



# Migration that Works

## Re: Migration that Works Letter of Opposition to Harmful H-2 Appropriation Riders

June 30, 2021

Dear Members of Congress,

During recent years, the appropriations process has become an inappropriate and misused vehicle to expand the current H-2 temporary work visa programs without strengthening labor protections. Since our founding in 2011, Migration that Works (formerly known as the “International Labor Recruitment Working Group” or “ILRWG” for short), has documented widespread abuse and systemic flaws in the H-2A and H-2B visa programs for low-wage seasonal agricultural and non-agricultural jobs, as well as other guestworker programs.<sup>1</sup> We fear that the appropriations process will once again be used to the detriment of workers, whose risks have only intensified during the Covid-19 pandemic. We strongly urge you to oppose any and all appropriation riders that will increase exploitation and further undermine fundamental rights for migrant workers and workers in the U.S.

Migration that Works is a coalition of labor, migration, civil rights, and anti-trafficking organizations and academics working to address abuses in international labor recruitment. We are the first coordinated effort to strategically address worker rights abuses across industries and visa categories. For years, we have advocated for value- and rights-based reforms to the current patchwork of temporary work visa programs.

Migrant workers have long faced higher risks of trafficking, forced labor, debt bondage, discrimination, and hazardous workplace conditions, among other abuses. Throughout the pandemic, we have documented the increased vulnerability of migrant workers in the H-2 program. These included H-2A farmworkers working shoulder to shoulder in fields without personal protective equipment and H-2B workers laboring in non-ventilated poultry processing plants. There are many more who faced abusive conditions but were forced to remain silent at the risk of losing their jobs and, by extension, their immigration status.<sup>2</sup> Despite these documented harms, the federal government has done little to strengthen protections for migrant workers. For example, H-2 workers were generally ignored by the recently issued COVID-19 Emergency Temporary Standard.

Meanwhile, employers and certain members of Congress have continued their push to expand the current H-2 programs, increasing the number of workers at an unacceptable risk of exploitation and hazard. The

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<sup>1</sup> For the latest reports, see Migration That Works, *Comprehensive Recommendations for the Presidential Transition Team on Preventing Abuses of Internationally Recruited Workers*. November 2020.

<sup>2</sup> Lusk, J. L., & Chandra, R. (2021). Farmer and farm worker illnesses and deaths from COVID-19 and impacts on agricultural output. *PLoS one*, 16(4), e0250621. <https://doi.org/10.1371/journal.pone.0250621>. See also: Migration That Works, Letter to the U.S. Senate on Supporting Protections for Temporary Foreign Workers in the Next Covid-19 Response. July 21, 2020.

Industry relentlessly sought not only to circumvent statutory limits on the H-2 programs, but also to weaken basic worker protections through the appropriations process. Examples include:

- **Defunding basic worker protections:** In the H-2B program, congressional appropriations riders have prevented DOL from enforcing prevailing wages and other key protections that prevent employers from firing U.S. workers and hiring H-2B workers for corresponding employment or bench H-2B workers and failing to provide at least  $\frac{3}{4}$  of the hours promised.
- **Year-Round H-2A:** For the past few years, a rider has been introduced to expand the H-2A visa program, currently limited by statute to seasonal or temporary agricultural jobs, to include year-round agricultural jobs. Such an expansion would result in temporary visas used to fill permanent, year-round jobs, and would open up the H-2A program to notoriously dangerous and under-regulated industries.
- **Exceeding the annual H-2B Visa Cap:** Since fiscal year 2016, employers and lobbyists in major H-2B industries have advocated to raise the number of H-2B visas beyond the statutory cap, leading to the expansion of a flawed program that fails to protect labor standards for migrant and U.S. workers, while usurping the power of the appropriate congressional committees of jurisdiction that should make policy in those programs.

We decry any and all efforts to adopt such expansion proposals without first enacting the fundamental reforms that are needed to fix the abusive H-2 visa programs. Pre-pandemic, the H-2 programs' rapid expansion without necessary worker protections directly led to increased worker vulnerability and abuse. Lacking such protections, thousands of workers have fallen ill since the start of the pandemic. Now, we have an obligation to advance recovery efforts that are inclusive, sustainable, and safe and ensure that we address the systemic flaws that put workers' lives in danger.

Enacting meaningful protections for H-2 workers is an essential first step. We call on you to stand with workers and their families by reforming U.S. work visa programs through proposals that respect the dignity of workers and by opposing any appropriations rider that increases their exploitation by expanding and deregulating current H-2 programs.

Sincerely,

Migration that Works