

IMMIGRATION

How outdated visa policies drive illegal immigration

Unskilled worker visas are out of reach for most immigrants looking to fill U.S. jobs



by Kristian Hernández

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Luis Alfredo Galindo, 51, of Madison, Wisconsin, immigrated in 2021 to the U.S. from Colombia, where he worked as a music professor and mariachi. Galindo qualified for an EB3-Other visa that doesn't have education or skill requirements. (Courtesy of Luis Alfredo Galindo.)

Reading Time: 4 minutes

Luis Alfredo Galindo, a music professor and mariachi from Bogota, Colombia, began looking for ways to immigrate legally to the U.S. in 2019 and find a safe place for his wife and two kids away from the violence of his home country.

He talked to attorneys and scoured the internet, but he couldn't find any viable options. He'd almost given up when one of his bandmates told him about a recruiter specializing in employment-based visas for unskilled shortage workers, also known as EB3 other visas.

Badger Bus Lines Inc., of Madison, Wisconsin, was looking to sponsor foreign workers and the recruiter linked the company with Galindo. It cost more than \$22,000 and took more than two years for Galindo and his family to go through the process.

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“It was not easy but I’m glad we waited,” said Galindo, 51. “It was practically the same money as coming here illegally, but you arrive with all the legal documents to start a life the right way in this country.”

U.S. companies sponsored a record number of unskilled foreign workers like Galindo this past year, but experts and industry leaders say outdated caps, high costs and long wait times push most migrants looking to fill underpaid, physically demanding jobs to immigrate to the U.S. illegally. Despite the increase, many companies in desperate need of workers are still hesitant or unable to participate in these types of visa programs.

Brian Turmail, spokesman for the Associated General Contractors of America, says visa applications for construction workers are often denied even after companies show the Department of Labor that they advertised a position in a local newspaper for at least 90 days without success.

“We are not allowing enough people to enter the country legally to fill these jobs,” Turmail said. “So what happens, we get a lot of workers who are undocumented.”

And this puts undocumented workers in an easier position to be exploited and creates an unfair competitive situation that hurts companies with a legal workforce, he said.

The employment-based visa program — created by Congress under the Immigration Act of 1990 — has three main categories, each with a 40,000-worker yearly limit.

The first two are for people with extraordinary qualifications or skills, generally workers with advanced degrees such as software engineers, physicians and veterinarians. The third category is for people in high-demand occupations with at least a bachelor’s degree such as teachers. The U.S. grants about 10,000 “EB3 other” visas that don’t have an educational requirement.

There were nearly 8,900 EB3 other visas issued in fiscal year 2022. That’s more than double the number issued the previous year and more than any prior year since at least 2016, U.S. State Department data show. The agency attributed some of the increase in EB3 and all other visas to pandemic-related office closures that delayed processing on applications put in before 2022, a spokesperson wrote in an email.

EB3-Other Visas Issued by Fiscal Year

The number of unskilled immigrant worker visas issued has increased in the past decade but continues to fall short of demand, according to experts and industry leaders.

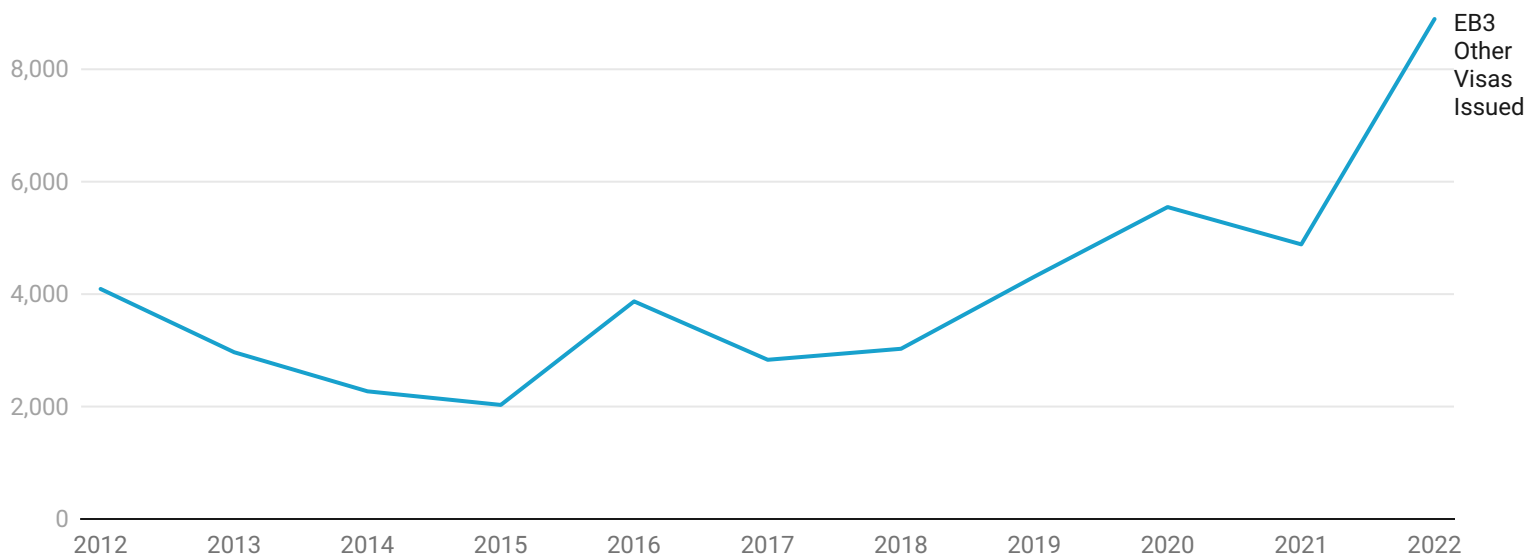


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Department of Labor data show meatpackers, landscapers and housekeepers had the most unskilled permanent visas issued in 2022. These jobs have always been at the top of the foreign worker visa program. But some of the recent growth is also driven by nurses, home health aides and restaurant workers, occupations that were not as prominent in previous years.

William Kandel, an immigration policy analyst for the Congressional Research Service, a bipartisan public policy research institute that works for the U.S. Congress, said he attributes the increased demand for foreign workers to the pandemic.

“COVID has had a big impact on the willingness of U.S. workers to accept lower-skilled, low-paid jobs,” Kandel said. “And with jobs already having long-standing labor shortages, like nursing and healthcare, it just worsened things.”

Top Sponsored Jobs for Unskilled Immigrants

These are the top jobs for which U.S. employers submitted foreign labor applications for unskilled immigrant workers in fiscal year 2022.

Landscaper	1,261
Warehouse Packager	1,159
Food Service Worker	1,141
Production Worker	827
Meat Packer	682
Housekeeper	675
Janitor	543
Nursing Assistant	446
Home Health Aide	327
Farm Worker	261
Construction Worker	194

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Kandel said the demand for EB3 visas surpassed the supply for nearly two decades. But the number of EB3 visas issued has not reached the 10,000 cap because there is an additional annual cap of 7% per country.

In China, for example, foreign workers looking to fill unskilled entry-level jobs in the U.S. must wait more than 10 years to receive an EB3 visa. In comparison, the current wait time for a worker like Galindo, the mariachi from Colombia, is about two years.

These limits have not changed since 1990, when Congress created employment-based visas, which increased legal limits on immigration and created a diversity lottery.

“What we're seeing are the strains of dealing with immigration limitations on an economy that has since doubled in size,” Kandel said. “When people can't use legal means, they use illegal means.”

Manuel Lievano, co-founder of MCC USA, a foreign worker recruiting company based in Miami, Florida, said one of the biggest problems with finding foreign workers to fill low-paid, so-called unskilled entry-level jobs in the U.S. is that these jobs actually require a high level of skill and training.

An entry-level worker at a factory or in construction requires months of training before being productive, Lievano said. For many employers, this rules out temporary visas such as the H2A and H2B: By the time a sponsored worker gains the skills necessary to do the job, they have to return to their home country.

The EB3 visa is one of the only choices for employers looking to fill these “unskilled” jobs that require lots of training with permanent workers, Lievano said. But the biggest problem is the cost.

Foreign workers pay an average of \$16,000 in attorney fees, paperwork, travel and consulting for one of these visas. American companies looking to hire meat packers, poultry and construction workers offer yearly salaries ranging from \$20,000 to \$30,000.

“Financially, it’s not doable,” Lievano said. “Especially for the type of workers that are willing to take these types of jobs, who are usually poor, uneducated people.”

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He said thousands of people from all over the world call his company every month looking to fill the jobs they advertise on their website, but the vast majority never follow through. Those who do are usually professionals who apply for these permanent visas just to obtain permanent residence but would rather work less physically demanding jobs that pay more.

Lievano recruited Galindo, the mariachi singer, in 2019. But he didn't receive a EB3 visa until 2021, along with a Social Security number and a work permit. Today, Galindo is a school bus driver in Madison, Wisconsin, and is currently attending school to obtain a real estate license. His wife teaches at a local school district. Their son recently got his GED certificate.

Galindo had some English language skills and a college education before arriving in the U.S., but he said the process to obtain an EB3 visa was too cumbersome and costly.

“In the U.S., \$20,000 is a lot of money, but in Latin America, this is someone’s life savings,” Galindo said. “Whether it’s legal or not, immigrants put everything on the line when they come to the U.S. It’s not an easy decision to leave it all behind and start again from nothing.”

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