

# AFL-CIO

## LEGISLATIVE ALERT

June 13, 2016

The Honorable Harold Rogers  
Chairman  
U.S. House Committee on Appropriations  
Washington, DC 20515

The Honorable Nita M. Lowey  
Ranking Member  
U.S. House Committee on Appropriations  
Washington, DC 20515

### **Re: AFL-CIO opposes Harris/Cuellar Returning Worker Amendment**

Dear Chairman Rogers and Ranking Member Lowey:

As you consider the FY2017 Homeland Security Bill, we strongly urge you to oppose the Harris/Cuellar amendment to exempt returning H-2B workers from the annual cap of 66,000 H-2B workers per year. The exemption would drastically expand a broken guestworker program that lacks adequate labor and wage protections for U.S. workers (both native and immigrant workers) and guestworkers alike.

Thousands of our members work in industries that are top users of the H-2B seasonal worker program. These industries include landscaping, hospitality, food processing and construction. Misuse of the H-2B program harms them by artificially depressing wages, transforming permanent work to temporary, and driving down labor standards.<sup>1</sup> Further, H-2B workers are extremely vulnerable to abuse due to the structure of the seasonal visa program, which authorizes them to work long hours for low pay, but does not allow them to change employers. Numerous reports have documented alarming levels of abuse, including forced labor, visa fraud, wage theft, and sexual harassment.<sup>2</sup> A 2015 GAO report found substantial violations in a shocking 87 percent of Wage and Hour H-2B investigations.<sup>3</sup> Congress should not expand a program that facilitates a race to the bottom in wages and working conditions for all workers.

The FY17 Senate Labor HHS Education Appropriations Bill (S. 3040), recently reported out of committee, extends last year's riders that roll back crucial wage and labor protections for U.S. workers and guestworkers. This includes expanding the use of a wage methodology that drives down wages for U.S. workers and guestworkers alike. The riders also defund temporary

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<sup>1</sup> Daniel Costa, Economic Policy Institute Briefing Paper, "The H-2B temporary foreign worker program: For labor shortages or cheap, temporary labor?" (January 19, 2016) available at <http://www.epi.org/files/pdf/97394.pdf>.

<sup>2</sup> Jessica Garrison, *The New American Slavery: Invited to the US, Foreign Workers Find a Nightmare*, BuzzFeed, July 24, 2015; see also Centro de Los Derechos del Migrante, Inc. & Am. Univ., Wash. College of Law, *Picked Apart: The Hidden Struggles of Migrant Worker Women in the Maryland Crab Industry* (2011), available at <http://www.cdmigrante.org/wp-content/uploads/2012/01/PickedApart.pdf>;

<sup>3</sup> Government Accountability Office, "H-2A and H-2B Visa Programs, Increased Protections Needed for Foreign Workers," (March 2015), available at <http://www.gao.gov/products/GAO-15-154>.

labor certification audits that are crucial to ensuring employers are recruiting U.S. workers. These basic worker protections were key provisions of the H-2B Interim Final Rule and Final Wage Rule, jointly issued by the Department of Homeland Security and the Department of Labor in April 2015—and supported by the AFL-CIO.

The significant rollback in protections for workers—combined with an expansion of the program—would further perpetuate the cycle of exploitation for H-2B workers and put even more downward pressure on wages and standards for similarly situated U.S. workers.

The AFL-CIO urges you to oppose the Harris/Cuellar amendment.

Sincerely,



William Samuel, Director  
Government Affairs

WS/JR/lkr

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**American Federation of Labor and Congress of Industrial Organizations**

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