



GOVERNOR OF PUERTO RICO
Pedro R. Pierluisi

December 14, 2021

RECEIVED

By ESEC at 1:04 pm, Dec 17, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Ave., NW
Washington, DC 20528

Dear Secretary Mayorkas:

Thank you for your time and consideration during our productive meeting on November 9, 2021. As you recall, we discussed several issues specific to the challenges that Puerto Rico faces in our efforts to rebuild the Island's infrastructure after Hurricanes Irma, Maria and the subsequent earthquakes. Notable amongst these challenges is a workforce shortage of qualified candidates in construction and related industries. These challenges are acute, island-specific, and could seriously impede Puerto Rico's recovery and reconstruction at the pace the Island needs.

As I mentioned during our meeting, we estimate that Puerto Rico will approximately need, at a minimum, an additional 10,000 workers for construction and related industries to be able to move the recovery and reconstruction projects forward in a timely manner. One of the options we discussed was the possibility of establishing a new framework within the H2B Visa Program, as it has been done in the Commonwealth of the Northern Mariana Islands (CNMI), to address the H2B Visa cap. Nonetheless, even if we are able to increase the H2B Visa Program cap, the random lottery system used for their distribution would make it difficult for us to bring in the type and quantity of skilled workers needed.

Since our conversation, it has also been brought to my attention that the Immigration and Nationality Act (INA) gives the Secretary of Homeland Security discretionary authority to temporarily parole into the United States, under conditions the Secretary may prescribe, for reasons of significant public benefit, any noncitizen applying for admission to the United States, regardless of whether the person is inadmissible to, or removable from, the United States. Congress did



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not define the phrase "urgent humanitarian reasons or significant public benefit," entrusting the interpretation and application of these standards to the Secretary.

Under these authorities, I am requesting that you grant categorical and temporary parole and employment authority to 10,000 workers in construction and related industries, which would result in significant public benefit to both Puerto Rico and the United States at large. The granting of parole will enable Puerto Rico to maximize the use of the extraordinary federal resources already dedicated to rebuilding the Island's infrastructure.

Thank you again for your commitment to Puerto Rico. Please do not hesitate to contact me should you have any questions or need additional information regarding this important request.

Sincerely,

A handwritten signature in blue ink, which appears to read "Pierluisi", is shown on a light blue background.

Cc: The Honorable Tae D. Johnson, Acting Director, U.S. Immigration and Customs Enforcement



U.S. Citizenship
and Immigration
Services

February 9, 2022

The Honorable Pedro R. Pierluisi
Governor of Puerto Rico
P.O. Box 9020082
San Juan, PR 00902

Dear Governor Pierluisi:

Thank you for your December 14, 2021 letter to the Department of Homeland Security (DHS). Secretary Mayorkas asked that I respond on his behalf, and I apologize for the delay in responding.

The United States is committed to improving access to legal immigration in accordance with Executive Order 14012 *Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans*. Through implementation of President Biden's Executive Order, U.S. Citizenship and Immigration Services is actively reviewing existing policies and working with partners to improve access to immigration benefits.

Pursuant to statute, the Secretary of Homeland Security may exercise his discretion on a case-by-case basis to parole individuals into the United States for urgent humanitarian reasons or significant public benefit. Parole is not intended to circumvent normal visa processing or replace established processing channels.

DHS is committed to exploring additional ways that traditional employment-based immigration benefits may continue to serve the needs of U.S. communities, including addressing the employment needs of U.S. businesses. For instance, on November 10, 2021, DHS published a Federal Register Notice announcing the list of countries whose nationals are eligible to participate in the H-2A and H-2B programs for the next year and adding, among other countries, the Dominican Republic.¹ This Federal Register Notice makes it easier to petition for H-2 workers, if visas are available, from the Dominican Republic, which has physical proximity to Puerto Rico. Additionally, under a time-limited authority provided to the Secretary of Homeland Security by Congress, DHS and the Department of Labor published a temporary final rule on January 28 that will make available an additional 20,000 H-2B nonimmigrant visas beyond the normal statutory limit. Of these visas, 6,500 have been reserved for nationals of Haiti, Guatemala, Honduras, and El Salvador. Eligible employers, including those in Puerto Rico, will be able to apply for H-2B workers under this supplemental visa allocation.² The additional

¹ See, DHS Announces Countries Eligible for H-2A and H-2B Visa Programs, <https://www.uscis.gov/newsroom/alerts/dhs-announces-countries-eligible-for-h-2a-and-h-2b-visa-programs>.

² See, For First Time, DHS to Supplement H-2B Cap with Additional Visas in First Half of Fiscal Year, <https://www.dhs.gov/news/2021/12/20/first-time-dhs-supplement-h-2b-cap-additional-visas-first-half-fiscal-year>.

nonimmigrant visas will help promote continued U.S. economic growth and expand legal pathways for foreign workers to come to the United States while enhancing protections for U.S. and foreign workers.

With respect to exemptions within the H-2B program that apply to Guam and the Commonwealth of the Northern Mariana Islands, DHS notes that these exemptions have been provided by Congress.³ Similar exemptions for Puerto Rico likewise would require an act of Congress to amend the existing statutory framework at INA 214(g), 8 USC 1184, which sets the numerical cap and exemptions to the cap for the H-2B program.

Thank you again for your letter. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

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

Ur M. Jaddou
Director

³ See 48 USC § 1806(b)(1)(A) (exempting H-2B workers performing labor or services on Guam and in the CNMI from the H-2B numerical limitation (H-2B cap) through December 31, 2029) and 8 USC § 1806(b)(1)(B) (providing an exemption from the temporary need requirement for certain H-2B workers performing labor or services on Guam or in the CNMI). For additional information, See USCIS Policy Manual, Temporary Nonagricultural Worker (H-2B) Petitions Requiring Special Handling, Chapter 11 <https://www.uscis.gov/policy-manual/volume-2-part-i-chapter-11>.