

**Congress of the United States**  
Washington, DC 20515

June 7, 2017

The Honorable Alexander Acosta  
Secretary of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Secretary Acosta,

America's agricultural employers are faced with numerous challenges as it relates to finding a legal, experienced workforce. Many growers rely on the H-2A temporary agricultural labor program administered by the U.S. Department of Labor to meet their workforce needs. Unfortunately, the H-2A program, as currently administered by USDOL, is not practical for many producers. We urge the USDOL to focus on resolving the problems associated with implementing H-2A, while ensuring that any changes do not benefit a foreign-based workforce over a domestic one.

We believe many of the issues with H-2A implementation can be corrected with regulatory adjustments. As President Trump has called on federal agencies to review their regulations and eliminate those that are unnecessary, we recommend seven areas to make the H-2A program more efficient and effective for agricultural employers. If adopted, we believe the regulatory changes outlined below will increase program efficiency and effectiveness. Americans' reliance on a safe, affordable food supply is directly related to the availability of an able agricultural workforce. Therefore, it is critical to make the H-2A program work as intended to provide an experienced legal agricultural workforce to America's farmers.

**1. Streamline the application process and improve operating efficiencies.**

- Change the required job order filing requirement with the USDOL and State Workforce Agency (SWA) to between 45 and 60 days before the Date of Need (DON) from the current requirement of 75 to 60 days.
- Remove the agency redundancy between the USDOL and SWA.
- Reduce the minimum time needed to file for USDOL Certification of job.
- Require USDOL to meet regulatory timelines.
- Require USDOL to notify the U.S. Citizenship and Immigration Services (USCIS) removing the current duplicate review needed.
- Reduce burden on consulates by establishing a 'TSA style pre-check' with multiyear biometric card, allowing in-compliance returning workers to enter without repeated annual interview.
- Allow multiple crossings per H-2A contract for workers to cross at different times of the season as the crops and harvest times progress.
- Allow all communications with employer, and internally between USDOL, SWA, and USCIS, to be sent via electronic means unless employer specifies fax or US Mail.

## **2. Refine domestic recruitment requirement**

- Maintain that the SWA and USDOL advertise the job order on their electronic job registry and strike the expensive and ineffective newspaper and 'labor supply state' requirement.
- Ensure that the employer's recruitment obligation ends on date H-2A workers depart for employer's place of work.
- Change the provisions to allow employers to hire the US workers up to 30 days after the DON.
- Eliminate requirement that deductions be made from the number of requested workers for any hired qualified local applicants.

## **3. Improve housing availability**

- Allow housing allowance, or vouchers for workers to find housing in area.
- Allow employers to charge a minimum fee per day or take credit against wages for employer provided housing to cover basic building maintenance needs.
- Allow H-2A workers to be able to occupy 514 housing

## **4. Changes to program eligibility**

- In accordance with the Immigration and Nationality Act (INA), permit employment for less than a year (11 months, 28 days), rather than the 10 months currently allowed.
- Broaden definition of eligibility to include year-round agricultural operations such as dairy, sugar cane milling, reforestation, nursery, and on-farm value added operations such as Christmas wreaths and fresh cut operations.
- Allow the definition of 'temporary or seasonal' to apply to the worker rather than the job.

## **5. Make the Wage Rate more transparent and predictable.**

- Provisions need to be made for a fair, transparent, and predictable wage rate. With a national minimum wage, having H-2A calculated as a component of minimum wage will allow full disclosure to employers and workers. Establishing the H-2A wage at 115% of the federal minimum wage would incentivize workers to work the jobs and allow for the H-2A wage to scale as the U.S. minimum wage increases.

## **6. Provide for mediation and arbitration agreements**

- Allow growers the option to include mediation and arbitration provisions in their employment contracts to streamline conflict and grievance settlement through alternative dispute resolution systems.

## **7. Transportation Adjustments**

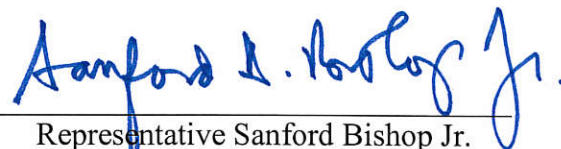
- Permit travel costs to be shared equally between employer and worker.
- Discourage misuse of the H-2A Visa process for illegal immigration by allowing some employers to require the foreign workers to pay the travel costs up front with the reimbursement due to worker at 50% point of the contract.
- Revert to the previous policy of having the travel reimbursement formula utilize the costs from the consulate of origin to the designated worksite.

Thank you for your service and your commitment to reducing regulatory burdens on America's agricultural employers. As the priorities of this Administration move forward, we strongly encourage USDOL to implement crucial reforms to ensure a more workable and efficient H-2A program that will benefit our nation's growers and consumers.

Sincerely,



Representative Earl L. "Buddy" Carter  
Member of Congress



Representative Sanford Bishop Jr.  
Member of Congress



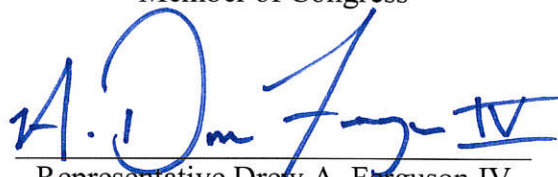
Representative Doug Collins  
Member of Congress



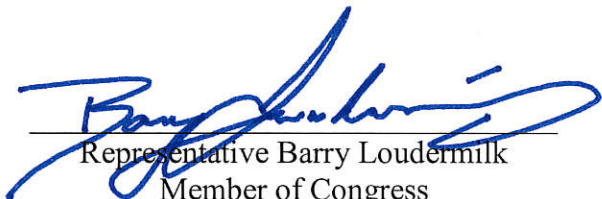
Representative Rick Allen  
Member of Congress



Representative Austin Scott  
Member of Congress



Representative Drew A. Ferguson IV  
Member of Congress



Representative Barry Loudermilk  
Member of Congress



Representative Rob Woodall  
Member of Congress



Representative Tom Graves  
Member of Congress



Representative Jody Hice  
Member of Congress

CC: Secretary John Kelly, Department of Homeland Security