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By ESEC at 4:20 pm, Feb 01, 2022

February 1, 2022

Dear Vice President Harris, Secretaries Blinken, Mayorkas, and Walsh:

We write to express our grave concerns regarding the extensive and serious abuses in the H-2A program. On November 22, 2021, the United States Attorney for the Southern District of Georgia brought an indictment against 24 defendants for what the U.S. Attorney's office described as "[modern-day](#)" slavery.

We are alarmed by this case—not only because of its devastating allegations, but also because we believe that many other such abuses likely exist given the deeply flawed nature of the H-2A program and the widespread violations of farmworkers' limited labor rights. We call on the Administration to immediately launch an investigation as to how this wide scale abuse occurred and to locate other victims in this case, as well as to conduct a full audit of the H-2 program in order to ensure such abuses do not happen again. We ask for a meeting to discuss the need for both immediate and thoughtful action and to discuss recommendations below that we urge you to adopt.

As this case illustrates, there are serious flaws in the administration, oversight and enforcement of the H-2A program. The U.S. Attorney for the Southern District of Georgia identifies at least 100 victims, with many more likely given that the [Defendants petitioned for over 70,000 H-2A](#) positions over multiple years. Among the charges are two deaths, kidnappings, rape, threats to kill workers or harm their family members, and more. Defendants sold and traded the victims; and forced many to "work in fields digging up onions with their bare hands, only paid them twenty cents for every bucket they filled with onions, and threatened them with a gun to keep them in line." Needless to say, the H-2A protections prohibiting recruitment fees and regarding pay, transportation, housing, etc. were flagrantly violated. We demand answers as to how these violations went undetected for years with the government's continued approval of Defendants' petitions for additional workers, even after the investigation began.

The Administration must implement policies to prevent the abuses exposed in Operation Blooming Onion. Among other things, the government must ensure that agricultural employers cannot benefit from the labor of trafficked workers; this protects not just workers, but also consumers, law-abiding employers, and the government's integrity. The government must put into place structures and protections for workers to be able to assert their workplace rights. Further, the government must provide for meaningful recruitment protections that prohibit recruitment abuses, increase recruitment transparency and provide for greater accountability. Polaris, the non-profit that runs the National Human Trafficking Hotline, reported nearly 100%¹ of H-2A workers contacting them experienced fraud in recruitment in the months

¹ Polaris. (2021). *Labor Exploitation and Trafficking of Agricultural Workers During the Pandemic*. https://polarisproject.org/wp-content/uploads/2021/06/Polaris_Labor_Exploitation_and_Trafficking_of_Agricultural_Workers_During_the_Pandemic.pdf

following the start of the pandemic. Workers in the H-2A program routinely arrive in this country in debt due to paying illegal recruitment fees. This is a stain on the administration of this program and a driver of forced labor in American agriculture.

Finally, the threat of immigration enforcement and deportation must not continue to stand in the way of farmworkers seeking to enforce or cooperate in enforcing their workplace rights.

Operation Blooming Onion starkly highlights the need to ensure meaningful worker protections, particularly for workers coming from regions where there is already widespread violence, extortion, and corruption, such as the Northern Triangle. It is also crucial that workers who have suffered labor or civil rights abuses are afforded affirmative immigration relief. As Acting U.S. Attorney Estes noted, “The American dream is a powerful attraction for destitute and desperate people across the globe, and where there is need, there is greed from those who will attempt to exploit these willing workers for their own obscene profits.” The H-2A program cannot not be any part of a “solution” for the migration crisis in the Northern Triangle until it is drastically reformed.

We look forward to the opportunity to meet and discuss these recommendations.

Sincerely,

Teresa Romero, President, United Farm Workers (UFW)

Diana Tellefson Torres, Executive Director, UFW Foundation

Natalie Camacho, Interim Chief Executive Officer, Farmworker Justice

Baldemar Velasquez, President and Founder, The Farm Labor Organizing Committee (FLOC)

Reyna Lopez, Executive Director, Pineros Y Campesinos Unidos del Noroeste (PCUN)

Elizabeth H. Shuler, President, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Paul O’Brien, Executive Director, Amnesty International USA

Thomas Saenz, President and General Counsel, Mexican American Legal Defense and Educational Fund (MALDEF)

Catherine Chen, Chief Executive Officer, Polaris

Margaret Huang, President and Chief Executive Officer, Southern Poverty Law Center

Janet Murguia, President and Chief Executive Officer, UnidosUS

Cc: Ambassador Susan Rice, Domestic Policy Director to the President
Jake Sullivan, National Security Advisor to the President
Rohini Kosoglu, Domestic Policy Advisor to the Vice President
Kristie Canegallo, Chief-of-Staff, Secretary of Homeland Security
Daniel Koh, Chief-of-Staff, Secretary of Labor
Suzy George, Chief-of-Staff, Secretary of State



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

February 25, 2022

Teresa Romero
President
United Farm Workers
29700 Woodford-Tehachapi Road
Keene, CA 93531

Dear Ms. Romero:

Thank you for your February 1, 2022 letter to the Department of Homeland Security (DHS). Secretary Mayorkas has asked that I respond on his behalf.

The Secretary and I share your concern over the tragic events described in your letter, including the deaths of two H-2A workers that led to the recent federal indictment, and we agree with you that no worker – including those individuals who come to the United States through the H-2A program – should ever be subjected to similar or other forms of abuse. In fact, on October 12, 2021, the Secretary issued a memo on worksite enforcement titled, "Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual." This memorandum focuses on "unscrupulous employers," and directs certain DHS component agencies, including U.S. Citizenship and Immigration Services (USCIS), to review and adopt policies that facilitate the important work of the Department of Labor (DOL) and other government agencies to enforce wage protections, workplace safety, labor rights, and other laws and standards.¹

DHS, including USCIS, is dedicated to ensuring the integrity of the immigration process and works tirelessly to deter and detect fraud and abuse in all immigration programs. USCIS' principal role in the H-2A process is to determine initial and continued eligibility for H-2A classification and ensure that the requirements for H-2A classification have been satisfied.

DOL, in turn, has primary enforcement authority over the H-2A program, and specifically, over the temporary labor certification process. In this regard, Congress has vested special enforcement authority with the Secretary of Labor to ensure U.S. employers follow all steps in the temporary labor certification process designed to protect U.S. workers from displacement by noncitizen workers and to prevent adverse effects on the wages and working conditions of similarly employed U.S. workers. DOL's enforcement authority also extends to ensuring adequate protection against abuse of noncitizen workers. *See* Section 218 of the

¹ *See* https://www.dhs.gov/sites/default/files/publications/memo_from_secretary_mayorkas_on_worksite_enforcement.pdf. Web page last accessed on Feb. 22, 2022.

Immigration and Nationality Act, as amended, 8 § U.S.C. 1188, and DOL's implementing regulations.

As to USCIS' role in the H-2A process, our agency determines, prior to approving an H-2A petition, whether an employer is in compliance with relevant DHS H-2A regulations, including DHS regulations that are in place to ensure, among other requirements, that no job placement fee or other compensation (either direct or indirect) may be collected at any time from a beneficiary of an H-2A petition as a condition of recruitment or employment. *See* 8 CFR 214.2(h)(5)(xi). Among the multiple considerations that USCIS evaluates when adjudicating H-2A petitions, the agency evaluates a prospective employer's recruitment and employment practices. USCIS also collaborates with partner agencies, as needed, to address specific instances of suspected fraud or abuse identified, such as those identified in the multiagency investigation you mentioned, "Operation Blooming Onion."

USCIS takes very seriously its responsibility to help ensure noncitizen workers are not exploited or abused. Should it come to USCIS' attention that abuses may have occurred, USCIS will immediately share this information with appropriate law enforcement agencies while taking all reasonable efforts to keep such information confidential to help protect foreign workers who may be fearful of retaliation for coming forward to report such abuses. Anyone, including American workers and H-2A workers who suspect they or others may be victims of suspected human trafficking, may contact Federal law enforcement at [1-866-347-2423](tel:1-866-347-2423).

Thank you again for your letter and interest in this important issue. Please share this response with the other organizations that cosigned your letter. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director