



**Agricultural Labor Working Group**  
House Committee on Agriculture

Final Report with Policy Recommendations  
*March 7, 2024*

Co-Chairs Eric A. “Rick” Crawford and Donald G. Davis

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**Agriculture Labor Working Group**  
House Committee on Agriculture

**Co-Chairs**

Eric A. “Rick” Crawford (AR-01)  
Donald G. Davis (NC-01)

**Members**

*Republican*

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Monica De La Cruz (TX-15)  
Doug LaMalfa (CA-01)  
Nicholas A. Langworthy (NY-23)  
David Rouzer (NC-07)  
Derrick Van Orden (WI-03)  
Glenn “GT” Thompson (PA-15)\*

*Democrats*

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Salud O. Carbajal (CA-24)  
Jim Costa (CA-21)  
Jasmine Crockett (TX-30)  
Darren Soto (FL-09)  
Gabe Vasquez (NM-02)  
David Scott (GA-13)\*

\*Chairman Thompson and Ranking Member Scott serve as Ex-Officio members

## Introduction

As Members of the House Agriculture Committee, we are responsible for the authorization and oversight of federal policies critical to supporting farmers, farmworkers, ranchers, foresters, rural communities, and consumers. We also have a duty to be voices in Congress on issues and policies impacting the livelihoods of these constituencies, even if legislative jurisdiction rests in another committee or committees.

The agricultural sector is currently facing urgent challenges caused by producers' lack of access to an adequate workforce. This has been a problem for decades, and it continues to worsen. U.S. farmers are already reeling from record-high production costs that have translated into thin and negative margins. The inability to find and hire workers is only exacerbating this negative trend.

The time to act is now.

The House Agriculture Committee formed the Agricultural Labor Working Group (ALWG) to identify the root causes contributing to the lack of available domestic workforce, the impact this has on our nation's domestic food supply, and the potential solutions to address this critical challenge. The ALWG engaged in a rigorous agenda and received input from numerous stakeholders, employers, and workers around the country, specifically focusing on the H-2A visa program for non-immigrant agricultural workers. Further, it released its Interim Report in late November 2023, summarizing what the ALWG heard through its sessions.

Previous efforts to reform the H-2A program have stalled, but that does not mean the effort is over. Through all of its work, the ALWG has compiled, voted on, and approved different policy recommendations included in this Final Report. They are aimed at improving the H-2A program for the betterment of farmers, workers, and producers. The Final Report lays out the various policy recommendations the ALWG considered to show overall support for different ideas and move the issue forward toward finding real solutions. Through the crafting of these policy recommendations, the ALWG considered previously introduced bipartisan bills that sought to reform and improve the H-2A Program. These acts include H.R. 4319, the *Farm Workforce Modernization Act*, H.R. 4708, the *H-2 Improvements to Relieve Employers (HIRE) Act*, and H.R. 2915, the *Farm Workforce Support Act of 2023*.

The members of the ALWG worked diligently to develop a list of policy proposals addressing the broadest needs of the agriculture community, focusing specifically on the H-2A visa program. These proposals were informed by five roundtables held in 2023, as well as multiple member-level meetings, including a Member Forum held on January 18, 2024, which was attended by House members who were not part of the ALWG, but who have been consistently involved and well-versed in the issue of ag labor.

The ALWG met on February 6, 2024, and February 29, 2024, to discuss and vote on the complete list of policy proposals.

The proposals receiving at least a bi-partisan simple majority vote are included in this report. Proposals that did not receive majority support are included in the “Excluded Proposals” section of this report. Of the original twenty-five policy recommendations put forth by members of the ALWG, twenty-one were adopted, fifteen of which garnered unanimous support, and four were rejected.

We hope this will inform the committees of jurisdiction and outside stakeholders as to which proposals are most salient for bipartisan adoption.

## Policies Adopted with Unanimous Support

The fifteen policy recommendations in this section were unanimously adopted by the ALWG. These recommendations have the broadest bipartisan support among agriculture labor experts and should be strongly considered by the committees of jurisdiction as bedrock principles from which significant reforms to the H-2A program should occur.

### 1. Single Portal for Filing H-2A Applications

**Proposal:** The ALWG recommends that the committees of jurisdiction work together to establish a new, streamlined H-2A application processing system through the creation of an Internet-based electronic portal.

**Background:**

- The ALWG notes that the reform outlined above is included in Title II of H.R. 4319, the *Farm Workforce Modernization Act*.
- Currently, employers wishing to participate in the H-2A program must interact separately with the Department of Labor, the Department of Homeland Security, and the Department of State.
- Paper processing is still commonplace, and application procedures are stalled as employers await decisions from various agencies before subsequent processes can proceed.
- Establishing a single, Internet-based, electronic system for all aspects of the application process would reduce application delays.

### 2. Allow H-2A Employers to Apply for Staggered Worker Entry

**Proposal:** The ALWG recommends that the committee of jurisdiction allow employers applying for H-2A workers to submit staggered date-of-entry applications.

**Background:**

- The ALWG notes that the reform outlined above is included in Title II of H.R. 4319, the *Farm Workforce Modernization Act*.
- Current law requires employers to complete separate applications for each date of entry, coupled with separate application fees.
- To streamline the process, an employer should be allowed to complete one application for all the workers the employer needs for a particular year or growing season.
- This would eliminate duplicative paperwork, lower costs, and accelerate processing times.

### 3. Streamlined Recruiting for H-2A

**Proposal:** The ALWG recommends that the committee of jurisdiction allow farmers and producers to file job postings on an electronic registry rather than only filing newspaper print advertisements.

#### **Background:**

- The ALWG notes that the reform outlined above is included in Title II of H.R. 4319, the *Farm Workforce Modernization Act*.
- Current law requires farmers seeking to fill agriculture job openings using the H-2A program to post those in newspaper print advertisements.
- To streamline the process and to save on overall costs, allowing farmers to post these positions online will allow them to meet the requirement, still post in newspapers if they choose to, and allow them to choose what works best for them.
- This allows flexibility in the process and cuts down on costs overall.

### 4. Streamline H-2A Hiring Processes

**Proposal:** The ALWG recommends that the committee of jurisdiction consider permanently waiving the in-person interview requirement for returning H-2A workers.

#### **Background:**

- The ALWG notes that the above reform is included in H.R. 4708, the *H-2 Improvements to Relieve Employers (HIRE) Act*, along with other proposals.
- The Department of State recently updated its in-person interview waiver guidance on December 21, 2023. That guidance clarified that State, following consultation with the Department of Homeland Security, determined that it was in the national interest to waive the in-person interview for nonimmigrant visa applicants who were previously issued a nonimmigrant visa (unless the only prior issued visa was a B visa) and are applying within 48 months of the most recent nonimmigrant visa expiration date.
- Permanent codification of waiving the in-person interview requirement for trusted, returning workers who were previously thoroughly vetted is a benefit to the program.
- This was a small, yet impactful way to speedily process applications during the COVID-19 pandemic.

### 5. Expediting Review of Delayed H-2A Worker Applications

**Proposal:** The ALWG recommends that the committee of jurisdiction consider adopting the language below in any legislation that makes changes to the H-2A program.

**Language:** Any application for a waiver of grounds of inadmissibility pursuant to INA section 212(a) concerning an applicant for an H-2A nonimmigrant visa must be adjudicated by U.S. Citizenship and Immigration Services within [30] calendar days from the date such waiver application (Form I-601 or I-601A) is submitted on behalf of the applicant.

**Background:**

- Recognizing the time-sensitive work performed by H-2A beneficiaries, United States Citizenship and Immigration Services (USCIS) expedites the adjudication of H-2A petitions, and decisions are typically issued just a few days after submission. Similarly, the State Department also prioritizes the processing of H-2A visa applications.
- USCIS adjudication of waiver applications is routinely delayed for months while agricultural employers are deprived of their needed workforce.
- Consistent with the overall processing of H-2A visas, USCIS should be required to quickly and efficiently adjudicate waiver applications so that the employer will know in a timely manner whether the intended beneficiary will obtain a visa or whether a beneficiary should be substituted.

**6. USDA Consultation Requirement**

**Proposal:** The ALWG recommends that the committee of jurisdiction require the Department of Labor to consult with the USDA and allow the USDA to provide written comments prior to publishing a rule or a notice of proposed rulemaking that makes any changes or updates to the H-2A program.

**Background:**

- As the ALWG has heard throughout its examination of the challenges facing employers and workers within the H-2A program, one major issue is the disconnect between the DOL and the agriculture community regarding H-2A changes.
- The agriculture labor community wants to ensure laws and regulations are feasible for workers and producers, but without the expertise of the USDA at the table with DOL, we risk continuing a situation where the program isn't working as efficiently as possible.

**7. GAO Report on H-2A Program Integrity**

**Proposal:** The ALWG recommends Congress require the Government Accountability Office (GAO) to report to Congress within one year on the H-2A program. The report should include, but is not limited to: (1) whether U.S. employers are increasingly reliant on the program, (2) any challenges for employers in securing adequate and affordable housing for H-2A workers and potential effects on hiring, (3) compliance with the employment conditions of the program, (4)



the effects of wage rate requirements, (5) how the program may be affecting working conditions for American and guest workers, and (6) whether staffing at the U.S. Department of Labor and the Department of Homeland Security is sufficient to administer the H-2A program effectively and efficiently.

**Background:**

- The ALWG wishes to acknowledge that many of the provisions on this proposal were informed by H.R. 2915, the *Farm Workforce Support Act of 2023*.
- As we have seen throughout the many policy meetings, roundtables, and forums that we have conducted, the ALWG has found that there is a need for a comprehensive report from a non-partisan actor such as the GAO.
- Though the ALWG believes that the GAO report will largely mirror the information contained in our Interim Report, continued reassessment of the agricultural labor community's needs are important to ensure legislative action is addressing labor market conditions.

**8. GAO Report on H-2A Worker Protections and Enforcement**

**Proposal:** The ALWG recommends Congress require the Government Accountability Office (GAO) to study and report to Congress, within 2 years of enactment and each 2 years thereafter, for each state with H-2A workers, the mechanisms for H-2A workers to report workplace violations, including but not limited to unsafe working conditions, being subject to crimes, unsafe living conditions, and underpayment of wages, how workers are made aware of such mechanisms, the daily accessibility of such mechanisms, how workers are educated on their rights, any barriers to utilizing these mechanisms, and what happens after a worker uses these mechanisms to report a violation.

**Background:**

- The ALWG heard from numerous labor and worker protection stakeholders about the treatment that some H-2A workers face.
- A USDA study on H-2A worker protections and the treatment some face will allow for USDA and DOL to better understand the challenges that workers face, how to support them better if violations occur, and how to ensure they do not face retaliation for reporting a violation.
- This will support H-2A workers and ensure that those abusing or violating the rights of H-2A workers are no longer allowed to participate in the program.

## 9. GAO Report on H-2A Process Related to COVID-19 and Temporary Changes

**Proposal:** The ALWG recommends that Congress require the GAO to study and report to Congress the effect of changes made to the H-2A process justified by the COVID-19 pandemic on the compliance burden of applicants, timelines of government approvals, and worker safety and fair employment, along with recommendations for any such changes that, in light of these factors, or additional factors evaluated in the report, that GAO recommends being made permanent.

### **Background:**

- The COVID-19 Pandemic had numerous impacts on the workforce in the U.S., especially in agriculture.
- Due to the pandemic, changes were made to immigration policies and immigrant laborers being allowed into the U.S.
- Various temporary changes were made to the H-2A program to address the challenges posed by the COVID-19 pandemic.
- This study would allow Congress to better understand if any of these changes would improve the H-2A program and if any should be made permanent through Congressional action.

## 10. Adopt a *De Minimis* Exemption from the Adverse Effect Wage Rate (AEWR)

**Proposal:** The ALWG recommends that the committee of jurisdiction allow for flexibility in the H-2A wage calculation to provide a *de minimis* exemption for work performed that is ancillary to the worker's main contracted job responsibility or responsibilities. A *de minimis* exemption is defined as not more than 25 percent of a worker's weekly total hours.

### **Background:**

- Current law requires employees to be paid at the highest wage rate available for the duties performed for an entire day of work.
- In a typical 8-hour workday, for example, if a worker who mainly picks fruit drives a truck for any amount of time – whether that time is 10 minutes or 7 hours – the worker must be paid at the rate of a truck driver for the entire day.
- Members of Congress during the ALWG Member Forum and producers, through ALWG testimony, have indicated that the strictures of current law are driving up costs in the H-2A program and acting as barriers to entry for the program.

## **11. Eliminate Mid-Contract Wage Adjustments**

**Proposal:** The ALWG recommends that the committee of jurisdiction eliminate the requirement that H-2A employers monitor and adjust wage rates for contracted workers throughout the life of the contract, provided that the contract length does not exceed 12 months.

### **Background:**

- Current regulations require H-2A employers to monitor the Federal Register multiple times throughout the length of a single contract to determine whether wage rates have changed.
- If wage rates have changed, the employer is required to update the contract wage amount.
- This is time-consuming and costly for employers.
- Agreed upon wage rates upon initial signing of the contract should carry throughout the course of the contract.

## **12. Federal Heat Standard for H-2A Workers**

**Proposal:** The ALWG recommends the committee of jurisdiction should create a federal heat standard for H-2A workers to protect them when temperatures reach heightened levels.

### **Example of Standards:**

- Requires employers to provide breaks every two hours when temperatures reach 95 degrees.
- Encourages workers to take cool-down breaks when temperatures reach 80 degrees.
- Requires increased breaks when workers confront increased risk conditions like poor air quality, long workdays, or heavy clothing.
- Requires that workers have access to shade and potable water and that employers maintain communications among workers to ensure everyone is monitored for signs of heat stress.

### **Background:**

- Increasing temperatures and increased incidence and intensity of heat waves are causing farmworkers to confront significant heat-related injuries that have led to health risks, labor losses, and sometimes death.
- Creating a federal heat standard grants farmworkers a safe working environment as it pertains to the current leading weather-related cause of injury.
- Farmers and producers with H-2A workers will want their workers healthy, able to work without risk of injury or harm, and ensure projects are completed, and unexpected delays are kept to a minimum due to planned breaks.

### **13. Codify Special Procedures that are Currently in Regulation**

**Proposal:** The ALWG recommends that the committee of jurisdiction codify regulations for unique industries operating under “special procedures.”

#### **Background:**

- Certain industries such as sheep and goat herders, custom harvesters, and silage cutters are able to utilize H-2A workers under “special procedures” created by regulation.
- These unique industries have flexibility like salary versus hourly pay, mobile housing standards, and are able to operate in multiple states on a single contract to fill the job needs.
- Codification will provide certainty to these industries that they will be able to utilize H-2A employees into the future and not see a rulemaking upend their access to the program.

### **14. Wage Reform of the H-2A Program**

**Proposal:** The ALWG recommends that the committee of jurisdiction reform the H-2A wage system to reflect real-world wages better, while protecting against sudden wage increases that disrupt employer planning and operations by:

- **Limiting Wage Fluctuations:** To prevent large fluctuations in wage rates, plans should cap wage increases and decreases, thus providing more stability and predictability to employers. Wages would be governed as follows:
  - 2025: One-year wage freeze—i.e., 2025 wages would be pegged off 2024 rates.
  - 2025-2029: Wages could not decrease by more than 1.5% or increase by more than 3.25%. Exception: If the resulting wage is less than 110% of the Federal or state minimum wage, then the wage could go up by up to an additional percent.
  - 2030 and Beyond: Wages could not decrease by more than 1.5% or increase by more than 3.25%, and the Secretaries of Agriculture and Labor will determine if wage restrictions need to continue.

#### **Background:**

- The ALWG notes that the reform outlined above is included in Title II of H.R. 4319, the *Farm Workforce Modernization Act*.
- Members of Congress during the ALWG Member Forum and producers, through ALWG testimony, have indicated that the strictures of current law are driving up costs in the H-2A program and acting as barriers to entry for the program.
- 72 bipartisan members of the House sent a letter to the House and Senate Appropriations Committees in January 2024, asking that the committee prohibit funding for

implementation of an AEWB increase and to freeze the AEWB at the January 2023 levels.

- The ALWB has heard from an Agriculture Committee member who is advocating for small farms to be exempted from AEWB to help them compete in the marketplace for skilled workers given how destructive recent increases have been.
- Another Agriculture Committee member testified at an ALWB Member Forum that the 23 percent increase AEWB that his state has had to contend with in the past two years is negatively affecting the ability of producers to engage H-2A labor.
- 17 States and the District of Columbia have a 2023 AEWB above \$17/hour. That's higher than the minimum wage of any U.S. state.

### **15. Granting Year-Round Industries Access to the H-2A program**

**Proposal:** The ALWB recommends that the committee of jurisdiction reform the H-2A visa program to include agricultural labor or services (including cooperatively owned employers) that involve the initial preparation, processing, or manufacturing of agricultural commodities, such as livestock, poultry, dairy, peanuts, sugar beets, and sugarcane. These commodities require processing before going to consumers.

The ALWB also recommends that the committee of jurisdiction clarify that H-2A admissions are both seasonal or temporary and that a temporary worker admission is based on a requested length of employment of less than one year without regard to separately evaluating a farmer's underlying need or the nature of the job. That clarification will ensure that the labor needs of today's agriculture industry, including producers, ranchers, livestock markets, indoor agriculture, and forestry, are met.

With more industries being granted access to the H-2A program, it's essential that the program's current worker protections are applied to the new entrants where feasible and that necessary, industry-specific protections are appropriately established.

#### **Background:**

- One thing that has become clear is the need for dairy producers, meat processors, sugar processors, forestry, ranchers, and others to have access to a steady and legal workforce.
- These industries are not eligible for H-2A status because of the way that the federal agencies interpret current law,
- Currently, Section 1101(a)(15)(H)(ii)(a) of title 8 of the United States Code permits foreign workers to obtain visas (referred to as "H-2A" visas) to come "temporarily to the United States to perform agricultural labor or services . . . of a temporary or seasonal nature."

- The determination of which job duties are considered “seasonal or temporary” is made by both the Department of Homeland Security and the Department of Labor. The interpretation of seasonal is based on demonstrating a defined production time period based on weather or other considerations but cannot be longer than 10 months. DHS defines temporary admission as any length of stay of less than one year, but DOL will not issue a certification if they determine that the farmer might need that job filled for more than a year or permanently. This ignores the statutory criteria of "temporary" and has resulted in the exclusion of a large portion of agriculture production from access to the program.
- The bottom line is that we need a migrant worker program that respects and enforces our immigration laws while providing these industries with the workforce that they need.
- With more industries becoming eligible for the H-2A program, there must be an equivalent expansion in labor protections for H-2A workers such as coverage under existing labor protection laws applicable to domestic agriculture workers.

## **Policies Adopted with Majority Support**

The six policy recommendations in this section were adopted by the ALWG with majority support. The ALWG members came to a consensus that in order to preserve the bipartisan nature of this group and the report, no information detailing which members supported or opposed each recommendation would be provided. These recommendations in this section have generally broad, bipartisan support among agriculture labor experts, and the ALWG hopes they will be considered by the committees of jurisdiction for inclusion in any package of significant reforms to the H-2A program.

### **16. H-2A Pilot Program**

**Proposal:** The ALWG recommends that the committee of jurisdiction should create a new pilot program, with a waiver of jurisdiction by the House Judiciary Committee, within the H-2A program where:

1. The H-2A visa will be for three continuous years at a single site or location, with no seasonality requirement.
2. The H-2A worker will be allowed to stay in the U.S. the entire time of the H-2A visa and will be allowed to return home if they'd like, the same as the H-2A program in general.

#### **Background:**

- The pilot program would allow for extended visas so that workers and farmers do not have to go through the application and paperwork process every single year and for every application.
- This cuts down on application time and the costs of each application.
- The extended visa would only allow for a single site so that workers are not able to leave illegally and for farmers and producers to have a reliable and consistent workforce available year-round.
- Workers will still be allowed to return home, as is the case in the current H-2A program, so they can still visit family and will not be forced to stay in the U.S. the entire time.

## **17. Secretary of Labor Waiver Exemption of AEW for Small Farms**

**Proposal:** The ALWG recommends that the committee of jurisdiction provide the Department of Labor (DOL) Secretary, after consulting with the U.S. Department of Agriculture (USDA) Secretary, the authority to provide an exemption to the Adverse Effect Wage Rate (AEWR) for farms under a certain size. For farms with a gross cash farm income (GCFI) of less than \$350,000, the Secretary of Labor would be able to waive the AEW requirement for wages for H-2A workers.

### **Background:**

- Recent AEW increases threaten the profitability of small family farms that rely on the H-2A program due to a lack of domestic workers and the seasonal nature of their harvests.
- Creating a waiver authority for the Secretary of Labor to exempt small farms from the AEW would help keep family farms in business and prevent further consolidation in the agricultural industry and reliance on foreign imports for Americans.
- By restricting the exemption to only small farms, the Secretary of Labor will be able to ensure that family farms can stay afloat while preventing an adverse effect on the domestic workforce.

## **18. Allow Joint Employment of H-2A Workers**

**Proposal:** The ALWG recommends that the committee of jurisdiction change the current part-time rules for joint employers to allow an H-2A employee to work full-time for a single employer in any given week, provided that appropriate safeguards are instituted to ensure employers remain in compliance with any state or local overtime rules.

### **Background:**

- Current regulations restrict workers to no more than 35 hours per week for any one employer within a joint-employer relationship.
- This is not the most efficient use of a worker's time, nor does it make practical sense within growing seasons.
- Workers should be allowed to work full-time for one employer for a period of time and then work full-time for a different employer during a different period of time.
- This allows smaller employers to better take advantage of the H-2A program by sharing the workforce.



## **19. Adopt a Permanent Solution to Adverse Effect Wage Rate Increases**

**Proposal:** The ALWG recommends that the committee of jurisdiction enact policies that restrict or cap annual increases in AEWWR to predictable and sensible levels that are manageable for H-2A employers, large and small, to absorb.

### **Background:**

- 72 bipartisan members of the House sent a letter to the House and Senate Appropriations Committees in January 2024, asking that the committee prohibit funding for implementation of an AEWWR increase and to freeze the AEWWR at the January 2023 levels.
- The ALWG has heard from an Agriculture Committee member who is advocating for small farms to be exempted from AEWWR to help them compete in the marketplace for skilled workers given how destructive recent increases have been.
- Another Agriculture Committee member testified at an ALWG Member Forum that the 23 percent increase AEWWR that his state has had to contend with in the past two years is negatively affecting the ability of producers to engage H-2A labor.
- As noted earlier, 17 States and the District of Columbia have a 2023 AEWWR above \$17/hour. That is higher than the minimum wage of any U.S. state.

## **20. Reform the Department of Labor's Adverse Effect Wage Rate Calculation**

**Proposal:** The ALWG recommends that the committee of jurisdiction direct the U.S. Department of Labor (DOL) to use an alternative method, other than the U.S. Department of Agriculture's (USDA) Farm Labor Survey (FLS), which better captures real domestic wages, to serve as the basis for the Adverse Effect Wage Rate (AEWR) calculation.

### **Background:**

- The ALWG has heard from multiple members and stakeholders who are concerned about the dramatic year-over-year increases in the AEWWR.
- While it is important to ensure that H-2A wages are not under-cutting domestic workers' wages in comparable jobs, the way the DOL calculates AEWWR needs reform.
- In the FLS, USDA asks survey respondents their gross wages for four reference weeks over the course of the year. This may include overtime, hazard pay, bonuses, performance incentives, and any other payment that was calculated as wages for that reference week. This inflates the base hourly rate before adding these types of extra compensation for the following year.
- This inflated average rate then applies to all workers, elevating the minimum wage floor for all H-2A and corresponding U.S. workers.

- The average AEWWR has grown about twice the rate of inflation since 2001. In some states, the AEWWR increased 23% in 2019 alone.
- Currently, the lowest AEWWR is more than \$5/hour and the highest AEWWR is more than \$10/hour in excess of the federal minimum wage paid to domestic workers.
- Additionally, the FLS survey methodology ignores differences between localities, detailed job types, skills, and experience. Both the H-2B non-agricultural and H-1B skilled worker programs determine wages for local areas for specific occupations and permit some private surveys to help determine wage rates.

## **21. Reducing Housing Costs of the H-2A Program**

**Proposal:** The ALWG recommends that the committee of jurisdiction reform the H-2A Program housing requirements by improving the availability of farmworker housing while lowering employer costs related to providing such housing by:

- **Preserving Existing Housing.** Prevent current farmworkers and rural housing stock from serving other constituencies. Congress should authorize \$1 billion to rehabilitate housing that is aging out of the USDA incentive program, thus reopening eligibility for rental assistance and preserving housing stock for farm workers.
- **Incentivizing New Housing.** Triple the amount of funding for the USDA 514 loan program and 516 grant programs, which provide 1% loans and grants for constructing new housing. Further, Congress should also reform eligibility criteria to expand the use of those programs in more expensive housing markets.
- **Lowering Housing Costs.** Reduce grower costs related to housing by increasing funding for the USDA 521 rental assistance grant program, while also reforming eligibility criteria to expand the use of the program in more expensive housing markets.

### **Background:**

- The ALWG notes that the reform outlined above is included in Title II of H.R. 4319, the *Farm Workforce Modernization Act*.
- Currently, employers are required to provide housing for all H-2A employees. This cost is in addition to the required wage rates established by the program.
- This requirement has resulted in farmers having to buy or build housing that is only utilized by workers for portions of the year.
- By providing these changes to housing for the H-2A program and better supporting farmers through loans, this will improve the housing situation for the H-2A program.
- This will lead to reduced costs on the housing side of the H-2A program and will allow farmers to modernize and update H-2A housing facilities that may be outdated.

- USDA has a long history of providing low-interest loans to rural America and is laser-focused on ensuring it is working with farming families to meet their unique financial needs.

## **Excluded Recommendations**

The 4 recommendations in this section were not adopted by the ALWG.

### **Provide Flexibility in Housing Regulations for Workers**

**Proposal:** The ALWG recommends that the committee of jurisdiction allow employers the option of providing a housing stipend to workers in lieu of physical housing and allowing workers to secure accommodations of their own choice in areas where temporary and appropriate housing inventory is available.

#### **Background:**

- Currently, employers are required to provide housing for all H-2A employees. This cost is in addition to the required wage rates established by the program.
- This requirement has resulted in farmers having to take on the role of part-time hoteliers, often buying or building housing that is only utilized by workers for portions of the year.
- In areas of the country where there is available housing inventory (a determination that would need to be made by DOL or a state agency), farmers should have the option of providing a housing stipend to workers in lieu of directly owning and providing the housing themselves.
- This would limit the cost and liability for the producers, while allowing workers to choose a living arrangement that works best for them.

### **Providing For National Interest Waivers of Certain Grounds of Inadmissibility or Bar on Adjustment of Status**

**Proposal:** The ALWG recommends that the committee of jurisdiction consider utilizing the existing waiver process to provide for certainty and stabilization of the agriculture workforce.

**Language:** Revise INA Section 212(a) to authorize DHS to issue waivers to agricultural workers as a class who are otherwise admissible and have an alternative immigration benefit or want to enter lawfully as an H-2A worker to avoid hardship to U.S. economic interests and food security.

#### **Background:**

- Amendments to the INA in 1996 for the first time instituted a permanent bar on admission or adjustment of status for unlawful entry or presence. This has excluded long-time agricultural workers from benefiting from existing immigration benefits such as becoming an H-2A worker or permanent resident based on family or employer sponsorship. There is a waiver process, but it is case by case and limited to family interest versus employer or national economic interest. Clarifying authority to issue a class

waiver for essential agricultural workers who otherwise qualify would greatly enhance workforce stability and encourage legal entry.

### **Reducing the Need for Litigation in the H-2A Program**

**Proposal:** The ALWG recommends that the committee of jurisdiction should adopt prior compromises in which the Migrant and Seasonal Worker Protection Act (MSWPA) is expanded to protect H-2A workers, while effectively requiring mediation to resolve differences before lawsuits are instigated.

#### **Background:**

- The ALWG notes that the reform outlined above is included in Title II of H.R. 4319, the *Farm Workforce Modernization Act*.
- H-2A workers have faced workplace violations due to some farmers and producers.
- Increased protections are needed in order to support workers better and have a clear process for how mediation issues should be resolved.

### **Protecting Workers From Predatory Loans**

**Proposal:** The ALWG recommends that the committee of jurisdiction prohibit predatory loans and lending that some people or groups offer to H-2A workers, especially in foreign countries where these workers come from.

Congress should adopt legislation to prohibit, and empower the Secretary of Agriculture to enforce the prohibition on the use by any applicant to receive an H-2A worker, or any agent on such applicant's behalf, from entering into, or causing to be entered into, knowingly or otherwise, a loan agreement with an H-2A worker which pays for the worker's transportation to the work site, or any other payment, to be repaid explicitly or otherwise, by the wages of such worker.

The Secretary of State should engage with Mexico to establish a bilateral treaty with the United States respecting the recruitment, safety, and recertification of H-2A visa recipients with the aim of cracking down on illegal traffickers or those otherwise putting prospective H-2A workers into debt in order to file the paperwork to receive an H-2A visa, and expedite the procedure for recertification of workers wishing to return to work in the United States.

#### **Background:**

- The ALWG heard from various worker-focused organizations on the threat that H-2A workers face when trying to participate in the H-2A program.
- Predatory lenders target H-2A workers, due to the costs of participating in the program, which then traps the workers in a cycle of having to pay others the money they earned working in the U.S. through the H-2A program.

- Ensuring that H-2A workers are not targeted and taken advantage of by predatory lenders will allow the workers to take home a larger share of their pay to then share with their families.

## Conclusion

The members of the ALWG wish to thank everyone who participated in the 2023 roundtables, the members of Congress who spent so much time and effort bringing the needs of their constituents to our attention during the Member Forum in January 2024, and the countless constituent groups and agriculture organizations that have given their energies to advising the ALWG members. We would be remiss if we did not give special thanks to Chairman G.T. Thompson and Ranking Member David Scott, and their staff members, who supported the ALWG's work at every turn. It is clear from their active participation in this effort that the needs of the agriculture labor community are of paramount importance to the House Agriculture Committee.

It is our hope that our work on this report will be used by the committees of jurisdiction to develop legislation that will positively impact the agriculture labor community. A dynamic and well-functioning H-2A program is essential for ensuring the safety and capacity of our nation's food supply. As the ALWG members know, food security is national security, and hardening the agriculture supply chain, from field or pasture to grocery store, is essential.



Eric A. "Rick" Crawford  
Member of Congress  
ALWG Co-Chair



Donald G. Davis  
Member of Congress  
ALWG Co-Chair