

The Honorable Nita Lowey
Chair
House Appropriations Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Kay Granger
Ranking Member
House Appropriations Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Lucille Roybal-Allard
Chair
Homeland Security Subcommittee
House Appropriations Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Fleischmann
Ranking Member
Homeland Security Subcommittee
House Appropriations Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Lowey, Ranking Member Granger, Subcommittee Chairwoman Roybal-Allard and Subcommittee Ranking Member Fleischmann:

On behalf of the seasonal employers in our states, we urge you to include an H-2B returning worker exemption, or other meaningful cap relief, in the Fiscal 2020 Department of Homeland Security (DHS) Appropriations bill that the committee will soon mark up. Without cap relief, many employers and their domestic workforce will continue to suffer drastic economic hardship during their peak seasonal need and could be forced out of business.

The severe shortage of U.S. workers during the last several years has demonstrated that without needed guest workers, seasonal businesses are simply unable to meet their staffing needs. They have been forced to limit hours of operation, turn away customers, scale back service, and cancel capital equipment purchases. In some cases, businesses were forced to lay off Americans whose jobs are supported by H-2B workers—or shut down their operations entirely. Seasonal businesses need meaningful and lasting cap relief so they can continue to contribute to the economy and create full-time, year-round work for Americans. According to the American Enterprise Institute, every H-2B worker is estimated to create and sustain 4.64 American jobs.

Businesses utilizing the H-2B program often rely on well-vetted returning workers who have repeatedly demonstrated compliance with U.S. law. H-2B workers are not immigrants. Additionally, H-2B visa holders are denied re-entry if they overstay their visas or otherwise violate the law. Rather, these workers come to the U.S. for seasonal work, are exemplary participants in our economy, then travel back to their home countries. They provide an opportunity for U.S. businesses to operate at a greater capacity and retain their full-time workers in off-peak months.

In a strong economy with record-low unemployment, the H-2B program's congressionally mandated cap of 66,000 visas is inadequate to meet the labor needs of seasonal businesses. In fact, the U.S. Department of Labor (DOL) continues to report that the number of job openings actually exceeds the labor pool. Meaningful cap relief is

needed to allow our seasonal businesses to supplement their workforce in the growing number of instances when Americans are not available to fill temporary positions.

For context, the FY 2019 first-half cap of 33,000 H-2B workers was met on December 11, 2018. The 33,000 second-half cap was met on February 22, 2019. However, since the start of FY 2019, DOL has certified the need for 146,523 H-2B workers, including 90,927 H-2B workers who were slated to begin work on or after April 1. DOL only issues final labor certifications 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
- The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

On May 8, DHS, in consultation with DOL, released an additional 30,000 visas for returning workers under the discretionary authority provided to it by the Fiscal 2019 Consolidated Appropriations Act. In order to apply for these visas, employers need to attest to the “irreparable harm,” or permanent and severe financial losses, that will occur without H-2B workers. Employers are anxiously waiting to learn if they will receive needed H-2B workers and avoid further business losses. They have already suffered harm, as these workers were needed starting April 1. We urge you to include meaningful cap relief in the Fiscal 2020 DHS Appropriations bill to prevent further harm to seasonal businesses and their American workers.

The employers who have no other option but to rely on the H-2B program deserve a long-term solution. We must ensure that businesses that play by the rules are able to access the workforce they need, while also maintaining standards for wages and working conditions. For the H-2B program to be successful, there must be robust enforcement of regulations governing the program so that only those seasonal American businesses that follow the rules have access to the program. We stand ready to work together on important permanent changes to the program going forward, and we urge you to include much-needed cap relief in the FY 2020 DHS Appropriations bill so that seasonal businesses that rely on the same workers coming back year after year can continue to generate economic growth, sustain American businesses, and create jobs for American workers across the country.

We thank you for your immediate attention to this issue. Should you have any questions or concerns, please do not hesitate to contact our offices.