



The Ponzani Landscaping Co.



DESIGN/BUILD LANDSCAPES

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March 28, 2018

Dear Secretary Nielsen and Secretary Acosta:

Now that the Consolidated Appropriations Act for fiscal year (FY) 2018 has been signed into law, we urge you to take decisive action without delay to ensure that small and seasonal businesses in our states can get the workers necessary to ensure a successful season. Due to the time-sensitive nature of seasonal businesses, we also urge you to take immediate steps to re-open the petition process and adjudicate any pending labor certifications that demonstrate the requirements set forth in this legislation. We believe that your Departments can take these actions, using the authority provided under this law, without the need for additional rulemaking.

Under Division M, the Department of Homeland Security Appropriations Act, 2018, Title II, Section 2015 of the FY 2018 Consolidated Appropriations Act (P.L. 115-141), the Secretary of Homeland Security, in consultation with the Secretary of Labor, has the authority to approve petitions for admission under the H-2B Nonimmigrant Temporary Worker program up to the new statutory level set in the bill for the current fiscal year.

This authority was also provided in FY 2017. Despite this, only 15,000 additional visas were ultimately provided by the Secretary of Homeland Security even though Congress included language providing greater authority to issue additional visas to meet legitimate American seasonal business needs. Additionally, due to the late enactment date of the FY 2017 funding bill, and confusion at the Department regarding the need for additional rulemaking before exercising the new authority, the additional visas were provided very late in the season, and many businesses were unable to hire the seasonal workers they needed.

Small and seasonal businesses help our local communities thrive. In fact, small businesses across the country often rely on seasonal workers to help them operate during their peak seasons throughout the year. As you know, the statutory allocation for the current fiscal year was reached on February 27, 2018. As a result, many small businesses are left unable to get the workers they need, leading to potential reductions in operating hours or closures. Under the authority provided by Congress, the Department of Homeland Security can immediately help businesses hire the workers they need and help local economies as they head into their peak seasons.

We encourage you to make efforts to allow for efficient processing for additional applications and request that you inform us as soon as possible as to the process you will use to issue additional visas and the number of additional visas you intend to issue. This will not only help to alleviate concerns among employers, but it will also reduce the inevitable time-consuming inquiries to your agencies. By taking the necessary steps now, your agencies can streamline the process and help employers get their employees sooner.

Thank you for your attention to this important issue. We thank you for your consideration of this request and urge that you act as soon as possible.

Thank you for your help on this matter,

Chris Ponzani

SCANNED/RECEIVED
BY EXEC SEC
2018 APR 19 PM 4:00



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

August 27, 2018

Mr. Chris Ponzani
The Ponzani Landscaping Company
66741 Warnock-St. Clairsville Road
St. Clairsville, Ohio 43950

Dear Mr. Pozani:

Thank you for your April 11, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Your letter urges Secretary Nielsen and Secretary Acosta 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. Chris Ponzani

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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.

Thank you again for your letter and interest in this important issue. Please share this response with the cosigners of your letter. Should you wish to discuss these matters further, please do not hesitate to contact me.

Sincerely,

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

L. Francis Cissna
Director