



Farmworker Justice Immigration Reform and Agriculture

Immigration is a critically important issue for farmworkers and for our entire food system. The criminalization of undocumented immigrants, increased deportations and other immigration enforcement actions have exacerbated an already untenable situation for farmworkers and the agricultural labor system. Farmworkers, documented and undocumented, perform the difficult and dangerous work of cultivating and harvesting the fruits, vegetables and other foods that feed us all. Reform of our broken immigration system is a necessary stepping stone toward modernizing agricultural labor practices and treating farmworkers with the respect they deserve.

Our agricultural system needs a legalization program for farmworkers. The Agricultural Worker Program Act should be supported.

The Agricultural Worker Program Act, introduced by Sen. Feinstein (S. 1034) and Rep. Gutierrez (H.R. 2690), is a positive and workable solution in Congress that will meet the needs of workers, agricultural employers, and our food system. The Agricultural Worker Program Act would provide a path to lawful permanent residency and citizenship for experienced agricultural workers and their family members. The bill is important for farmworkers because it would take away the constant fear of deportation and allow families to stay together. The bill also includes a future work requirement that addresses employer concerns about workforce stability. Finally, by enabling farmworkers to do their jobs without fear, the bill would help ensure compliance with labor, pesticide and food safety laws, improving the security of our entire food system.

The H-2A program is fundamentally flawed and exploitative of workers.

The H-2A program is a guestworker program that allows employers to bring in foreign workers for temporary or seasonal agricultural work if they cannot find domestic workers. It includes modest protections that are intended to ensure that the wages and working conditions of the domestic workforce are protected and that temporary foreign workers are not exploited. Unfortunately, these protections, while important, are inadequate to protect U.S. and foreign workers from abuse. The H-2A program is fundamentally flawed: workers are tied to their employers and are dependent on their employers not just for their employment but also for their very presence in the U.S. As a result, they are vulnerable to exploitation and reluctant to speak out. Moreover, H-2A workers are “nonimmigrants” with no pathway to immigration status or citizenship. Given these factors, many employers come to prefer their contractually bound H-2A workers over their local workforce.

The H-2A program is uncapped and expanding rapidly: it has almost tripled in size during the last decade: from about 77,000 positions certified in FY 2007 to close to 200,000 positions likely to be certified in FY 2017. The vast majority of applications— 95% in FY 2016—are approved in a timely manner. Some agribusiness groups complain that the H-2A program is too difficult to use and does not meet their needs; however, the program’s growth and the fact that many growers re-apply year after year belie those claims. The H-2A program’s unprecedented growth is problematic given the reality of worker exploitation in the program.

The House appropriations H-2A year-round amendment must be opposed.

House Representatives have already taken one step towards a massive and inappropriate expansion of the H-2A program. A last-minute amendment was inappropriately added to the House DHS FY 2018 appropriations bill, seeking to change the scope of the H-2A program from one intentionally limited to temporary and seasonal work to one that includes year-round jobs. If this amendment is included in the final FY 2018 spending package, it would fundamentally change the scope of the program. The H-2A program is limited to temporary and seasonal jobs because employers who are trying to fill year-round jobs are supposed to do so by competing for workers like other employers do, by offering better wages and working conditions. This amendment would mean that year-round agribusiness could instead turn to the H-2A program for their labor needs and have a perpetual source of captive workers with very limited bargaining ability, while U.S. workers not willing to accept the minimum H-2A job terms could be turned away. The amendment also fails to provide any solution for the undocumented workers who are currently doing much of this important work. Instead of allowing these experienced workers to continue living in and contributing to their communities, they could be pushed from their jobs to even more vulnerable positions. Expanding the scope of the uncapped H-2A program will only worsen the situation for our farm labor system.

Congress must reject guestworker-only approaches such as Rep. Goodlatte's guestworker proposal. Our nation's farmworkers deserve a real solution that provides a path to legalization.

Currently, there are various guestworker proposals being discussed, including a proposal expected to be introduced soon by Rep. Goodlatte. Rep. Goodlatte's proposal will likely be similar to an extremely harmful bill he introduced in 2013, and would have a devastating impact on our nation's agricultural and food processing workers. As described by Rep. Goodlatte and others, the proposal would replace the H-2A program with a new H-2C visa system and strip away many worker protections. It would eliminate key recruitment protections for U.S. workers while making the new visa system accessible to even more employers, including those with year-round and agricultural processing jobs. The proposal would also drastically lower farmworker wages by changing the required wage rates, withholding a percentage of workers' wages, and removing existing transportation and housing requirements. The proposal would limit government oversight and workers' ability to redress violations, resulting in a system with workers even more captive and exploitable than in the current H-2A system. Finally, the proposal would not enable experienced farmworkers to put themselves on a pathway to lawful permanent residency or citizenship; instead they would be required to convert to temporary guestworker status with no ability to become part of the country that they are helping to feed and in which many have lived for years.

Stripping worker protections and government oversight from an already flawed and exploitative program is not a solution. It makes little sense to allow employers to hire more guestworkers without first addressing the need to legalize the current workers who are already in this country and have deep ties to their communities. The first step toward a modern agricultural labor system must be to stabilize our current farm labor force through sensible immigration reform that includes a path to citizenship for farmworkers and their families. The Agricultural Worker Program Act does just that. We should respect the valuable role of farmworkers in our agriculture and food system and ensure that they enjoy the democratic and economic freedoms of this nation.