Key West and elsewhere to provide labor staffing services,” Samadashvili’s guilty plea noted. **“These agreements helped (her) customers attempt to disclaim responsibility for ensuring that workers were legally authorized to work in the United States and that federal employment taxes were paid over to the IRS.”**¹⁶

“In fact, many of the labor staffing companies’ customers knew or had reason to believe that the workers they provided under those agreements were not authorized to work in the United States and that federal income and employment taxes were not being withheld and paid over to the IRS.”¹⁷

In addition to three years in prison, Samadashvili and Pavliashvili were ordered to pay the government a combined \$8.5 million for **“conspiring to harbor aliens and induce them to remain in the United States, conspiring to defraud the United States, and filing false federal tax returns.”**

They were caught providing 100 illegals to an industry that employs a total of 8 million workers nationwide. That may seem small, but it is one of

possibly hundreds of cases yet to be discovered.

Question #1: How many other hotel staffing companies are there in the country?

Our answer: More than you can imagine.

Question #2: What are their chances of getting caught?

Our answer: Less than you can imagine.

Question #3: How many federal tax dollars are stolen – undetected – by these companies?

Our answer: Don’t ask.

NO AMERICANS NEED APPLY

The 1986 immigration law – AKA the Reagan Amnesty – was the first bill to prohibit the **employment** of illegal immigrants. Much of the congressional debate leading up to its passage focused on whether immigrant workers in general would suffer because of the ban on hiring illegals.¹⁸

In fact, evidence gleaned from discrimination suits filed with the Equal Employment Opportunity Commission (EEOC) suggests that the problem is actually the other way around – i.e., immigrant workers end up being preferred by employers precisely because they are immigrants – and therefore cheaper and more easily abused than native-born workers.¹⁹

This statement is from a panel discussion organized by the Center for Immigration Studies in 2019:

“At a Hampton Inn in Colorado, three non-Hispanic white housekeepers were fired by the new general manager and replaced by Hispanics. The owners, Falgun Patel and Mukund Patel, told the general manager that they prefer maids be Hispanic because in their opinion Hispanics worked harder while American employees are lazy. The general manager allegedly told a Hispanic employee to recruit friends for the incoming vacancies because the owner preferred a Hispanic workforce. After three months, all the Hampton Inn’s non-Hispanic housekeepers were gone.”²⁰

The statement is from Jason Richwine, an independent policy analyst (and Harvard PhD.) based in Washington, D.C.

Richwine systematically studied 21 discrimination lawsuits filed with the EEOC – in industries ranging from agriculture, warehousing, trucking, and hotels. Trained as an economist, this is qualitative research, not quantitative, and a bit of a departure for him. But the patterns he perceives among disparate industries are strikingly similar.

Richwine acknowledges that EEOC's "evidence" consists of anecdotes rather than hard economic data, adding:

“But I would say that the frequency and the consistency of these anecdotes is rather telling, I mean to the point where you really have to be out of touch with reality to argue that there are no negative effects of immigration on native workers.”²¹

ALTERNATIVES TO PEOPLE?

NOT YET.

At the height of the COVID-19 pandemic, 70% of hotel staff in the United States were furloughed or laid off.²² The hiatus gave them time to reevaluate their career paths and work-life balance. Since then, these labor pools have **“...shed their concierge badges and room service trolleys for jobs that offer more flexibility and higher pay, such as retail, e-commerce, or warehousing.”**²³

Travelers are now returning to pre-pandemic levels, but AHLA says employment in the US hotel industry decreased by almost 400,000 jobs between February 2020 and August 2022, with more than 115,000 positions still unfilled. Housekeeping roles are singled out as being the most seriously understaffed.

Once stodgy hotels have been forced to become creative. Some have discontinued room service and replaced it with food-delivery apps like Door Dash. Others are going green with a vengeance, encouraging guests to reuse their sheets and towels, or forgo housekeeping services altogether.

The hospitality industry has explored using service robots, with mixed results:

“One notorious example came out not long ago at a hotel in Japan. The “Henn-Na” Hotel (which appropriately enough, means “strange”) acquired more than 200 robots, and programmed them to perform all manner of chores, from mixing drinks, delivering bags, and answering guest questions.”²⁴

The move backfired. The machines couldn't answer simple questions and some even woke guests up in the middle of the night by mistaking sounds like snoring for voice commands. Some robot luggage carriers were too slow or malfunctioned, leaving bags on the street.

And – at least to our knowledge – robots don't like making beds any more than humans do. Has that job ever been successfully performed by a machine?

“Advances in robot functionality are on their way,” says hotel industry consultant Joan Eisenstodt, **“but humans can't be replaced just yet. This is,**

above all, a hospitality business, and what's a hospitality business without people?”²⁵

MIXED MESSAGES AND MOTIVES

“It's no secret that hotels are notoriously low-paying employers for workers on the lower end of the scale, in roles like housekeeping and food service,” says Jonathan Howe, a senior and founding partner of Howe and Hutton, a Chicago law firm that specializes in hospitality matters.²⁶ **“Hotels pride themselves on being able to deliver consistent service, but a menial job in hospitality doesn't have the appeal that a higher-paid position might have elsewhere.”**²⁷

This is particularly true for resorts, where demand for workers can fluctuate wildly depending on the season. And some employers – knowingly or not – rely on illegal aliens. **“A lot of [companies] look the other way when people come in seeking employment,”** Howe says.

Employers are under pressure to use E-Verify, the voluntary federal program for checking the immigration status of new hires. Many hotels steer clear of the program, because if they learn their workers have presented false papers, they would be obligated to fire them.

How best to retain low-income immigrants? Eisenstodt suggests hotels go beyond programs designed specifically for foreign-born employees. Concrete steps might include providing English as a Second Language (ESL) courses that would give workers a path to more responsibility and higher wages.

Unfortunately, the H-2B visa is an obstacle. Among its unintended consequences is the fostering of linguistic enclaves, whose residents are unable (and often unwilling) to communicate in English.

SUMMARY

A disproportionately high share of unskilled hotel employees is not authorized to work in the US. Hotels are also among the most intensive users of H-2B temporary work visas – a program designed to close the gap between wages paid to unskilled immigrant workers and wages paid to their American counterparts.

Yet the wage gap persists, with immigrants consistently paid less than Americans. The gap reflects flaws in the H-2B visa program, as well as the ability of US employers to evade and ignore regulations in the program.

Labor Department wage data indicate that the H-2B program, despite its best intentions, constitutes a threat to American workers. Policymakers should continue to examine the H-2B visa and evaluate whether further expansion is truly merited.

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NOTE: The views expressed in this article are those of the author and do not necessarily represent the views of NPG, Inc.



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