



## FARMWORKER JUSTICE

### **The New Agribusiness Immigration Proposal: An Employer's Wish List.**

A new agribusiness coalition, the Agriculture Workforce Coalition, has formed and is promoting an immigration policy proposal. Thus far, the AWC has published only a brief statement about its contents. While the description may seem reasonable and simple, it appears in reality to be a complicated proposal for several guestworker programs that lack labor protections for U.S. workers and vulnerable foreign workers. Although the statement mentions an adjustment of status for undocumented farmworkers, it noticeably does not suggest a road map to citizenship.

**Several guestworker programs and no limit on the number of visas:** The AWC's guestworker proposal appears to be little more than a grower wish list, with several guestworker programs from which to choose and apparently no limit on the number of guestworkers each year. One option creates a program of "at-will" employees, who could work for several employers for up to 11 months at a time. Workers could obtain the visa year after year, but would be required to return home for 30 days after 11 months. Apparently, the program would be run by the USDA, despite its lack of experience enforcing labor protections and despite the fact that all other guestworker programs are run by the U.S. Department of Labor. Another option is the "contract" program, which would allow growers to hire workers for up to 12 months, renewable indefinitely. Workers could remain in the United States except for a requirement to return home for at least 30 days over the three-year period. It's unclear if employers could still use the H-2A guestworker program, but no grower would use it if these new programs existed.

**Worker Protections?** The proposal contains no information about any protections for U.S. farmworkers or vulnerable foreign workers in either guestworker program. Nor does it indicate that there would be any meaningful government oversight. Whether this is an omission from the actual proposal or just the description, it makes clear that protecting the jobs, wages and working conditions of farmworkers is not a priority. The proposal's unchecked, unlimited access to vulnerable guestworkers will depress wages for farmworkers, who already experience inadequate labor standards. Most workers would be too vulnerable and fearful to speak out about workplace abuses or about unsafe working conditions that could impact food safety.

**The programs do not offer true portability.** The brief description of the guestworker programs state that they would offer "employee[s] choice and flexibility" by providing two guestworker options. The description, however, does not explicitly offer workers flexibility or free market conditions. Workers would likely have little to no choice as to which program they will enter or what the terms or conditions of employment in the contract or "at-will" employment will be. For the contract worker, once in a contractual relationship with an employer, the guestworker is essentially tied to the employer and would have no ability to seek better wages or working conditions. In essence, the "contract" program would be

much like the current H-2A program, but with no mention of the longstanding labor protections which are necessary to counter the workers' lack of power and the impact this has on wages and working conditions. The "at-will" plan purports to offer portability by allowing guestworkers to work for any employer registered with the U.S. Department of Agriculture. But these growers will have already arranged to bring in sufficient guestworkers to meet their needs. In fact, without any guarantee that workers will be provided sufficient work and with an unlimited number of visas, growers could recruit an oversupply of workers, thereby weakening workers' bargaining power and lowering wages.

**A Permanent Underclass of Guestworkers.** Although workers in the two programs could work for an unlimited period of time in the United States, as long as they meet the 30 day home visit every 11 months or 3 years, no mention is made of offering these workers an opportunity to earn lawful permanent residency or citizenship. This will create a permanent underclass of non-citizen workers tied to agricultural work, anathema to American values of democracy and freedom. Presumably, these workers would not be allowed to bring their family members, splitting families apart.

**No commitment to a path to citizenship for the current undocumented farmworkers.** The proposal states that current farmworkers can eventually obtain "permanent legal status," but does not say what kind of legal status. No mention is made of lawful permanent residency or citizenship. The proposal would also require workers to work only in agriculture for a certain number of days annually until they obtained their permanent legal status. A legal status without a commitment to a path to lawful permanent residency and eventual citizenship dishonors our nation's values and core principles.

**A real solution is possible** and now is the time to move forward with realistic bipartisan approaches with the support of labor and management. Congress should provide a roadmap to citizenship for the 11 million aspiring Americans, including farmworkers harvesting our crops. Immigration reform can help ensure that agriculture continues to have a productive labor force and that farmworkers may improve their wages and working conditions and support their families. To the extent future workers are needed from outside the U.S., any visa program should protect U.S. workers' jobs and wages. As important contributors to our economy, farmworkers, now and in the future, should be given true economic freedom to find agricultural jobs and improve their conditions; and an opportunity to earn immigration status and citizenship.