

H-2B ABUSE BY CONSTRUCTION AND LANDSCAPING COMPANIES

BrightView Landscapes LLC

Number of Certified H-2B Visas in FY 2016-2018: 5,964

Number of Certified H-2B Visas in FY 2019: 3,485 (Landscaping and Groundskeeping Workers)

Headquarters: Plymouth Meeting, Pennsylvania; has locations in 30 states: Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, California

District Representative: Madeleine Dean (D-PA-04); Jamie Raskin (D-MD-08)

BrightView Landscapes LLC was formed after a merger in 2014 between The Brickman Group LTD and ValleyCrest Landscaping companies, both of which had violated labor laws prior to the merger. It began operating as BrightView in 2015.

The company and its predecessors have consistently been among the top ten H-2B employers since 2014. BrightView received the most H-2B visas of any company in FY 2018 and FY 2019. They have a history of abusing both American workers, wage and hour laws, and the H-2B program.

- In October 2017, a judge in Pennsylvania ordered BrightView to pay over \$4.77 million to workers for violations of the Fair Labor Standards Act. The Brickman Group paid a salary, but only received fluctuating workweek type half-time overtime pay for hours worked over 40 hours in a workweek (meaning at a rate that decreased with each overtime hour worked, rather than at time-and-a-half their hourly rate).
- In 2010, ValleyCrest was charged for hiring discrimination against U.S. citizens and other work-authorized domestic workers at its locations in Virginia in Rep. Jennifer Wexton's district (D-VA-10). ValleyCrest was ordered by DOJ to pay \$11,173 in back pay to a U.S. citizen who applied for but was not given a job.
- In 2008, a lawsuit filed in Pennsylvania alleged Brickman's recruitment practices led to H-2B applicants' pay falling below the federal minimum wage. Brickman required workers to apply through designated recruiters in each country. The recruiters charged applicants fees between \$50 and \$155 plus transportation costs, visa costs, etc. After subtracting these additional costs, the workers' wages fell below all federal, legal minimums. The case was ultimately settled.
- BrightView has incurred fines for several serious OSHA violations between 2016 and 2018, including regulations on control of hazardous energy and mounted elevating and rotating work platforms.

Progressive Solutions, LLC

Number of Certified H-2B Visas in FY 2016-2018: 3,980

Number of Certified H-2B Visas in FY 2019: 940 (Landscaping and Groundskeeping Workers; First-Line Supervisors of Landscaping, Lawn)

Headquarters: Marshall, Arkansas; has locations across the East Coast, South, and Midwest

District Representative: Rick Crawford (R-AR-01)

Progressive Solutions is a vegetation management company based in Arkansas. In 2013 it received \$7,800 in penalties for undisclosed OSHA violations. In 2015 OSHA found an unspecified safety violation at the company's Finley, Kentucky location.

Genuine Builders

Number of Certified H-2B Visas in FY 2016-2018: 1,643

Number of Certified H-2B Visas in FY 2019: 326 (Construction Laborers)

Headquarters: Arlington, South Dakota

District Representative: Dusty Johnson (R-SD-At Large); has done work in Nebraska, Minnesota, South Dakota, Idaho, Wisconsin, North Dakota, Indiana, Iowa, Kansas, Montana, Illinois, Washington, Colorado

Genuine Builders is a concrete contractor which does work across the Great Lakes region. It has a long history of abusing the H-2B program, and was the top H-2B employer in any industry in FY 2016. Genuine Builders frequently cut corners.

- In March 2006, the DOL fined Genuine Builders after a 16-year-old was killed on a Genuine Builders jobsite by a skid loader.
- In 2013, Genuine Builders was required by DOL to pay over \$180,000 for violations of the Fair Labor Standards Act and H-2B program violations in a case involving 132 workers. The company was fined \$41,648 and was required to pay \$146,642.58 in back wages for violations of overtime laws (\$63,130.22) and H-2B rules (\$83,512.36).
- In 2013 it was fined by OSHA for serious safety violations in Rep. Adrian Smith's district (R-NE-03).
- In 2013-2018, the IRS filed federal tax liens against the company and its owner totaling nearly \$2.5 million.
- In 2015, the Fair Contracting Foundation of Minnesota filed a complaint citing evidence that Genuine Builders was violating H-2B rules by using workers originally approved to work in South Dakota for an Archer Daniels Midland project in Glencoe, Minnesota, in Rep. Collin Peterson's district (R-MN-07).

- Beginning in 2015, Genuine Builders' trucks were cited by the Federal Motor Carrier Safety Administration for 2 violations, including insufficient tiedowns to prevent forward movement for load not blocked by headerboard, bulkhead, or other cargo, as well as record of duty status violation.
- In 2016, a LIUNA organizer visited the addresses of several jobsites listed by Genuine Builders in its H-2B applications. In Arlington, South Dakota, the office did not appear to be a construction outfit that could have the number of employees claimed. Another application listed an office for Falls Flatwork LLC in Sioux Falls and requested 30 workers. There was no sign of a Falls Flatwork at that site; the tenant in the address listed was a company called Unique Swine Marketing Inc.
- Genuine Builders also avoids hiring local workers. It applied for 30 H-2B concrete laborers in 2016 for a jobsite in Rep. Steve King's district (R-IA-04) in Sergeant Bluff, Iowa. The address to apply turned out to be an empty trailer in a cornfield. There appeared to be no work going on at the proposed worksite, which turned out to be a building housing Missouri Valley Steel Co.

Despite multiple findings of violation against the law, Genuine Builders continues to receive H-2B visas.

Triple H Services LLC

Number of Certified H-2B Visas in FY 2016-2018: 1,631

Number of Certified H-2B Visas in FY 2019: 939 (Landscaping and Groundskeeping Workers)

Headquarters: Newland, North Carolina

District Representative: Virginia Foxx (R-NC-05)

Triple H is a landscaping company which does business in Virginia, North Carolina, South Carolina, Kentucky, and Tennessee. The Department of Justice has found that the company has consistently violated the law by avoiding hiring U.S. workers.

- In 2018 DOJ found that the company used misleading tactics to prevent or deter U.S. workers from applying to over 450 job vacancies across five states. Triple H did not consider several qualified U.S. applicants who applied in Virginia.
- DOJ also found that the company prematurely closed the online job application process, filled positions with H-2B workers without advertising the jobs in relevant locations, and did not make its online advertisements visible to job seekers on state workforce agency online services.
- Triple H was ordered to pay up to \$85,000 in back pay and fined \$15,600 in civil penalties. It is also required to engage in "enhanced recruitment activities" before using H-2B, and is subject to DOJ monitoring for three years.

LandCare USA, LLC

Number of Certified H-2B Visas in FY 2016-2018: 1,372

Number of Certified H-2B Visas in FY 2019: 428 (Landscaping and Groundskeeping Workers)

Headquarters: Frederick, Maryland

District Representative: David Trone (D-MD-06)

LandCare USA is a landscaping company that does business nationwide.

- In 2017, LandCare's Austin, Texas location based in Rep. Michael McCaul's district (R-TX-10) entered into a conciliation agreement with the Office of Federal Contractor Compliance (OFCCP) for discriminating against females and non-Hispanic applicants in its Laborer job group. LandCare agreed to pay \$100,000 in back pay to 361 affected class members and to offer employment to 45 eligible class members.
- Also in 2017, the company's Las Vegas, Nevada location based in Rep. Dina Titus' district (D-01-NV) entered into a separate conciliation agreement with OFCCP for discrimination against non-Hispanic applicants for a Laborer Non-Driver position. It agreed to pay \$161, 899 in back pay and offer employment to eligible class members.

Rotolo Consultants, Inc.

Number of Certified H-2B Visas in FY 2016-2018: 1,120

Number of Certified H-2B Visas in FY 2019: 692

Headquarters: Slidell, Louisiana

District Representative: Steve Scalise (R-LA-01)

Rotolo Consultants does design, construction, and maintenance landscaping for commercial and residential clients. In 2011, the company was fined by OSHA for failing to meet excavation requirements as well as requirements for protective equipment.

Kehrer Brothers Construction

Number of Certified H-2B Visas in FY 2016-2018: 180 (Roofers)

Number of Certified H-2B Visas in FY 2019: 35

Headquarters: Albers, Illinois

District Representative: John Shimkus (R-IL-15)

Kehrer Brothers is a construction company based in Albers, Illinois. Following an OSHA investigation, the company and its owner were cited in 2015 for 16 egregious, nine willful, and six serious violations. It had an extensive prior history with OSHA and had been inspected 11 times from 2007-2015.

- Kehrer Brothers was fined nearly \$1.8 million for “willfully exposing” workers, many of whom came through H-2B, to remove asbestos without safety gear.
- The company violated the law by failing to warn employees, some of whom spoke only Spanish, of the danger, and the owner threatened to fire them if they spoke with investigators.
- The company failed to train these employees to work around asbestos and failed to ensure that workers used appropriate methods to minimize exposure. They also failed to provide basic protective equipment such as hard hats, eyewear, and protective clothing.

As of FY 2018, Kehrer Brothers continues to receive H-2B certifications.

Mulford Concrete, Inc.

Number of Certified H-2B Visas in FY 2016-2018: 105 (Construction Laborers)

Number of Certified H-2B Visas in FY 2019: 0

Headquarters: Hampton, Iowa

District Representative: Steve King (R-IA-04)

A LIUNA organizer filed an affidavit in 2017 detailing observations and communications with Mulford Concrete workers at the POET biorefinery in Marion, Ohio, part of Rep. Jim Jordan’s district (R-OH-04). Approximately 20 or more H-2B workers worked at the plant. Mulford workers were being trafficked from Iowa to the plant by van. Mulford Concrete only had one active H-2B application for 30 workers who were limited to the state of Iowa.

Metropolitan Concrete Corp.

Number of Certified H-2B Visas in FY 2016-2018: 55

Number of Certified H-2B Visas in FY 2019: 15 (Cement Masons and Concrete Finishers; Landscaping and Groundskeeping Workers [in 2018])

Headquarters: Sterling Heights, MI

District Representative: Paul Mitchell (R-MI-10)

Michigan-based Metropolitan Concrete Corp. is a concrete contractor that does commercial and residential business.

- In 2018 it was ordered by DOL to pay \$73,647 in back wages to 15 H-2B employees improperly classified as landscapers who actually worked as cement masons and concrete finishers, meaning that the company was able to pay the workers a lower prevailing wage rate in violation of the law. The misleading classification may have resulted in fewer U.S. workers applying for the advertised job.
- The company violated the law by failing to comply with basic requirements such as paying transportation costs and providing equipment needed to perform job duties, and were found by DOL to have illegally deducted workers' pay for housing expenses.

The company was still certified for 15 H-2B positions for FY 2018, this time for workers under the Cement Masons and Concrete Finishers occupation title.

Greenscape Land Design, Inc.

Number of Certified H-2B Visas in FY 2016-2018: 23

Number of Certified H-2B Visas in FY 2019: 12 (Segmental Pavers for landscape maintenance)

Headquarters: Raynham, Massachusetts, with branches in Taunton, MA, Bellingham, MA, Nashua, NH, Alexandria, VA, and Brookfield, CT.

District Representative: Joseph P. Kennedy III (D-MA-04); Ann Kuster (D-NH-02); Don Beyer (D-VA-08); Jahana Hayes (D-CT-05)

Greenscape is a landscaping company that does design, installation, and maintenance for commercial and residential customers. It has a reported total of 100 employees. In FY 2018, it received 45 H-2B visa certifications.

- In 2016, the Massachusetts Laborers' Benefit Funds filed a lawsuit alleging ERISA violations and of violating the collective bargaining agreement by failing to pay contributions, interest, and dues on behalf of employees who performed work under the CBA.

Milcon Commercial Concrete, Inc.

Number of Certified H-2B Visas in FY 2016-2018: 10 (Landscaping and Groundskeeping Workers)

Number of Certified H-2B Visas in FY 2019: 0

Headquarters: Troy, Ohio

District Representative: Warren Davidson (R-OH-08); H-2B job site in Miamisburg, Ohio is located at the border of districts represented by Steve Chabot (R-OH-01) and Mike Turner (R-OH-10)

Milcon Commercial Concrete is a commercial contractor that performs concrete and excavation-related services. There is question that it improperly classified available jobs in its H-2B applications.

- The company applied and received certification for ten H-2B workers for FY 2018. The job called for landscape laborers to perform duties such as mowing lawns, blowing leaves, and hauling and spreading topsoil and mulch. The job description said nothing about concrete or construction work, which would necessitate a different occupation classification and potentially a different prevailing wage.
- In an affidavit, a rental housing landlord with multiple properties in Montgomery County, Ohio stated that he called Milcon to procure landscaping services, but was informed by a representative that they only do concrete and carpentry work. He stated that he was told he had called the wrong company for the types of services he was seeking.

Gire Roofing, Inc. / Grayson Enterprises, Inc.

Number of Certified H-2B Visas in FY 2016-2018: None; received 71 in FY 2014 (Roofers)

Number of Certified H-2B Visas in FY 2019: 0

Headquarters: Champaign, Illinois

District Representative: Rodney Davis (R-IL-13)

In 2018 the owner of the Illinois-based company Gire Roofing, Inc. and its corporate parent Grayson Enterprises, Inc. was found guilty of multiple counts of visa fraud after a federal trial.

- Grayson Enterprises, Inc. obtained 71 certified H-2B visas for roofing laborer positions in FY 2014.
- From 2011 to 2014, the owner submitted four petitions to DHS requesting H-2B workers. Attached to the petitions were multiple fraudulent contracts meant to justify the number of workers requested. Witnesses testified at trial that customers never agreed to the contracts and that the contracts forged their signatures.
- The court also found that the owner knowingly employed three undocumented immigrants while paying them less than the prevailing wage.

Green Meadows Lawnscape Inc.

Number of Certified H-2B Visas in FY 2016-2018: 154

Number of Certified H-2B Visas in FY 2019: 60 (Landscaping and Groundskeeping Workers)

Headquarters: Rochester Hills, Michigan

District Representative: Elissa Slotkin (D-MI-08)

In 2019 Green Meadows Lawnscape Inc. (operating as Green Meadows Turf & Tree Inc.) paid \$130,325 to 50 employees for violating the H-2B program.

- DOL found that the company violated the law by paying a flat day rate to H-2B employees for hours worked on Saturday and Sunday. This resulted in workers receiving less than the prevailing wage.
 - The company also made illegal payroll deductions for visa and transportation expenses.
-

Cardinal Lawn and Landscape, Inc.

Number of Certified H-2B Visas in FY 2016-2018: 61

Number of Certified H-2B Visas in FY 2019: 7 (Landscaping and Groundskeeping Workers)

Headquarters: High Ridge, Missouri

District Representative: Blaine Luetkemeyer (R-MO-03)

In 2019 the Missouri-based company Cardinal Lawn and Landscape, Inc. was found to have submitted fraudulent claims and statements in their H-2B applications from January 2012 to December 2017. The company then illegally trafficked foreign workers to other employers during that timeframe. It was found to have trafficked 74 H-2B workers to seven companies.

C.S. Lawn & Landscape Inc.

Number of Certified H-2B Visas in FY 2016-2018: 86

Number of Certified H-2B Visas in FY 2019: 25 (Landscaping and Groundskeeping Workers)

Headquarters: Stevensville, Maryland

District Representative: Andy Harris (R-MD-01)

In 2019 the Maryland landscaping company C.S. Lawn & Landscape was ordered to pay back wages and fines for H-2B violations totaling \$59,083.20. DOL informed the company in February 2018 that it had violated provisions of the H-2B program from 2013 to 2015.

- The company was found to have illegally paid disparate wages between foreign and U.S. workers, and it had failed to make enough effort to find U.S. workers. The company's job advertisements did not stipulate that U.S. employees could earn higher wages during the landscaping season.
 - C.S. Lawn & Landscape was also found to have misrepresented the amount of workers needed, and it made illegal wage deductions to pay for transportation, uniforms, and housing in violation of H-2B law.
-

Twin Pines Landscaping Inc.

Number of Certified H-2B Visas in FY 2016-2018: 45

Number of Certified H-2B Visas in FY 2019: 20 (Landscaping and Groundskeeping Workers)

Headquarters: Troy, Michigan

District Representative: Haley Stevens (D-MI-11)

Michigan-based landscaping company Twin Pines Landscaping was ordered in 2019 to pay \$97,286 in back wages to 15 workers and \$48,241 in penalties for violating the H-2B program.

- A DOL investigation found that the company violated the law by failing to pay overtime and the prevailing wage, and it had illegally failed to provide accurate earning statements.
 - The company also violated the H-2B program by offering more favorable employment terms to foreign workers than U.S. workers by offering foreign employees free housing, something which was not advertised in the job order.
-

DFW Framing & Construction Inc.

Number of Certified H-2B Visas in FY 2016-2018: 50 (Helpers—Carpenters)

Number of Certified H-2B Visas in FY 2019: 0

Headquarters: McKinney, Texas

District Representative: Van Taylor (R-TX-03)

In 2019 DOL denied a request from DFW Framing & Construction to hire 25 H-2B workers to serve as carpentry assistants. It found that the company hadn't shown it needed workers to supplement its permanent workforce as opposed to replacing it. DOL also denied a separate application for 30 workers. The company's request for 25 workers had been approved in FY 2017 and FY 2018.

Gonzalez Rebar LLC

Number of Certified H-2B Visas in FY 2016-2018: 55 (Construction Laborers; Reinforcing Iron and Rebar Workers)

Number of Certified H-2B Visas in FY 2019: 30

Headquarters: Lake Village, Arkansas

District Representative: Rick Crawford (R-AR-01)

In 2019 the Arkansas construction company Gonzalez Rebar LLC was fined \$20,312 in civil money penalties to settle H-2B violations.

- DOL found that the company illegally offered more favorable terms of employment to H-2B workers, including free transportation, free housing, and a range of pay rates that were not offered to U.S. workers.
- The company also violated the program by failing to post and maintain a notice that details the rights and protections for both H-2B and U.S. workers.

Dagel Steel Construction

Number of Certified H-2B Visas in FY 2016-2018: 80 (Construction Laborers; Structural Iron and Steel Workers)

Number of Certified H-2B Visas in FY 2019: 0

Headquarters: Florence, South Dakota

District Representative: Dusty Johnson (R-SD-At Large)

In October 2019 DOL reached a settlement with South Dakota construction company Dagel Steel Construction which debarred the company from participating in the H visa programs for five years. As part of the settlement, the company was ordered to pay \$69,951 in back wages to 16 H-2B workers, as well as \$30,049 in civil penalties.

Dagel Steel Construction was found to have committed a litany of violations:

- It paid workers less than the required wage rate and failed to notify federal agencies of early separation of H-2B workers. It also took illegal deductions from workers' wages.
- It illegally trafficked H-2B workers to work in locations outside of the certified job location in South Dakota, and H-2B workers were assigned job duties outside of the job description.
- It failed to pay workers' transportation costs, housing costs, and visa costs as required, and failed to post the required H-2B poster.
- It lied about the number of workers and period of need, and it failed to comply with FLSA recordkeeping requirements.

Silvis Group Inc.

Number of Certified H-2B Visas in FY 2016-2018: 120 (Landscaping and Groundskeeping Workers)

Number of Certified H-2B Visas in FY 2019: 40

Headquarters: Mount Pleasant, Pennsylvania

District Representative: Guy Reschenthaler (R-PA-14)

In December 2019 DOL ordered landscaping company Silvis Group Inc. to pay \$74,290 in back wages and penalties for H-2B violations. It was also ordered to pay \$45,068 in penalties for what DOL called “substantial and willful failure to comply with H-2B provisions.” It actively worked to hinder the investigation by DOL’s Wage and Hour Division, which discovered a number of violations.

Despite this, the company was not barred from future use of the H-2B program. DOL said that, in addition to the penalties, Silvis Group agreed to future compliance with H-2B provisions as well as three years of monitoring by an independent third party.

Silvis Group committed numerous violations in the time between January 17, 2015 and January 7, 2017:

- The company denied employment to two US qualified applicants and was ordered to pay \$8,414 in back wages.
- It failed to pay overtime at the correct rate and illegally excluding bonus payments from the calculation. It was ordered to pay \$4,457 in back wages to 30 H-2B workers from Mexico.
- The company made illegal deductions to pay for uniforms and housing found to be in poor condition, and was ordered to pay an additional \$16,350 in back wages.
- It misrepresented in its application the dates and the number of workers needed, and it failed to contractually forbid third parties from seeking payment from employees.