Without reform, more H-2B visas will result in more abuse

In response to the decision by the Department of Homeland Security (DHS) and the Department of Labor (DOL) to allow an additional 30,000 H-2B visas this fiscal year, the International Labor Recruitment Working Group (ILRWG) issues the following statement:

Egregious and well-documented levels of abuse make one thing clear: the H-2B visa program is in need of fundamental reforms. But instead of working together to better protect American and migrant workers, Congress and the Administration have relented to the demands of employers and corporate lobbyists to expand a temporary work visa program that gives them access to cheap and exploitable labor. As one investigator put it: "[t]he way H-2 visas shackle workers to a single employer leaves them almost no leverage to demand better treatment," and condemns thousands of workers each year "to exploitation and mistreatment, often in plain view of the government officials charged with protecting them."[1]

The ILRWG is alarmed that the appropriations process has become a vehicle not only to expand this flawed work visa program, but also to weaken the few and already-inadequate protections extended to workers in H-2B industries. The combination of a near doubling of visas available for work this summer with riders that block auditing of H-2B employers, allow collusion to suppress wages, and eliminate basic guarantees for near full-time employment set the stage for exploitation. Making immigration policy through appropriations usurps the role of the relevant committees of jurisdiction and has generated policy decisions that put workers at unacceptable risk.

Such a giveaway to employers is particularly offensive given Congress' failure to address the urgent needs of more than one million members of our current workforce whose TPS and DACA status was cruelly and needlessly terminated by the Trump administration. Many of these workers toil in the very industries that clamor for more H-2B visas, but their needs continue to go unresolved as abusive work visa programs expand.

The ILRWG appreciates the request from members of the Senate Judiciary Committee for DHS and DOL to explain the rationale for their decision to allow an additional 30,000 H-2B visas to be issued this year. Given the lack of regulation and accountability in the

[1] Bensinger, Ken; Garrison, Jessica; and Singer-Vine, Jeremy, "The New American Slavery: Invited to the U.S., Foreign Workers Find a Nightmare." *BuzzFeed News,* July 25, 2015 *available at* https://www.buzzfeed.c-0m/jessicagarrison/the-new-american-slavery-invited-to-the-us-foreign-workersf ?utm_term=.vtmkWwKqJ#.orb34Nxrb.

H-2B visa program,[2] and its structure that leaves workers indentured and often legally underpaid,[3] employers have many reasons to prefer hiring H-2B workers with limited rights whose fate they can control. For these and other reasons, it is inappropriate to use employer demand for H-2B workers as a proxy for real, verifiable need in the labor market.

Decisions on changes to annual caps in work visa programs should be made objectively, taking into consideration relevant labor market data—including occupational unemployment rates, vacancy rates, and wage growth—as well as the projected needs of specific businesses, legitimacy of employer recruitment efforts, fair calculations of the relevant prevailing wages, and the qualifications and availability of potential labor pools. Congress and the public deserve to understand all factors that informed this decision by DHS and DOL, which will have a clear impact on labor standards and rights for workers employed in difficult and often dangerous industries such as dairy, nurseries, landscaping, forestry, seafood processing, hospitality, carnivals and construction.

The ILRWG renews our call to fundamentally reform the H-2B program—by providing workers with equal rights, fair pay, and a path to permanent residence and citizenship—before any more workers are put at risk. Through organizing, advocacy, education and litigation we will continue to seek justice for all workers in H-2B industries.

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[2] Bensinger, Ken; Garrison, Jessica; and Singer-Vine, Jeremy, "The Pushovers: Employers Abuse Foreign Workers. U.S. Says, By All Means, Hire More." *BuzzFeed News*, May 12, 2016, *available at* https://www.buzzfeednews.com/article/kenbensinger/the-pushovers.

[3] See for example, Daniel Costa, "Congress and Trump discover bipartisanship on immigration—but only to increase H-2B visas for captive and underpaid migrant workers," Economic Policy Institute, April 2, 2019, https://epi.org/166075; Daniel Costa, "H-2B crabpickers are so important to the Maryland seafood industry that they get paid $3 less per hour than the state or local average wage," Economic Policy Institute, May 26, 2017, https://epi.org/129694.