June 24, 2016

Dear Secretary Perez and Secretary Johnson:

We write to express our concern about extensive and serious violations of workers’ rights under the H-2A temporary agricultural worker program. While we acknowledge that the Department of Labor under this Administration improved worker protections in the H-2A program and their enforcement, much more needs to be done to prevent trafficking, fraud and abuse in the program.

The violations of the rights of U.S. farmworkers and H-2A guestworkers at H-2A program employers are not occasional or based on mere anecdotes, but systemic and well-documented, as demonstrated by Buzzfeed’s recent series of exposés on the H-2 programs, including “The New American Slavery: Invited to the US, Foreign Workers Find a Nightmare,” “All You Americans Are Fired,” “The Pied Piper of North Carolina,” and “The Pushovers.” The abuses described in these articles and elsewhere range from wage theft, health and safety violations and poor housing conditions, to recruitment fraud and human trafficking. H-2A workers describe abusive and illegal experiences such as paying thousands of dollars in recruitment fees, being housed in buses, barns or rat-infested sheds, and being verbally abused and physically threatened by supervisors, sometimes with weapons.

Despite these and other reports of abuse in the H-2A program, your agencies have been under great pressure to speed up the processing of H-2A applications. However, this should not come at the expense of enforcing worker protections. We understand that some of the processing delays are due to employers submitting incomplete applications or applications with illegal job terms. The Department of Labor, in particular, has been pushed to rubber stamp applications to meet this deadline and has not received adequate funding from Congress to satisfy the growing demand in applications while fulfilling its duties to protect the labor market under the Immigration and Nationality Act (INA).

Your agencies play an important role in ensuring that employers are bona fide businesses that have a temporary or seasonal need for agricultural workers. We understand that the Department of Labor has found some employers, dairies in particular, to be abusing the H-2A program by hiring H-2A workers to fill year-round jobs in violation of the INA. Indeed, advocates from the field have also reported seeing H-2A workers milking and doing other jobs on dairies. One of the premises of the H-2A program is that seasonal work is unattractive to many U.S. workers because it limits annual earnings. Agricultural employers with year-round positions should be required to compete in the marketplace to attract domestic workers by raising wages and improving working conditions.
We recognize that the ultimate solution to reforming these programs must occur through comprehensive immigration reform. While we wait for Congress to act, we urge you to continue to improve enforcement efforts in the H-2A program, including efforts to target farm labor contractors using the program and foreign labor recruiters that commit fraud and abuse.

Sincerely,

Farmworker Justice
United Farm Workers
California Rural Legal Assistance Foundation
Columbia Legal Services
Economic Policy Institute
Hispanic Federation
Labor Council for Latin American Advancement
National Council of La Raza
National Employment Law Project
Piñeros y Campesinos Unidos del Noroeste (PCUN)
Southern Poverty Law Center
United Food and Commercial Workers International Union

Cc: Assistant Secretary of Labor for Employment and Training Portia Wu
    US Citizenship and Immigration Services Director Leon Rodriguez
    Wage and Hour Division Administrator David Weil