

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20528

The Honorable R. Alexander Acosta
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20510

Dear Secretary Nielsen and Secretary Acosta:

We are writing on behalf of seasonal employers in our states to urge you to allocate additional visas pursuant to the authority provided to you through the FY 2018 Omnibus Appropriations Act. The 15,000 visas released by the Departments on May 31 are inadequate to meet the bona fide labor needs of seasonal employers, as evidenced by the fact that the number of petitions for these supplemental visas far exceeded 15,000. The economic fate of seasonal businesses and their U.S. workforce hangs in the balance.

Under Division M – Title II Section 205 of the FY 2018 Omnibus Appropriations Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, may approve petitions for admission under the H-2B Nonimmigrant Temporary Worker program up to the new statutory level set in the bill for this fiscal year.

The additional 15,000 visas have not met the demonstrated labor needs of seasonal businesses this year. Since the beginning of the fiscal year, the Department of Labor (DOL) has certified petitions for over 142,000 H-2B workers, including nearly 90,000 positions for workers beginning on April 1. DOL only issues final labor certification when it concludes that:

- There are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and that
- The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

DOL's final certifications clearly demonstrate, as required by the FY 2018 Omnibus Appropriations Act, that there are not a sufficient number of U.S. workers who are willing, qualified and able to fill the nearly 90,000 positions so desperately needed by seasonal employers. For virtually every employer petition for which DOL has certified the insufficiency of US workers, the failure to issue additional visas will cause irreparable harm to the business submitting the petition and its American workers. We, therefore, urge the Department of Homeland Security (DHS) to immediately resume processing additional H-2B visa petitions to meet the full demand of our small and seasonal businesses. As forms and procedures are already in place, we believe that no additional rulemaking is required for DHS to authorize these additional visas.

The lack of H-2B workers jeopardizes the survival of small and seasonal businesses and puts their American workers at risk of losing their jobs. We continue to hear daily from employers in our districts about business losses, harmful impacts to U.S. workers, and in some cases about the need to close their operations entirely due to the lack of workers.

The H-2B program relies on well-vetted returning workers who come to the U.S. for seasonal employment and then go home. These workers are not immigrants. They provide an opportunity for U.S. businesses to operate at a greater capacity that meets the demand for their services, retain their full-time workers and contribute to their local economies. Seasonal workers help support many upstream and downstream jobs. Every H-2B worker is estimated to create and sustain 4.64 American jobs.

Relief for seasonal businesses that use the H-2B program is desperately needed. We urge you to immediately resume processing H-2B visa petitions up to the full number of H-2B visas authorized by the Fiscal 2018 Omnibus Appropriations Act.