

Congress of the United States
Washington, DC 20515

October 29, 2024

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, D.C. 20528

RECEIVED

By ESEC at 7:45 am, Oct 30, 2024

Dear Secretary Mayorkas,

We write on behalf of seasonal businesses in our states who are struggling to hire enough temporary, seasonal laborers to support their operations.

On September 18, 2024, the FY2025 H-2B first half fiscal year cap was met. This was roughly three weeks earlier than in FY24. The result is seasonal employers with a late fall and winter dates of need are capped out, and absent cap relief, will be unable to receive their temporary, U.S. government vetted temporary guestworkers. The result will be longer lines and reduced services at America's ski resorts, a dramatic reduction in Louisiana crawfish and Maryland crab production, increased reliance on foreign seafood and a reduction in services and offerings from many of Florida and Michigan's hotels and resorts.

Fortunately, under the "FY2025 Continuing Appropriations and Extensions Act," the Secretary of the Department of Homeland Security (DHS), in consultation with Secretary of the Department of Labor (DOL), is authorized to provide expeditious H-2B cap relief for our local businesses' upcoming seasonal labor needs. We are very appreciative of DHS for exercising this authority in a timely manner in FY23 and FY24 and urge them to do the same this year.

As you know, H-2B visas can only be granted if there are insufficient American workers to fill those specific needs. The chronic labor shortages faced by seasonal employers for years have only been exacerbated by the changing dynamic of the American workforce since the pandemic. The Department of Labor's Openings and Labor Turnover Surveys (JOLTS) show the rate of job openings have increased year over year for the industries that represent the top five H-2B occupations, however there simply aren't enough Americans vying for these jobs. Issuing the extra discretionary H-2B visas in a timely manner will help alleviate these workforce shortages and, in doing so, will help create and sustain the jobs of American workers who rely on the H-2B workers to support their duties during their peak seasons. When seasonal businesses have an adequate seasonal staff, they can expand their businesses and can take on additional contracts. Examples include seafood processors buying more seafood from American fisherman, hotels hiring more full-time, year-round management staff and landscapers increasing purchases from local vendors. Studies show seasonal workers support the jobs of between 3.2 and 4.6 full-time, year-round American workers.

While we are discussing the importance of the discretionary H-2B visas, we would appreciate clarification regarding the maximum amount allowed under law. Existing discretionary language states that the maximum allowed is, "the highest number of returning workers in any such fiscal year." In 2017, the State Department determined that 64,716 was the maximum number of visas that DHS could release. However, the State Department issued 69,320 H-2B visas¹ to returning H-2B workers in 2007, not 64,716. Therefore, we ask for clarification for the discrepancy and urge DHS to release the 69,320 visas instead of 64,716, if it is determined this is the allowable number.

Regardless of the maximum allowed, we thank you for your support and are hopeful the FY25 rule will be published expeditiously, giving seasonal employers ample time to plan for their upcoming seasons.

cc:

- The Honorable Julie Su, Acting Secretary, United States Department of Labor

Sincerely,



Andy Harris, M.D.
Member of Congress



Chellie Pingree
Member of Congress



Dan Newhouse
Member of Congress



C. A. Dutch Ruppertsberger
Member of Congress



David P. Joyce
Member of Congress



Henry Cuellar
Member of Congress

¹ [Nonimmigrant Visas Issued by Classification for Fiscal Years 2007-2011, Nonimmigrant Visas Issued by Classification for Fiscal Years 2007-2011 \(state.gov\)](https://www.state.gov/nonimmigrant-visas-issued-by-classification-for-fiscal-years-2007-2011)



Cliff Bentz
Member of Congress



John R. Moolenaar
Member of Congress



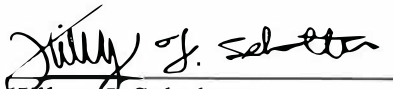
Chuck Edwards
Member of Congress



Elissa Slotkin
Member of Congress



Jack Bergman
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Hillary J. Scholten
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Mary Sattler Peltola
Member of Congress



William R. Keating
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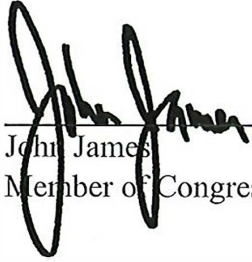
Clay Higgins
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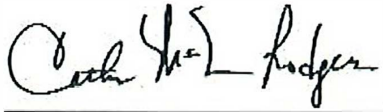
Garret Graves
Member of Congress



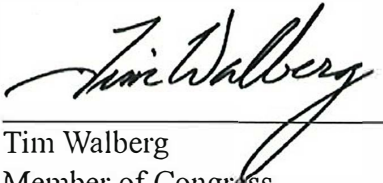
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Nancy Mace
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Joe Neguse
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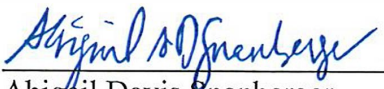
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Russell Fry
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Chris Pappas
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Lloyd Smucker
Member of Congress



January 15, 2025

The Honorable Andy Harris
U.S. House of Representatives
Washington, DC 20515

Dear Representative Harris:

Thank you for your October 29, 2024 letter to the Department of Homeland Security (DHS) regarding supplemental H-2B visas for Fiscal Year (FY) 2025. I am responding on behalf of the Department.

Recognizing the labor shortages facing U.S. businesses, on December 2, 2024, DHS and the Department of Labor (DOL) jointly published a temporary final rule (TFR) making available the maximum number of H-2B nonimmigrant visas authorized by Congress under the supplemental cap for FY 2025.¹ Additionally, DHS and DOL continue to work together to reinforce robust protections for U.S. and foreign workers alike, including ensuring that employers first seek out and recruit U.S. workers for the jobs to be filled, as the H-2B visa program requires, and that foreign workers are not exploited by unscrupulous employers.

These supplemental H-2B visas will be available only to businesses that are suffering or will suffer impending irreparable harm and will be distributed in four allocations throughout the fiscal year. By making these supplemental visas available at the outset of FY 2025, DHS and DOL are delivering on our commitment to ensure U.S. businesses are able to plan and find the seasonal and other temporary workers they need. More information about the FY 2025 supplemental H-2B visa allocation, eligibility, and filing requirements is available in the TFR and on the U.S. Citizenship and Immigration Services (USCIS) webpage.²

In your letter, you requested an explanation as to why DHS limited H-2B supplemental visas to 64,716 for FY 2025. The maximum authorized number, per statute, sets the ceiling to the highest number of H-2B returning worker nonimmigrants in any fiscal year.³ The highest

¹ Exercise of Time-Limited Authority to Increase the Numerical Limitation for FY 2025 for the H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers, 89 FR 95626 (Dec. 2, 2024).

² USCIS, "H-2B Temporary Non-Agricultural Workers," <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers>.

³ The authorization for the FY 2025 supplemental cap is under sections 101(6) and 106 of Division A, Title I of the Continuing Appropriations and Extensions Act, 2025, Public Law 118-83 (Sept. 26, 2024) (FY 2025 authority),

number of H-2B returning workers approved was 64,716 in FY 2007. DHS recognizes that the highest number of participants could be considered by measuring the number of H-2B returning workers admitted to the United States.⁴ Upon review of the data, DHS determined that USCIS petition data is more accurate and verifiable when measuring the number of returning workers approved for a certain fiscal year. This is because admission data alone may not accurately reflect the cap year for which the worker was approved. Therefore, in FY 2023 and subsequently, DHS has authorized an additional 64,716 visas based on USCIS petition data, on top of the congressionally mandated 66,000 H-2B visas that are available each fiscal year.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director

which extended the authorization previously provided in section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118-47 (Mar. 23, 2024).

⁴ Exercise of Time-Limited Authority to Increase the Fiscal Year 2017 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program, 87 FR 76816, 76820 (Jul. 19, 2017).