

# LIUNA!

April 15, 2021

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The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
St. Elizabeth's Campus  
2703 Martin Luther King, Jr. Avenue, SE  
Washington, D.C. 20593

The Honorable Marty Walsh  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
#C-2318  
Washington, D.C. 20210

Dear Secretary Mayorkas and Secretary Walsh:

The Laborers' International Union of North America (LIUNA) was founded in 1903 and today is a general workers' union representing a half million employees in the construction industry and in public service in the United States and Canada, including landscape laborers. I write to express LIUNA's opposition to the release of any additional H-2B visas in light of the current adverse economic conditions in our country.

General unemployment is six percent (6%) currently per March 2021 Bureau of Labor Statistics (BLS) data. In construction, one of our primary industries, and an industry for which H-2B workers are used, unemployment is at 9.5% per that same BLS report. In fact, construction employment is 182,000 below its February 2020 pre-COVID pandemic level. With unemployment numbers this high, many workers already in the U.S. are available for landscaping jobs, including LIUNA members. This year in particular, with these unemployment rates, importing foreign workers in the construction and landscape industries will deprive workers already in the U.S. of job opportunities to help our country Build Back Better, and use of H-2B workers will also depress domestic wage rates.

Employers seeking H-2B visas typically assert that the temporary labor certifications issued by the U.S. DOL demonstrate a massive shortage of workers in the U.S. These claims should not be credited because the labor certification process is badly flawed. This winter, LIUNA affiliates contacted over six hundred (600) landscaping employers in the Mid-Atlantic Region

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(encompassing Pennsylvania, Maryland, Virginia, West Virginia, and North Carolina) who applied for H-2B visas to offer to help provide labor for their business. Only one business responded even to discuss whether our union could help them recruit domestic labor. If these employers were genuinely trying to recruit U.S. based employees, these employers surely would have at least picked up the phone to take advantage of our members who are trained through our registered apprenticeship programs and available to work immediately per our hiring halls. Moreover, there is no inherent reason that U.S. workers will not work in landscaping or construction. The 500,000 members of LIUNA demonstrate that Americans are willing to make careers performing dirty, difficult, and seasonal work as long as they are paid dignified wages with family-supporting benefits and job protections. The real reason that H-2B employers do not want to hire union members for construction or landscape is because unions protect workers from jobsite abuses; protections that, unfortunately, most captive foreign workers simply do not have.

Many H-2B employers proudly tout that they have used the H-2B system for fifteen, twenty, or thirty years. How is it possible that there can be a labor shortage in landscaping for an entire generation, yet wage rates don't rise? The answer is that there is no shortage. Instead, a government intervention, namely the H-2B system, is distorting the market by depressing wages through the importation of foreign labor.

The recruiting process itself for H-2B workers is flawed. Employers may post advertisements on [www.seasonaljobs.dol.gov](http://www.seasonaljobs.dol.gov) or other sites, but it is unknown if any workers already in the U.S. are actually hired through this advertising process. Merely imposing paperwork requirements and posting jobs opportunities on a DOL website is not sufficient when the employers strongly prefer workers indentured under the H-2B program instead of hiring union members whose union can protect them from wage and hour, OSHA, human trafficking, and other worker abuses that are common in the H-2B program. (See attached LIUNA fact sheet on abuses in the construction and landscape industries in the H-2B program.)

There may be industries with legitimate needs for H-2B temporary visa workers. The problem, however, is that the current system is dominated by landscaping employers. In 2019, for instance, the landscaping industry applied for six-hundred percent (600%) more visas than the next closest industry, receiving sixty-six thousand (66,000) labor certifications as compared to eleven thousand (11,000) in forestry, the next closest sector. All other industries received even fewer labor certifications.

Barring construction and landscape visas from the H-2B program this year due to the high unemployment rate, ending private wage surveys and requiring prevailing wages based on local average wages to be paid to H-2B workers, ending the three quarters (3/4) guarantee to

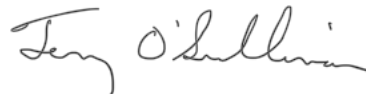
ensure that H-2B workers are paid one-hundred percent (100%) of promised wages, and increasing debarment of H-2B employers who break the law would free up H-2B visas currently used in construction and landscape for those industries whose employers can demonstrate a legitimate need for these temporary, seasonal foreign guest workers.

The Biden Administration has promised to be the best friend that Labor has ever had in the White House. It has promised to support and protect U.S. workers. To remain true to these commitments, the Administration must refrain from issuing more H-2B visas, especially in the construction and landscape industries, until the system can be reformed to better protect both U.S. and foreign workers.

Thank you for your attention to these matters.

With kind regards, I am

Sincerely yours,

A handwritten signature in cursive script that reads "Terry O'Sullivan".

TERRY O'SULLIVAN  
General President

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