



## TEXAS DEPARTMENT OF AGRICULTURE COMMISSIONER SID MILLER

April 4, 2018

The Honorable Kirstjen M. Nielsen  
Department of Homeland Security  
245 Murray Lane, SW  
Washington, D.C. 20528

Dear Secretary Nielsen,

As the Commissioner of Agriculture for the State of Texas, I request that you take immediate action and open the petition process under the H-2B Nonimmigrant Temporary Worker Program. This is critical for the Texas economy, and small and seasonal businesses that rely on the seasonal workers provided through the H-2B program in Texas.

It is clear that under the 2018 Consolidated Appropriations Act you have the authority to approve petitions and adjudicate pending labor certifications. Your timely action is vital to the livelihoods of thousands of farmers, shrimpers, and small businesses that rely on these temporary workers. While similar authority was granted in 2017, there was a delay in issuing these visas that resulted in many producers and family run businesses being left with a shortage of seasonal workers needed to operate.

Agriculture and related businesses are the second largest part of the economy in Texas. Specialty crop production, livestock operations, and fisheries create thousands of jobs throughout the United States. By taking action now to open the petition process, your assistance will not only help ensure that we continue to feed the world, but will allow Texans to create work opportunities for U.S. citizens that are the result of the jobs generated by our ability to have a seasonal support workforce.

Currently many agriculture and related entities are making final decisions on this season's production efforts. Your action on this matter will determine the economic success of many of these businesses, and the jobs they create.

I appreciate your attention to this critical matter, and urge your immediate approval of this request.

Sincerely,

Sid Miller  
Commissioner

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**U.S. Citizenship  
and Immigration  
Services**

August 27, 2018

Mr. Sid Miller  
Commissioner  
Texas Department of Agriculture  
P.O. Box 12847  
Austin, Texas 78711

Dear Mr. Miller:

Thank you for your April 4, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Your letter urges Secretary Nielsen to approve additional H-2B petitions pursuant to the H-2B visa provisions contained in the Consolidated Appropriations Act, 2018 (Public Law 115-141), which was signed by the President on March 23, 2018.

This provision authorized Secretary Nielsen, in consultation with Secretary Acosta, to determine whether to increase, and if so, by how many (within specified parameters), the number of available H-2B visas for fiscal year (FY) 2018. In making her decision to increase the number of H-2B visas, the Secretary carefully weighed several factors, including whether U.S. workers may be harmed by any such increase.

On May 31, 2018, the U.S. Department of Homeland Security (DHS) and U.S. Department of Labor published a temporary final rule increasing the cap on H-2B nonimmigrant visas by up to 15,000 additional visas through the end of FY 2018. The Secretary does not intend to reopen the supplemental cap for FY 2018.

As with the essentially identical provision in the FY 2017 Omnibus, DHS did not ask for, and does not believe it is appropriate to have, the discretion to authorize the issuance of additional H-2B visas, in general, and specifically under a supplemental cap. I share Secretary Nielsen's opinion that Members of Congress have the best information to know the correct number of H-2B visas needed to support American businesses without harming American workers because congressional representatives have the best understanding of their constituencies and the needs of their local employers.

Further, I share the Secretary's desire to work together with Congress to find solutions to most effectively allocate available H-2B visas throughout the year, while also protecting U.S. workers in the process. DHS will be submitting a congressionally mandated report that details options for addressing the issue of late-season filers in the H-2B program, resulting in their inability to obtain H-2B workers. This report will include suggestions on how the program

Mr. Sid Miller

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can better serve our national interest. In the meantime, DHS continues to take steps of its own in this regard, including advising members of the public who may have information about a participating employer who is abusing the H-2B program on how to file a report through [ReportH2BAbuse@uscis.dhs.gov](mailto:ReportH2BAbuse@uscis.dhs.gov).

Thank you again for your letter and interest in this important issue. Should you wish to discuss these matters further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "L. Francis Cissna". The signature is stylized with a large "L" and a cursive "Cissna".

L. Francis Cissna  
Director