



October 24, 2022

Farm Service Agency
United States Department of Agriculture
1400 Independence Ave SW
Washington, DC 20250-0506

RE: Docket ID FSA-2022-0013 – Request for Information and Stakeholder Listening Sessions on Farm Labor Stabilization and Protection Pilot Program

Dear Acting Administrator Marlow,

Thank you for accepting stakeholder input on the above-referenced request for information.

WafLA is a non-profit 501(c)(6) membership organization comprised of nearly 800 agricultural and seasonal employers. WafLA was formed to make labor stability a reality for all agricultural employers and for farmers and farmworkers to be treated with dignity and respect. We offer ways for our members to access several federal visa programs and receive assistance complying with state and federal labor standards.

In 2021, wafLA filed H-2A applications for more than 200 member employers who collectively employed more than 16,000 individual H-2A workers. In addition, wafLA employer members employed more than 20,000 U.S. workers. We assist farmers with their workers' housing needs and offer human resource training and advice.

We have seen interest and participation in the H-2A visa program grow over the past decade, as our members, agricultural employers, have found it increasingly hard to fill agricultural jobs. Their only option to help remedy this labor shortage under current law is the H-2A program. Without this program, farmers of labor-intensive commodities would not currently be able to grow those crops, which are vital components in our national food security system. Our country needs a robust food supply and needs farmers and farmworkers to produce that food. As such, it is imperative that the H-2A guestworker program work efficiently and without artificial barriers.

For this project, we understand that FSA is interested in receiving input on five sets of questions. Below are those questions and our corresponding responses.

1. *What barriers or challenges do agricultural employers currently face in accessing the H-2A visa program? What specific barriers and challenges do agricultural employers face in hiring workers from northern Central America?* Agricultural employers find the H-2A visa program to be cumbersome, complicated, and inefficient. Multiple federal laws and agencies combined with a host of state laws and agencies form a bureaucratic labyrinth that serves to make the program inaccessible to farmers unless they have assistance from agents and consultants. In addition, housing costs are often prohibitively high, and wage rates mandated by the program are much higher than market wages. These factors combine to make use of the H-2A program extremely expensive for growers – and much more expensive than the previous model of employing migrant workers from within the United States. Regarding the barriers and

challenges employers face when hiring workers from northern Central America, the biggest issue is cost. Since employers are responsible for the travel costs of workers in the H-2A program, those costs will be higher for workers whose homes are farther away. If faced between hiring (and paying for) a worker from Mexico versus a worker from Central America, an employer would likely choose Mexico because of its closer proximity to the United States and the employer's farm. Also, most agricultural employers have a domestic workforce that is of Mexican descent. There are deep familial and cultural links that encourage employers to bring in workers from Mexico rather than from other countries.

2. *Do agricultural employers have specific feedback on the housing components of the H-2A visa program? What challenges do you face related to housing?* From the employer perspective, the biggest challenge related to housing is the cost and availability of housing. Housing for H-2A workers is a necessity, and workers deserve to have housing that is licensed and inspected. Housing requires advanced planning and significant upfront capital costs. These costs cannot currently be covered, even in part, by H-2A workers. It is interesting that employers are allowed to charge H-2B non-agricultural visa workers for their housing. Congress and the Administration could look at reforming H-2A to include similar provisions as H-2B, but meanwhile housing cost and availability on the ground is a significant factor limiting the use of the H-2A program.
3. *What incentives are employers seeking from USDA to improve their ability to hire workers from northern Central American countries under the seasonal H-2A visa program?* We need to see the federal government provide financial incentives for employers to hire workers from northern Central America. Examples include subsidizing airfare costs or waiving the \$190 visa fee for those workers coming on H-2A or H-2B visas. Second, employers also need financial assistance in developing and maintaining licensed and inspected housing for workers, including workers from northern Central American countries. Third, the consulate processor for these Central American countries needs to be more streamlined and faster – just like Mexico. We are regularly seeing processes in El Salvador and Guatemala take two weeks and sometimes longer. Finally, USDA should work with the countries in question to eliminate government control of the consulate process in these countries. Employers like working with private companies they have long-term relationships with and trust. Many private recruiters do not want to work in these countries due to the difficulty of operating there. It is possible to allow private recruiters to be involved in this process while still providing safeguards against bad actors and maintaining program integrity.
4. *What enhanced worker protections and labor standards are employers willing to accept in order to receive USDA support to stabilize the workforce? What mechanisms would be helpful in achieving these enhanced protections and standards?* We do not believe there need to be enhanced protections associated with this pilot grant program. The H-2A system, as established by Congress and administered by the Department of Labor in cooperation with other federal agencies, already requires robust worker protections and ensures compliance with federal and state labor standards. Additional requirements – those that go above and beyond what is already required by H-2A regulations – would likely deter employers from participating in this pilot program. Without employer buy-in, this pilot program will not be successful.
5. *What suggestions do you have to help ensure compliance for any additional standards required by recipients of grants as part of this farm labor stabilization and protection pilot grant program?* We do not have suggestions for additional standards and compliance as part of this pilot program. Assistance by the federal government to encourage workers from northern Central American countries to participate in the H-2A program will certainly benefit those workers and benefit agricultural employers if

certain costs are covered by the federal government. Agricultural employers and associations could, of course, follow best practices and voluntarily meet high standards, but additional standards beyond what is currently required by the H-2A program should not be mandated.

Thank you again for the opportunity to present these comments. We hope our input assists FSA in developing this program so that it is useful for agricultural employers, for northern Central American workers, and for the immigration goals of the federal government. We believe this pilot grant program holds a potential solution to the chronic agricultural labor shortages our members have experienced over the past couple of decades.

Once FSA collates the stakeholder feedback and finalizes the parameters of the pilot program, we ask that FSA send out an RFP so that multiple interested stakeholders can evaluate the program and submit their offers to participate. Doing so might attract proposals based on different assessments and actions, giving FSA and others more ideas and data points to analyze as the federal government seeks future changes to immigration programs.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Enrique Gastelum'.

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