

Congress of the United States
House of Representatives

March 1, 2018

The Honorable Kirstjen M. Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528

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Dear Secretary Nielsen,

I write to express concern regarding a current labor shortfall having negative effects on some of my constituents in western Pennsylvania. Many small businesses rely on the H-2B visa worker program that provides them much needed workers. This is especially true for seasonal industries like landscaping and tourism. Numerous business owners indicate that they will either downsize, suffer significant harm, or close if immediate action is not taken to address this situation. Furthermore, as the economy improves and unemployment rates fall, existing labor shortfalls could be exacerbated.

My constituents cite the necessity of H-2B workers because recruiting and retaining American workers for their businesses is not possible for many reasons, and not for lack of offering competitive wages or outreach. For years, the H-2B program offered businesses in Pennsylvania a way to legally employ workers they desperately need. One notable benefit of the H-2B program is it permits employers the ability to legally employ foreign persons that have been vetted, and that also pay taxes.

It is my understanding the Department of Labor received a huge number of requests for H-2B visas by January 1, 2018, far in excess of the current visa cap. This large request for visas is consistent with this program's continued high demand, and demonstrates that cap relief should be granted. I should also note that my constituents raised issues about inequities of the H-2B program where southern and southwestern states receive more visas because cold weather seasons end sooner there than elsewhere around the country.

I am requesting that the Department of Homeland Security, in consultation with Department of Labor, address the H-2B visa cap problem by providing expeditious adjustments for the release of additional visas to meet current demand.

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Thank you for your leadership and the Department of Homeland Security's continued efforts to keep our nation safe and our economy thriving.

Sincerely,

A handwritten signature in blue ink that reads "Keith J. Rothfus". The signature is written in a cursive style with a large, stylized "K" and "R".

Keith J. Rothfus

Member of Congress



U.S. Citizenship
and Immigration
Services

April 6, 2018

The Honorable Keith J. Rothfus
U.S. House of Representatives
Washington, DC 20515

Dear Representative Rothfus:

Thank you for your March 1, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Your letter expressed specific concerns with the H-2B temporary nonagricultural worker program, particularly with the Fiscal Year (FY) 2018 numerical limit (the "cap") and the impact that any H-2B cap closure could have on employers in Pennsylvania and the rest of the United States. You requested that the Department of Homeland Security (DHS) make immediate efforts to release additional visas for the H-2B program.

There is a statutory cap on the total number of foreign nationals who may be issued an H-2B visa or otherwise granted H-2B status during a fiscal year. Under section 214(g)(1)(B) and (10) of the Immigration and Nationality Act, as amended, Congress has set the H-2B cap at 66,000 per fiscal year, with a maximum of 33,000 available during the first half of any given fiscal year. Section 205 of Div. M of H.R. 1625, the Consolidated Appropriations Act, 2018, however, which was signed into law by the President on March 23, 2018, provides the Secretary of Homeland Security with discretion, after consultation with the Secretary of Labor, to increase the H-2B cap for the current fiscal year. In considering its implementation of section 205, DHS will keep in mind the concerns stated in your letter.

Please be assured that USCIS understands the H-2B nonagricultural worker program's significance to seasonal employers and is committed to the efficient management of the program.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the U.S. Citizenship and Immigration Services Office of Legislative Affairs at (202) 272-1940.

Respectfully,

L. Francis Cissna
Director