



AGRICULTURAL LABOR – IMMIGRATION REFORM

Issue:

U.S. agriculture faces a critical shortage of workers every year, as citizens are largely unwilling to engage in these rigorous activities and guestworker programs are unable to respond to the marketplace. This situation makes our farms and ranches less competitive with foreign farmers and less reliable for the American consumer. Securing a reliable and competent workforce for our nation's farms and ranches is essential to agriculture and the U.S. economy.

Background:

Farmers and ranchers have long experienced difficulty in obtaining workers who are willing and able to work on farms and in fields. Jobs in agriculture are physically demanding, conducted in all seasons and are often transitory. To most U.S. residents seeking employment, these conditions are not attractive. A number of studies document this fact, and farm worker representatives also acknowledged this in recent congressional testimony. Yet, for many prospective workers from other countries, these jobs present real economic opportunities.

In times of labor shortages farmers have relied on these foreign workers, who are admitted under a government sponsored temporary worker program known as H-2A, and on workers who appear to have legal status to be working in the United States. The demand for foreign workers is heightened due to not only a lack of a domestic workforce, but also the reverse migration of workers from the U.S. to Mexico, historic levels of immigration enforcement and bipartisan congressional commitment to a credible work authorization system through mandatory E-Verify. Those factors, combined with an increasingly rigid and burdensome H-2A program, demonstrate the need for a new approach.

Reforms to the immigration system can assure that American agriculture has a legal, stable supply of workers, both in the short- and long-term for all types of agriculture. This requires a legislative solution that deals with the current unauthorized and experienced agricultural workforce and ensures that future needs are met through a program that will admit a sufficient number of willing and able workers in a timely manner. Past legislative proposals (e.g. AgJOBS, HARVEST Act, BARN Act and other bills) have attempted to reform the H-2A program to ensure a future workforce in agriculture. However, it is apparent that those proposals are no longer viable to meet agriculture's needs.

Multiple H-2A regulatory changes and rigid program administration have made use of an already difficult program nearly impossible. A national survey conducted by the National Council of Agricultural Employers of H-2A employers under the current rules showed that administrative delays result in workers arriving on average 22 days after the date of need causing an economic loss of nearly \$320 million for farms that hire H-2A workers. Costly recruitment requirements result in less than 5 percent of those referred by the government working the entire contract period.

Agriculture needs a program that functions as efficiently as the current free market movement of migrant farm workers while providing the security of a contractual relationship in areas where there is little migration. Having lost confidence in the H-2A structure as a framework for future success, Farm Bureau is seeking the new approach outlined above to ensure a legal, reliable, long-term workforce for all sectors of the industry.

Legislative Status:

In Nov. 2014, the President announced his plans to take executive action on immigration reform. The Executive Order contains 3 critical elements: (1) Cracking Down on Illegal Immigration at the Border, (2) Deporting Felons, Not Families and (3) Creation of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) where undocumented immigrants who have lived in the U.S. for more than five years and are parents of U.S. citizens or Lawful Permanent Residents can register and temporarily stay in the U.S. without fear of deportation for three years at a time. On June 23, 2016 the United States Supreme Court divided 4-4, leaving in place the lower court decision forbidding the president from launching DAPA and raising question about the validity of DACA. The other components of the executive actions continue to be in effect.

AFBF continues to advocate to Congress to pass responsible legislative immigration reform that addresses border security, fixes the legal immigration system and provides farmers access to a legal and stable workforce. Due to the presidential election cycle, AFBF does not expect Congress to take up true ag labor reform; therefore, we are focusing on reforming the H-2A program through the appropriations process.

AFBF Policy:

Only reform through legislation can solve the agricultural worker problem. In seeking a meaningful legislative solution to agriculture's worker shortage, AFBF believes that immigration reform must include the following:

Agricultural Worker Program

The uncapped Agricultural Worker Visa Program (AWP) will ensure agriculture's future legal workforce. The AWP allows both employer and employee choice and flexibility by including two options:

1. "At-Will" Visa employees have the freedom to move from employer to employer without any contractual commitment, replicating the way market forces allocate the labor force now.
2. Contract Visa employees commit to work for an employer for a fixed period of time, giving both parties increased stability where it is mutually preferred.

Current Workforce

In order to minimize the impact on current economic activity, AFBF supports an adjustment of status for experienced but unauthorized agricultural workers who currently reside in the U.S. This adjustment should include the following components:

1. These workers have a future obligation to work for a number of days annually in agriculture for several years.
2. Upon completion of this future work obligation, the workers could obtain permanent legal status and the right to work in whatever industries they choose, including agriculture.

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