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SEASONAL
EMPLOYMENT
ALLIANCE
www.SeaLabor.com

March 1, 2021

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

Dear Secretary Mayorkas:

In these difficult economic times, DHS is fortunate to have been granted the authority by Congress to provide relief to thousands of seasonal businesses impacted by the arbitrary 66,000 H-2B visa cap. This authority also affords DHS the opportunity to remedy the unjust treatment of employers' petitions that were delayed getting to USCIS the week of February 8th due to winter weather outside their control. DHS should immediately release the remaining 69,320 H-2B seasonal guest worker visas authorized by Congress. In the immediate term, this would solve the issues outlined above and in the future, the establishment of an electronic filing portal, would prevent this inequity from occurring in subsequent years.

The congressionally limited mandated cap of 66,000 H-2B visas is further exacerbating the challenges seasonal employers are facing due to the coronavirus pandemic. USDOL recently held a lottery for the second half allotment of 33,000 H-2B visas. It received over 96,000 requests for the 33,000 available visas. Despite the pandemic, H-2B occupations such as landscaping, forestry and seafood processors continue to have robust demand for their services/products.

Seasonal employers are making every effort to recruit American workers, including those negatively affected by the coronavirus pandemic. In an effort to make Americans aware of the vast number of available, unfilled seasonal jobs, we created our own online jobs bank¹ that is exclusively dedicated to advertising seasonal positions available with U.S. employers.

The online jobs bank permits American workers to locate and apply for available jobs in communities across the country. We are advertising the availability of our jobs bank on several other online resources, including on the newspaper websites² in the major H-2B markets and numerous online news and opinion sites³, including those that frequently advocate for further restriction or elimination of guest worker programs.

The jobs bank currently contains listings for jobs with an April 1st start date. Unfortunately, despite our extensive advertising efforts, from January 1st to February 28th the campaign has received:

- 2,555,666 views
- 3,035 click throughs
- 0 American worker applicants

¹ [Seasonal Employment Alliance online jobs bank](#)

² [Ad campaign newspaper placements](#)

³ [Ad campaign website placements](#)

In addition, DOL operates its own electronic job registry and requires all H-2B jobs be posted there prior to an employer receiving certification to bring in H-2B workers. After DOL approves seasonal employers to hire H-2B workers, the job openings are removed from the DOL registry. By contrast, our online jobs bank continues to post these available positions even after DOL has certified there are an insufficient number of U.S. workers interested in filling the positions.

These unfilled positions, combined with the overwhelming demand for the second half allotment of visas, shows that the H-2B program is still vital to help seasonal businesses supplement their American workforces during their peak seasons.

Beyond the continued lack of available H-2B workers to U.S. employers, we are concerned with the shipping delays for H-2B visa petitions caused by winter storms the week of February 8th.

USCIS processes H-2B applications on a first-come, first-serve basis. Effective the day when the cap is met, USCIS holds a lottery for all applications received to-date. This year, USCIS met the cap on Feb 12th. This year, however, unforeseen inclement weather forced an early closure of the Vermont Service Center, leaving the California Service Center as the only processing center still receiving petitions. Further, major courier hubs (e.g., in Memphis, TN) shut down entirely, causing package delivery delays of days or even weeks.

Accordingly, these delays, which were outside employers' control, prevented otherwise timely petitions from being included in the USCIS H-2B lottery. This situation is highly inequitable. H-2B employers should not be disadvantaged purely based on geography and USCIS's arbitrary service center assignments.

In light of the foregoing, we strongly recommend modernizing this process to avoid the issues H-2B stakeholders experienced this year. We hereby recommend the following solutions:

1. **Immediate:** The Department of Homeland Security (DHS) Appropriations bill for FY 2021 grants DHS the authority to release up to 69,320 additional H-2B visas for FY21. This granting authority was signed into law on December 27th, 2021. To remedy the inequities and irreparable financial harm, DHS should continue processing applications up until it has exhausted the additional allotment.
2. **Permanent:** USCIS should establish an online portal that would allow employers to submit their I-129 visa petitions electronically. An electronic submission portal would eliminate the costly data entry process and would allow USCIS to process applications timely and efficiently. Such a system could also be integrated with DOL's own FLAG system for seamless data sharing between the agencies.

It is critical that every step is taken to ensure that the economic recovery of our country is as speedy as possible. Seasonal employers want to play a role in this recovery, but without an adequate labor force, seasonal employers will be constrained in their ability to contribute to the recovery. We urge DHS to immediately release the 69,320 H-2B visas authorized by Congress so seasonal employers can contribute to the rapid recovery of our economy.

Sincerely,



Gray Delany, Executive Director
Seasonal Employment Alliance



Andrew Bray, VP of Government Relations
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CC:

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