

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-1806**

April 16, 2018

The Honorable Kirstjen Nielsen  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, NW  
Washington, DC 20528

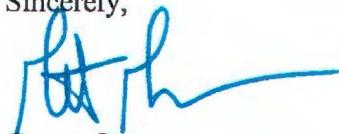
The Honorable R. Alexander Acosta  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20510

Dear Secretary Nielsen and Secretary Acosta,

We are contacting you regarding the provision in the Consolidated Appropriations Act for fiscal year (FY) 2018 passed by Congress and signed into law last week. Division M, Section 205 grants your departments the authority to issue additional H-2B seasonal worker visas upon a determination U.S. workers cannot fill these jobs. This year alone, over 81,008 positions were requested for an April 1, 2018 start date with only 33,000 visas available, demonstrating the dire situation many employers face with a domestic workforce shortage. The need for available workers is a timely and urgent issue for many of our vital industries, including sugar mills, crawfish processors, and landscapers. If workers are not available, many estimate that for each visa issued, it supports at least four American jobs. We request that you consider the impact of on U.S. businesses and issue additional visas to ensure the lack of a domestic workforce does not stifle our growing economy.

We appreciate your consideration.

Sincerely,



Garret Graves  
Member of Congress

SCANNED/RECEIVED  
BY ESE/CEC  
2018 APR 20 AM 9:52



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

May 17, 2018

The Honorable Garret Graves  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Graves:

Thank you for your April 16, 2018 letter. Secretary Nielsen asked that I respond on her behalf.

Your letter urges Secretary Nielsen and Secretary Acosta to take decisive action regarding the H-2B visa provisions contained in the Consolidated Appropriations Act, 2018 (Public Law 115-141), signed by the President on March 23, 2018.

As a general matter, there is a statutory cap of 66,000 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. *See* Immigration and Nationality Act (INA) § 214(g)(1)(B). Up to half of that allocation (33,000) is available during the first half of any given fiscal year, and the remainder is available during the second half of the fiscal year. *Id.* § 214(g)(10). However, section 205 of Div. M of the Consolidated Appropriations Act, 2018, Pub. L. 115-141, 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 under prescribed circumstances.

As with the essentially identical provision authorizing the Secretary to augment the H-2B statutory cap in Fiscal Year 2017, the Department did not ask for, and does not wish to have, this discretion. I share Secretary Nielsen's opinion that Members of Congress have the best information to know the "right" number of H-2B visas needed to support American businesses without harming American workers.<sup>1</sup> This is 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 limit H-2B visas to employers with truly temporary needs, and to find solutions to most effectively allocate available H-2B visas throughout the year. As Secretary Nielsen noted to lawmakers during her recent testimony, Congress placed limitations on H-2B visas to protect American workers. But it also clearly could not have been Congress' intent for the lawful administration of the program to

---

<sup>1</sup> *See* Testimony of DHS Secretary Nielsen, House Committee on Appropriations, Subcommittee on Homeland Security, Fiscal Year 2019 Budget Hearing – Department of Homeland Security (April 11, 2018) (<https://appropriations.house.gov/calendararchive/eventsingle.aspx?EventID=395210>).

The Honorable Garret Graves  
Page 2

put American employers out of business. DHS is in the final stages of the interagency process to implement section 205 of Div. M of the Consolidated Appropriations Act, 2018. DHS cannot comment on how many additional visas may be authorized before it is published in the *Federal Register*.

Thank you again for your letter and interest in this important matter. 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,

A handwritten signature in blue ink, appearing to read "L. Francis Cissna", is written over the typed name.

L. Francis Cissna  
Director