

August 31, 2023

Secretary Julie Su
Department of Labor
Washington, DC 20210

Secretary Alejandro N. Mayorkas
Department of Homeland Security
Washington, DC 20528

Dear Secretary Su and Mayorkas,

We write to express urgency regarding the pending proposed rules from the Department of Labor and Department of Homeland Security on the H-2A program. These proposals are currently under review at the Office of Information and Regulatory Affairs. We appreciate the administration's diligent efforts to address issues facing the H-2A temporary agricultural guest worker program. The Department of Labor announced a notice of proposed rulemaking intended to improve protections for workers in temporary agricultural employment.¹ The Department of Homeland Security announced a notice of proposed rulemaking to help modernize and reform the H-2 programs.² Our collective organizations urge you to take the next steps to move these necessary regulatory reforms forward.

On February 1st, 2022, a coalition of organizations sent a letter to Vice President Harris, Secretary Blinken, and Secretary Walsh about the serious concerns and the rampant abuses in the H-2A program. The letter highlighted Operation Blooming Onion, a multi-year Department of Justice investigation. On November 22, 2021, the United States Attorney of the Southern District of Georgia presented an indictment against 24 defendants. This investigation included charges of two deaths, kidnappings, rape, and threats to kill farm workers or harm their families. Defendants sold and traded H-2A workers, forcing many to “work in fields digging up onions with their bare hands, only paid them twenty cents for every bucket they filled with onions, and threatened them with a gun to keep them in line.”

The abuse in the H-2A program has not ended with the Operation Blooming Onion investigation. Enrique Balcazar and his daughter Elizabeth Balcazar, earlier this year were convicted of labor trafficking and wage theft. The H-2A workers recruited through the Balcazar's experienced forced labor and were made to work more than the 40 hours outlined in their contracts. Despite working double the hours promised, they were only paid for 40 hours. These workers were threatened with deportation, subjected to physical confinement via locks placed outside their sleeping quarters, and armed guards were placed where workers were housed.

Recently, an H-2A employer in Washington State charged mushroom workers as much as \$10,000 to access a visa, used H-2A workers to displace local workers, then immediately violated housing and wage requirements once the workers arrived. In North Carolina, an H-2A worker recently filed a lawsuit against his employer for wage theft and human trafficking. These are not isolated incidents; rather these are troubling signs of widespread issues.

These are just a few of the cases in which workers reported violations. There are many more cases that go unreported due to isolation, fear of retaliation and loss of financial security. In addition, there has been explosive growth in the program over the last five years. Since 2017, the number of H-2A applications certified

¹ Office of Information and Regulatory Affairs, *RIN:1205-AC12, Improving Protections For Workers in Temporary Agricultural Employment in the United States* (2023).

² Office of Information and Regulatory Affairs, *RIN: 1615-AC76, Modernization and Reform of the H-2 Programs* (2023).

by the Department of Labor's Office of Foreign Labor Certification has more than doubled, with 371,619 certified positions in FY 2022.³ This program expansion is dangerous, given the scope and seriousness of the violations in this program.

Without reform, the rapid growth of the H-2A programs, undermines our domestic food system and the guard rails protecting labor standards in this country. Time is of the essence; we urge you to move forward with the regulations to strengthen worker protections.

Sincerely,

Alianza Nacional de Campesinas, Inc.
Amnesty International USA
California Rural Legal Assistance Foundation
Farm Labor Organizing Committee
Farmworker Justice
FLAP- Farmworker and Landscaper Advocacy Project
Hispanic Federation
Justice at Work Pennsylvania
Justice in Motion
North Carolina Justice Center
Northwest Workers' Justice Project
Pineros Y Campesinos Unidos del Noroeste (PCUN)
Polaris
United Farm Workers (UFW)

³ Employment and Training Administration, U.S. DOL, Office of Foreign Labor Certification (2022, September 30). H-2A Temporary Agricultural Program - Selected Statistics, Fiscal Year (FY) 2022.
https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2022_Q4.pdf