
Administration Progress on H-2A Reform

September 23, 1999

Farm workers are among the poorest and most vulnerable in our society. Average annual earnings of farm worker families are only about \$6,500 and farm workers are employed on average only about 26 weeks per year.

The H-2A “guest worker” program admits temporary nonimmigrant agricultural workers to provide farmers with an adequate supply of laborers during the peak periods in the growing season, if there is an inadequate supply of domestic workers. There is no cap on the number of H-2A visas granted annually. Currently, there are 1.8 million hand-harvest farm workers in the United States of which it is estimated that approximately half are undocumented. In FY 98 there were 35,000 workers in the H-2A program.

Employer Obligations

Under the current program, in order to hire H-2A workers, an employer must demonstrate to the Department of Labor (DOL) that:

- (a) there are not sufficient U.S. workers able, willing, qualified and available to perform the services; and,
- (b) there will be no adverse effect on the wages and working conditions of similarly-employed U.S. workers.

To meet these criteria, employers are required to:

- ✓ engage in positive recruitment efforts;
- ✓ pay workers the higher of the minimum wage, locally prevailing wage, or an “adverse effect wage rate” (AEWR), the average wage paid to non-managerial agricultural workers in the state;
- ✓ provide free and safe housing to workers coming from outside the commuting area;
- ✓ reimburse workers’ inbound transportation if they complete half the contract, outbound also if they complete the contract; and,
- ✓ guarantee 3/4 of the hours of the contract the grower offers; and,
- ✓ hire any qualified U.S. worker who applies during the first half of the work contract.

Administration Principles on Reform

The H-2A program has been heavily criticized by the General Accounting Office (GAO), DOL’s Inspector General, and the Hill primarily due to the administrative burdens placed on growers and its failure to adequately protect workers. As a result, Congress has proposed legislation to restructure the H-2A program.

The Administration has acknowledged problems with the program and is working administratively (through administrative actions and the regulatory process) to reengineer and streamline the H-2A program to ease application burdens while maintaining strong worker protections. The Administration does not believe that legislation is necessary or appropriate at this time.

The Administration's guiding principles in reforming the H-2A program are to create a system:

- ✓ with procedures that are simple and the least burdensome for growers;
- ✓ which assures an adequate labor supply for growers in a predictable and timely manner;
- ✓ that provides a clear and meaningful first preference for U.S. farm workers and that diminishes reliance on foreign workers;
- ✓ which avoids the transfer of costs and risks from businesses to low wage workers;
- ✓ that encourages longer periods of employment for legal U.S. workers; and,
- ✓ which assures decent wages and working conditions for domestic and foreign farm workers, and that normal market forces work to improve wages, benefits, and working conditions.

The Administration is committed to improving the H-2A program to assure growers of an adequate, predictable labor supply while protecting U.S. farm workers who are among the poorest and most vulnerable in our society.

FY 2000 Budget Initiative

- The President's pending Budget requests \$10 million to fund America's Agricultural Labor Network ("AgNet") that would benefit growers and workers by having an efficient alternative mechanism to match workers with employment opportunities. AgNet would serve as an information broker through an electronic system that allows both growers to find workers and workers to find employment opportunities that meet their needs (e.g., location, duration, type of crop, etc.).

H-2A Regulatory Reform

- On June 29, 1999 DOL published a final regulation that will complete an earlier proposal to:
 - reduce the length of time that employers must file an H-2A application from 60 to 45 days before the date when employees are needed;
 - reduce the deadline for when employer-provided housing must be available for inspection before the date of need; and,
 - modify the requirement that certified H-2A employers provide notice of the exact date on which H-2A employees have departed for the place of employment.
- INS will soon issue a final regulation that will complete an earlier proposal to delegate H-2A petitioning authority to DOL. This proposed change would significantly reduce the burden to growers when filing for H-2A workers by removing an entire step from the current process.
- DOL has also made additional administrative changes to the H-2A program such as modifications to the positive recruitment requirement. DOL intends to consistently meet the existing 20 day deadline to issue approved certifications for growers.

Caroline R. Fredrickson 06/30/99 07:02:10 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP

cc:

Subject: H-2A Briefing Attendance List

----- Forwarded by Caroline R. Fredrickson/WHO/EOP on 06/30/99 07:01 PM -----



Chuck_Cooper@dpc.senate.gov (Chuck Cooper)

06/30/99 05:24:16 PM

Record Type: Record

To: Andrea_LaRue@daschle.senate.gov (Andrea LaRue) , Caroline R. Fredrickson/WHO/EOP

cc:

Subject: H-2A Briefing Attendance List

Briefing on H-2A Agricultural Guestworker Program
June 28, 1999

NAME	OFFICE	PHONE
Kristi Luv	Lincoln	4-4843
Chani Wiggins	Harkin	4-7313
Rosemary Gutierrez	Harkin	4-3254
Katherine Eade	Kennedy	4-1272
Steven Keenan	Reed	4-4642
Katherine Shaud	Conrad	4-2043
Camryn Walsh	Inouye	4-3553
Kate Bicknell	Moynihan	4-4451
Tonya Sallee	Bayh	4-8731
Kara Stein	Dodd	4-0348
Darla Silva	Durbin	4-7274
Jim Stowers	Lincoln	4-0549
Ilona Cohen	Levin	4-9104
Sarah Polick	Kerrey	4-6551
Rachel Birbbaum	Kerrey	4-6551
James Hedberg	Kerry	4-2742
Bonnie Robin-Vergeer	Biden	4-6819
Tony Orza	Lautenberg	4-8811
Ian Marquardt	Johnson	4-5842
Rob Eilers	Feinstein	4-3841
Kelly Ross	Wellstone	4-4928

Cynthia Garman-Squier	Bingaman	4-5521
Alejandro Perez	Cong. Hispanic Caucus	5-2410
Maureen Mahon	Edwards	4-7420
Caroline Berver	Graham	4-0852
Tony Russo	Biden	4-8256

Cont. Call 4/24

- Feinstein bill - not on approps. queue
- Don't want to put CJS
- Ag groups to work w/ Feinstein bill - H2A Reform + legalization that is
- INS, Justice,

3 principle - oppo,
for reform

Q + A

Ag Net

- Verification - had a meeting - some ideas developed + INS needs to respond, not true verification.
Barbara -

~~State Shortage~~

Illegal Work Force

- verification pilot.

Senate DPC will organize

Who will speak – Irene and Caroline – intro

Labor – talk about how the program works and how we are trying to improve it

WH – why we opposed guestworker legislation last year

Groups – why creating new guestworker program is not a good idea

HILL BRIEFING

- Purpose is to educate them about the H2A program since we expect there will be legislation on this issue.
-
- Background on the H2A Program – what is? *-John*
-
- Why we think the H2A program works – protects work for US workers, worker protections for the H2A worker
-
- What problems are there with the program?
-
- What we are doing to improve the program consistent with GAO report– reg, budget proposal, etc.
-
- Why we have opposed the legislation to create a new guestworker program in the past? -

Provide Accomplishment document and discuss the principals

Q+A

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THE 1998 CENTRAL VALLEY RAISIN HARVEST

**A Case Study
Of The
Availability Of
Farm Workers During The
Alleged Labor Shortage
In The Four County Fresno Area**

APRIL 1999

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