

Congress of the United States

Washington, DC 20510

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March 20, 2023

The Honorable Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The Honorable Julie Su
Deputy Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
245 Murray Lane SW
Washington, DC 20528

Dear Secretary Walsh, Secretary Mayorkas, and Deputy Secretary Su,

We write on behalf of seasonal businesses in Michigan to highlight the Department of Labor's (DOL) processing of H-2B visas. As the labor market has tightened many seasonal employers have turned to the H-2B program when a domestic workforce is unavailable to fill their labor needs. However, significant processing delays at DOL are hampering the ability to obtain H-2B workers and are risking crucial economic drivers in Michigan, like the hospitality industry on Mackinac Island.

This year, there are about 25,000 more applications for H-2B temporary labor certifications (TLC) and DOL has reviewed about 30,000 fewer applications than it had at this point last year. Currently Mackinac Island, Michigan businesses have petitions for 205 positions in group E, 96 positions in group F and 73 positions in group G. All of these applications were filed between January 1, 2023 and January 3, 2023. DOL is required by regulation to issue an initial decision on these applications within 7 business days. Increased bureaucratic delays at DOL are no excuse to jeopardize the livelihood of countless businesses that rely on the H-2B program to augment a dwindling domestic workforce.

With most contracts set to start on April 1, we request the following questions be answered by **March 23, 2023**:

What steps is DOL taking to expedite processing of the remaining applications to ensure the processing backlog is addressed and eliminated in future years? Most importantly, USCIS will open the filing window for the supplemental H-2B visa numbers on March 14, 2023. Without a certified TLC due to the backlogs, these employers' applications in Groups E, F, or G will be completely shut out of the opportunity to apply for the 16,500 supplemental visa numbers limited to returning workers and reserved for employment start dates between January 1, 2023-May 14, 2023. We also have employers who are relying on the timely certification of these applications to sponsor workers who currently are in H-2B status in the US and not subject to the FY 2023 2nd half cap.

Will DHS provide these workers with at least a 30-day grace period similar to H-2A workers? This will facilitate easier transitions between H-2B jobs in light of DOL's current backlog in processing TLCs.

The H-2B program was created by Congress to address the requirements of seasonal employers who are unable to meet their workforce needs with American workers. H-2B is vital to Mackinac Island businesses and to the Michigan hospitality industry. It is also vital for similar employers throughout the United States to boost economic activity and create and preserve American jobs.

Sincerely,



Jack Bergman
Member of Congress



Elissa Slotkin
Member of Congress



Tim Walberg
Member of Congress



John James
Member of Congress



Hillary J. Scholten
Member of Congress



Bill Huizenga
Member of Congress



John Moolenaar
Member of Congress



Lisa McClain
Member of Congress



Daniel T. Kildee
Member of Congress



Haley Stevens
Member of Congress



Shri Thanedar Ph.D
Member of Congress



U.S. Citizenship
and Immigration
Services

April 17, 2023

The Honorable Jack Bergman
U.S. House of Representatives
Washington, DC 20515

Dear Representative Bergman:

Thank you for your March 20, 2023 letter to the Department of Homeland Security (DHS) regarding the importance of the H-2B program to Michigan. I am responding on behalf of the Department.

DHS understands the importance of the H-2B program to Michigan's economy and welcomes your valuable suggestions for improving the H-2B program, including the suggestion to provide a 30-day grace period to H-2B workers similar to the H-2A grace period. Changing the current 10-day H-2B grace period requires a regulatory change in compliance with the Administrative Procedure Act. DHS plans to issue a notice of proposed rulemaking and will solicit public comment. DHS will carefully consider all comments and suggestions and is committed to continuing its efforts to modernize and reform the H-2A and H-2B programs. DHS intends to propose, among other things, policies that increase program efficiencies and build upon existing worker protections.

DHS defers to the Department of Labor regarding the steps being taken to expedite processing of the remaining applications to address the backlog.

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 that reads "Ur M. Jaddou" followed by a long horizontal flourish.

Ur M. Jaddou
Director