

Summer labor's shifting landscape



WEST YARMOUTH -- 08/25/10 -- Pat Fraser, 39, from Jamaica, vacuums one of the guest rooms at the Bayside Hotel. Fraser is an H-2B worker and has been working at the Bayside Hotel through the H-2B program for 11 seasons. Her visa this time around is for 8 months.

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For the past decade, the Bayside Resort Hotel in West Yarmouth has depended on temporary, foreign workers to keep the business going in the busy summer season, said general manager Rod Sroczenski.

But, in 2008 and 2009, a strictly enforced cap on H-2B visas — the authorization that allowed his foreign employees to work in the U.S. — prevented his regular staff from returning to their jobs on Cape Cod and Sroczenski had to scramble to find help.

He tried to hire locals, but found that they were unwilling to work for entry-level pay. He brought in foreign workers from other parts of the country, who extended their visas when their previous jobs ended, only to discover that, tired and homesick, they simply didn't do a good job.

"They've been away for so long and are so frustrated that they can't go home and see their families," Sroczenski said.

"We've had terrible luck with the extension workers."

This summer, however, things turned around for the Bayside Resort Hotel, and the hundreds of other employers who have traditionally counted on H-2B workers to fill their summer staffing needs. A sagging economy and changes in the visa regulations have changed the seasonal employment equation, allowing Cape businesses to again bring in workers on H-2B visas.

"This year, the cap was not met, and we got four or five returning workers and two that were brand new to us," Sroczenski said. "It's just been a whole different world."

Traditionally, Cape businesses have employed between 5,000 and 6,000 workers on H-2B visas every summer.

Regulations allow 66,000 such visas to be issued each year; 33,000 in the first six months of the fiscal year and the rest in the last half of the fiscal year.

For several years, Congress passed legislation loosening that cap by allowing those who had worked in the country on an H-2B in the previous three years to return without counting towards the cap.

That provision, however, expired at the end of September 2007 and has not been renewed.

As a result, Cape employers have been locked out of the H-2B process for the past two years. Employers can not begin the visa application process until 120 days before the worker will be needed; by the time Cape businesses were allowed to submit their paperwork, the visas had all been claimed.

In 2008, the cap for the second half of the fiscal year was reached on Jan. 2, when many Cape businesses were just starting to think about beginning the application process.

This year, however, the cap has not been reached. According to statistics from U.S. Citizenship and Immigration Services, as of August 13, just 29,178 H-2B visas had been approved for the second half of fiscal 2010, which started on April 1.

Three main factors explain the change, said locals familiar with the visa process.

First is the economy.

"The unemployment rate for kids coming out of colleges was so drastic that those kids decided that they needed jobs," said William Zammer, who has traditionally employed more than 100 H-2B workers at the Coonamessett Inn and Flying Bridge Restaurant in Falmouth and Tugboats Restaurant in Hyannis each summer.

This summer, after two years of frustration, Zammer was able to bring back some of the loyal Jamaican employees who have worked for him for years, but had been stuck at home because of the visa crunch.

Despite complaints that foreign workers take jobs from Americans, however, employers would almost always prefer to hire locals rather than going through the expense and complex paperwork involved in qualifying for H-2B visas, said Matthew Lee, an immigration lawyer with Tocci, Goss and Lee in Centerville.

"Why would employer got through it all, when it they could they would hire locally?" he said. "Once the local workers became available again, they started using them again."

The uncertain economy also meant that some seasonal businesses were hiring fewer people, said Wendy Northcross, CEO of the Cape Cod Chamber of Commerce.

"People are not just ramped up to the same degree as before the recession," she said.

Also keeping down demand for H-2B visas are recent regulatory changes that make visa application paperwork much more complicated, Lee said.

"The H-2B process has become so complex that a lot of employers aren't even attempting to do it," he said. "Mom-and-pop shops can't do it on their own."

And hiring a lawyer, he said, is expensive enough that it may discourage these small businesses from pursuing H-2B workers at all.

Another regulatory change that has influenced visa applications this year is a rule intended to curtail the activities of so-called "job shops," agencies that would snap up hundreds of visas to bring workers into the country without necessarily having specific jobs for them.

"I think that the cap has not been reached because new regulations stop big agencies from bringing in large numbers and not using them correctly," said Jane Nichols-Bishop, owner of Peak Season Workforce in West Dennis, which helps local businesses find foreign workers and complete the visa application process.

These changed circumstances, however, do not necessarily mean that Cape Cod's summer staffing woes are over.

At the Corsair and Cross Rip Oceanfront Resorts in Dennisport, owner Mark Downey said that he was not approved for all of the H-2B workers he needed. Two of his applications were denied because local workers expressed interest in the positions; Downey didn't get the visas, but the American applicants never showed up for the jobs, he said.

"For the positions we have like cleaning toilets and scrubbing floors," he said, "we don't have people waiting in line for that."

And when the economy improves and unemployment falls, demand for H-2B visas is likely to surge again, Downey said.

"The numbers will be gone again at some time in the future when the economy is better," he said.

Many are hoping for reforms to either the H-2B program or national immigration policy that will ease these staffing problems in a more sustainable manner.

"At the end of the day," said Lee, "I think everyone's holding their breath for a large immigration reform that will have some type of worker visa."