



**Homeland
Security**

March 28, 2019

The Honorable Tom Rice
U.S. House of Representatives
Washington, DC 20515

Dear Representative Rice:

Thank you for your March 4, 2019 letter. Secretary Nielsen asked that I respond on her behalf.

The H-2B nonimmigrant visa program allows U.S. employers who meet specific statutory and regulatory requirements to bring foreign nationals to the United States to fill temporary non-agricultural jobs. 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. Under section 214(g)(1)(B) and 214(g)(10) of the Immigration and Nationality Act, as amended (INA), Congress has set the H-2B cap at 66,000 per fiscal year, with a maximum of 33,000 available during the first half of any given fiscal year and 33,000 for workers who begin employment in the second half of the fiscal year.

Section 105 of Div. H of Public Law 116-6, the Consolidated Appropriations Act, 2019, was signed into law by the President on February 15, 2019. This fiscal year, for the third year in a row, Congress delegated to the Secretary of Homeland Security the authority to allocate visas above the 66,000 cap if the Secretary determines, after consultation with the Secretary of Labor, that the needs of American businesses could not be satisfied with U.S workers who are willing, qualified, and able to perform temporary nonagricultural labor.

After consultation with Secretary Acosta and carefully weighing several factors, including whether U.S. workers may be harmed, and impact statements from your constituents, Secretary Nielsen has decided to allocate an additional 30,000 H-2B visas for the remainder of fiscal year 2019. Further, this supplemental visa allocation will be available only to applicants who have held H-2B status in at least one of the past three fiscal years (2016, 2017 and 2018). Details on eligibility and filing requirements will be available in the temporary final rule and on uscis.gov when the final temporary rule is posted for public inspection.

As Secretary Nielsen has stated, Congress is in the best position to know the “right” number of H-2B visas that American businesses should be allocated without harming American workers. DHS is committed to ensuring that our immigration system is implemented lawfully

and that American workers are protected. We look forward to working with Congress so it can set an appropriate numerical limitation moving forward.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the DHS Office of Legislative Affairs at (202) 447-5890.

Sincerely,

A handwritten signature in blue ink, reading "Christine M. Ciccone". The signature is fluid and cursive, with the first name being the most prominent.

CHRISTINE M. CICCONE
Assistant Secretary for Legislative Affairs