



Immigrant Construction Workers in the United States

The National Immigration Forum would like to thank Mina Boukhris, policy intern, for her extensive contributions to this explainer.

Introduction

The construction industry will likely require over a half a [million](#) new workers in 2024 alone to meet development goals. Construction is one of the key United States industries that cannot satisfy their labor [needs](#) with native-born U.S. workers alone. To secure an immigrant labor flow to meet the needs of the U.S. in this industry, there must be stronger employment-based pathways to enter the country.

Construction Industry Demographics and Employment Misclassification

The construction industry is highly dependent on foreign-born labor, generally from South and Central America. Roughly [30 percent of workers](#) in the U.S. construction industry are immigrants. In some states, like California and Texas, the share of construction workers who are immigrants is 40 percent.

The construction industry's large share of immigrant labor, particularly undocumented immigrants, is important to acknowledge, because of this group's vulnerability to employment misclassification. [Misclassification](#) occurs when an employer may treat a worker who is an employee under the Fair Labor Standards Act as an independent contractor. The construction industry's high proportion of undocumented workers corresponds to an unusually high amount of misclassification of independent contractors - approximately [1.1 to 2.2 million](#) workers, or 10-19 percent of the industry's entire workforce. As a result, some construction workers are denied employee status and the protections attached to it. This includes, but is not limited to, health insurance, medical leave, workers compensation insurance coverage, safe workplace protections, and minimum wage. For instance, a University of California - Berkeley [study](#) shows how construction workers were three times more likely to lack health insurance than other workers.

Pathways to Enter the Country as a Construction Worker

The two most common pathways for immigrant construction workers to enter the country is through either an H-2B or EB-3 Visa.

- **H-2B Temporary Non-Agricultural Workers.** An [H-2B](#) Visa is available for employers in non-agriculture sectors who demonstrate a temporary shortage in staff that cannot be satisfied by citizen workers. Employers choosing to hire short-term immigrant labor using an H-2B Visa must pay for their visa application, travel expenses, and wages required by the Department of Labor. The H-2B Visa expires after nine-months, but those wishing to return to the United States can reapply after a three-month waiting period.
- **EB-3 Employment Based Immigration.** Employers can use an [EB-3](#) visa to hire foreign-born workers for permanent positions. This visa offers a pathway to long term

permanent residency and citizenship. Therefore, it can be an ideal option for both employers and employees alike.

Why These Pathways are Insufficient

There are several issues with the H-2B and EB-3 Visa process that make it difficult to meet the construction industry's labor shortage.

The main issue with the H-2B visa is that it has a [numerical cap](#) of 66,000 per fiscal year, with any additional visas requiring consent from Congress and the Executive branch. This leaves employers uncertain with how many immigrant workers they can hire, which hurts long term business planning and overall economic growth. In fiscal year 2018, the construction industry was only able to hire [5,756](#) H-2B workers, severely below market needs.

EB-3 Visas are unfortunately not much better. These usually take 1-3 years to process (compared to 5-8 months for an H-2B) and has a country quota system where no more than [7 percent](#) of approved EB-3 visas can go to any given country. Therefore, those living in countries that have a high demand for U.S. employment opportunities will likely experience a greater lag in their EB-3 processing times. For example, The July 2024 [Visa Bulletin](#) posted by the U.S. The Department of State shows that Indian nationals who applied for an EB-3 visa in June, 2012, are just now being processed.

Moreover, employers who wish to hire noncitizens within the EB-3 category, must obtain first a [PERM Labor Certification](#). The PERM labor certification requires employers to establish there are “no able, qualified, and available U.S. workers who are willing to accept the permanent job offer.” Then, employers must demonstrate that hiring the foreign worker “will not adversely affect the wages and working conditions of similarly employed U.S. workers.” On average, the labor certification takes [326 days](#), but if the application requires an audit, it can take up to [489 days](#). In addition, the labor certification process can be costly and complicated for many employers who cannot afford experts to oversee it.

To reiterate, the inadequacies of these employment-based visas incentivize unlawful immigration for both employees and employers.

How Can We Fix the System

There is no simple solution to fixing the problems with our employment visa system. For one, fixing the H-2B visa system would require either raising its cap to accommodate the demand for temporary workers, or to ensure Congress commits to a consistent number of additional visas each fiscal year. Congress could also make special exceptions for employment-based visas in industries facing labor shortages, like construction. Fixing the EB-3 visa system would require adjusting the quota system for countries that have more demand for U.S. work visas, namely [China and India](#), and providing the United States Citizenship and Immigration Services (USCIS) with needed resources to improve processing times.

Generally, immigration needs to be a greater priority for U.S. lawmakers, and the discussion must be driven by facts and empirical evidence.

Migrant Workers and Work-Related Injury Rates

Construction is already an extremely dangerous field. Of the 4,764 fatal work injuries recorded in 2020, the private construction industry accounted for [21.2 percent](#). Construction has a lower rate of nonfatal injuries and illnesses, making up less than [20 percent](#) of the total recorded in 2020. This discrepancy could be explained by a culture of underreporting in the industry, which is much easier to accomplish given its reliance on immigrant, temporary, and undocumented workers. The Occupational Safety and Health Administration (OSHA) identifies the four big construction [hazards](#) as falls, electrocution, getting stuck in something, and getting struck by something.

Moreover, some studies suggest that immigrant construction workers are up to [30 percent](#) more likely to suffer from work-related injuries than their native-born counterparts, and that [one in four](#) fatally injured immigrant workers come from the construction industry. This is often due to language barriers that prevent workers from having a comprehensive understanding of safety guidelines and how to properly handle dangerous equipment. A viable solution could be prioritizing diversity in construction management, which is overwhelmingly native-born, and does not have the linguistic or cultural knowledge to communicate with their employees. Diversity in management could be achieved through offering more long-term employment visas to construction workers and giving them the opportunity to excel past laborer status.

Besides language barriers, immigrant construction workers face work related injuries or illnesses at a disproportionate rate because they may be assigned more dangerous tasks, and do not have the ability to negotiate their workload. Additionally, undocumented workers often fear reporting safety violations to authority figures, and seeking medical attention when needed, due to their immigration status.

Baltimore Bridge Collapse

The recent Francis Scott Key Bridge collapse in Baltimore is an important example of how dangerous it is to be an immigrant construction worker.

There were [eight](#) people present during the bridge collapse at approximately 1:30 AM. All were foreign-born construction workers from Mexico, Honduras, Guatemala, and El Salvador, filling potholes before rush hour traffic began. After falling into the water, six of the eight workers died.

This demonstrates the sacrifices immigrant workers make to keep our country running, especially in some of the most dangerous and physically demanding industries. However, it often happens out of sight and without proper recognition from the public.

Pay Disparities

Native-born workers earn significantly more than foreign-born workers in the construction industry, with a national median weekly income of \$1,031, compared to [\\$786](#), respectively. These pay disparities are attributed to the fact that foreign-born workers in the construction industry are often undocumented and therefore may have less leverage to request higher pay, leading them to be paid less.

Conclusion

Migrant labor is indispensable to the construction industry, but because of narrow options for work authorization, almost a [quarter](#) of its workforce is undocumented. Improving our employment-based visa system is an important way we can satisfy the construction industry's labor shortage, and secure these workers rights.