



110 Adams St.  
Fairmont, WV 26554  
304.363.0442

April 30, 2019

The Honorable Kevin K. McAleenan  
Acting Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Ave., NW  
Washington, DC 20528

SCANNED/RECEIVED  
BY EXEC SEC  
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Dear Acting Secretary McAleenan,

I write this letter in hopes that you will give your full attention to a significant issue facing numerous businesses in not only our state, but other states as well. The need for seasonal workers is growing each year and the difficulty that the businesses face in trying to assist with their temporary VISA's is also growing. The current shortage of temporary VISAS is impacting not only the growth of these businesses but is making it difficult for them to maintain and continue.

Small businesses are the backbone of this country and we need to do everything we can to help them instead of making it harder for them to have a successful business. Due to this growing issue, businesses in North Central WV have had to lay off permanent workers just to maintain which causes a ripple effect ultimately leading to less tax revenue.

The Board of Directors of the Marion County Chamber of Commerce, representing over 400 local businesses, ask that you release all the H-2B Visas. If the current situation continues and these VISAS are not released, it will have a significant and negative economic impact; one that we may not ever recover from for years.

We understand that under Secretary Nielsen, 30,000 VISAS would be released, however, we need more and implore you to release the additional 39,320 temporary, non-immigrant, H-2B VISAS. Because of this, numerous Senators, including our own Senator Joe Manchin, have written to you because their states are in the same situation that West Virginia is in, and understand that per the H.J. Res. 31-Consolidated Appropriations Act, you have been given the authorization to release **all** H-2B VISAS.

We truly believe without immediate action; our local and national small businesses will suffer long lasting economic hardships that will be unrecoverable.

Your immediate attention and assistance to this matter will be greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads 'Mary Jo Thomas'.

Mary Jo Thomas,  
Board Chair, Marion County Chamber of Commerce



U.S. Citizenship  
and Immigration  
Services

June 25, 2019

Ms. Mary Jo Thomas  
Board Chair  
Marion County Chamber of Commerce  
110 Adams Street  
Fairmont, WV 26554

Dear Ms. Thomas:

Thank you for your April 30, 2019 letter. Acting Secretary McAleenan asked that I respond on his behalf.

There is a statutory cap 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 (including any unused numbers from the first half of the fiscal year) is available during the second half of the fiscal year. *Id.* § 214(g)(10). However, the Consolidated Appropriations Act, 2019, which was signed into law by the president on February 15, 2019, provides the Secretary of Homeland Security with discretion, after consultation with the Secretary of Labor, to increase the H-2B cap for the remainder of the current fiscal year under prescribed circumstances. *See* section 105 of Div. H, Pub. L. 116-6.

On May 8, 2019, the Departments of Homeland Security (DHS) and Labor published a joint temporary final rule increasing the H-2B cap limit by 30,000 additional visas for returning workers through the end of fiscal year (FY) 2019. The U.S. Citizenship and Immigration Services (USCIS) began accepting petitions towards the additional 30,000 visas on May 8, 2019, and announced that as of June 6, 2019, it received enough petitions to reach the 30,000 cap. As described in the temporary final rule, the Secretary of DHS, in coordination with the Secretary of Labor, determined to allow up to 30,000 additional visas for returning workers after carefully weighing several factors: increased demand for supplemental visas in FY 2018 over FY 2017, H-2B returning worker data, and the amount of time remaining in the fiscal year for employers to hire and obtain H-2B workers while also ensuring that U.S. workers continue to have the opportunity to fill positions with American businesses.

As you may know, former Secretaries Nielsen and Kelly told Congress that lawmakers must be the ones who make any changes to the statutory H-2B cap prescribed in the INA, instead of delegating that authority to DHS. As congressional representatives, they have the best understanding of their constituencies and the needs of their local employers.

Ms. Mary Jo Thomas  
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I share the Acting 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. I appreciate your own involvement in efforts to improve the H-2B program.

Please be assured that USCIS understands the H-2B nonagricultural worker program's significance to American businesses and is committed to the efficient and lawful management of the program.

Thank you again for your letter and interest in this important issue. Should you wish to discuss this matter further, please do not hesitate to contact the USCIS Public Engagement Division at [Public.Engagement@uscis.dhs.gov](mailto:Public.Engagement@uscis.dhs.gov).

Sincerely,



Ken Cuccinelli II  
Acting Director