

United States Senate

WASHINGTON, DC 20510

March 1, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave NW
Washington, DC 20528

The Honorable Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

The Honorable Antony Blinken
Secretary
U.S. Department of State
2201 C St NW
Washington, DC 20520

Dear Secretary Mayorkas, Secretary Walsh, & Secretary Blinken:

Lack of oversight and accountability in the H-2A guest worker visa program has led to an inexcusable result: slavery.

This most recently came to light in my home state of Georgia, where a years-long Department of Justice investigation, referred to as Operation Blooming Onion, revealed an alleged transnational human trafficking operation involving brutal and inhumane treatment of more than 100 immigrant farmworkers on South Georgia farms.¹

I implore you to take immediate action to prevent further abuses under this system and to work with me and my colleagues to create long-term solutions that will protect farmworkers across the United States from human rights abuses.

As the Department of Justice's 54-count indictment details, the two dozen defendants allegedly defrauded the U.S. Government through misuse of the H-2A program to bring workers from Mexico, Guatemala, and Honduras into the country and then exploited and abused these workers in numerous ways, including:

- threatening workers with guns, violence, and deportation;
- holding workers in cramped, unsanitary quarters without clean water, with little or no food;
- withholding workers' passports and documents to prevent them from escaping;

¹ Lautaro Grinspan, *'This has been happening for a long time': Modern-day slavery uncovered in south Georgia*, Atlanta Journal-Constitution (Dec. 3, 2021) <https://www.ajc.com/news/this-has-been-happening-for-a-long-time-modern-day-slavery-uncovered-in-ga/SHBHTDDTTBG3BCPSVCB3GQ66BQ/>

- paying little or no wages for physically demanding work; and
- forcing workers to perform jobs outside the terms of their visas.²

At least two people died apparently as a result of the inhumane living and working conditions. Another victim was allegedly raped repeatedly and kidnapped, and survived multiple homicide attempts by one of the defendants. Workers were sold and traded to other conspirators within the crime ring, which made more than \$200 million on the backs of these exploited workers.³

I trust you share my horror at the gross human rights abuses exposed by this investigation. My staff has heard reports of and seen firsthand similar conditions. We have a responsibility to act now to stop this kind of exploitation and to protect the civil and human rights of all who work in our country.

Each of your respective agencies plays a key role in the issuance of H-2A visas and oversight of the program, which allows U.S. employers who meet specific requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. Unfortunately, this program appears to have a track record of abuses similar to those documented in Operation Blooming Onion.⁴ Many of these abuses stem from the near-total power that labor contractors and employers hold over guest workers, who must choose between accepting whatever horrid conditions they are forced to work in or face deportation.

Those indicted as a result of Operation Blooming Onion are alleged to have grossly abused their power, and advocates in Georgia have told me of similar behavior by employers across the country. Farmworkers play a critical role sustaining our nation's food supply, yet they remain subject to exploitation and abuse through the H-2A visa program and the criminals across the country that fraudulently utilize it to enrich themselves and to deprive guest workers of basic human rights.

We must act now to protect the human rights of all people on our soil.

Revisions to H-2A regulations and increased oversight of the program would better protect workers. I ask for your prompt response to the following questions as soon as possible, but no later than March 31, 2022. Where I have asked specific questions, please provide specific responses to each.

² *U.S. v. Patricio et al*, Indictment no. CR521-0009 (SD GA Oct. 5, 2021) available at <https://www.justice.gov/usao-sdga/press-release/file/1450546/download>

³ *Id.*

⁴ Daniel Costa, Phillip Martin & Zachariah Rutledge, *Federal Labor Standards Enforcement in Agriculture*, Economic Policy Institute (Dec. 15, 2020) available at <https://www.epi.org/publication/federal-labor-standards-enforcement-in-agriculture-data-reveal-the-biggest-violators-and-raise-new-questions-about-how-to-improve-and-target-efforts-to-protect-farmworkers/>.

For Secretary Walsh, Secretary Mayorkas, and Secretary Blinken:

- What actions are your agencies taking to expose similar cases and prevent these abuses in the future?
- Has the government revoked or suspended the H-2A licenses of the employers accused of wrongdoing by the Operational Blooming Onion indictment? If not, why not?
- How and when will your agencies revise the H-2A program regulations to address the problems exposed by Operation Blooming Onion?
- Given that the H-2A program involves multiple agencies, what steps are you taking to improve interagency communication during the application process and as problems arise? Have you considered the establishment of an interagency taskforce to identify issues in the H-2A program to help ensure the prevention of trafficking cases and other worker abuses?
- Are there any laws, regulations, practices, or procedures that hinder interagency cooperation to identify, investigate, stop or prevent exploitation of H-2A workers?

The Administration is also seeking to enhance access to the H-2 programs in the Northern Triangle, countries with high levels of poverty, corruption, and violence.⁵ Conditions in their home countries may discourage workers from willingly speaking out about any abuses they might suffer at the hands of their employers in the United States, in fear of retribution.

- Will the Administration work to quickly implement reforms to improve oversight, increase interagency coordination, and establish a better way for workers to report abuse, if it expands the H-2A program?
- What additional actions will the Administration take to protect potential H-2A workers both during recruitment and once they have arrived and are working in the U.S.?

For Secretary Walsh:

- First, will you commit to joining me in Georgia to meet with farmworkers and the community to address these issues?

⁵ See U.S. Department of Homeland Security, Press Release, *For First Time, DHS to Supplement H-2B Cap with Additional Visas in First Half of Fiscal Year*, (Dec. 20, 2021) <https://www.dhs.gov/news/2021/12/20/first-time-dhs-supplement-h-2b-cap-additional-visas-first-half-fiscal-year> (noting an expansion of the number of H-2B visas available to countries in the Northern Triangle and Haiti); see also White House Briefing Room, Fact Sheet: The Biden Administration Blueprint for a Fair, Orderly and Humane Immigration System, (Jul. 27, 2021) <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/27/fact-sheet-the-biden-administration-blueprint-for-a-fair-orderly-and-humane-immigration-system/> (noting the same expansion above and encouraging other governments to develop and expand regional labor migration programs).

Second, according to H-2A provisions, workers should have access to their consulates and the U.S. government complaint process.⁶ This process failed to protect the victims in Georgia, and I have heard from advocates in my state that farmworkers often feel isolated, unaware of their rights and available resources, and fearful of retaliation, among other obstacles.

- What steps will your agency take to empower H-2A workers to assert their rights and ensure workers have access to an authorized representative, such as collective bargaining agreements, to represent their interests?
- What steps is DOL taking to reassure farmworkers that they can safely report wrongdoing in their workplace without risking deportation?

Operation Blooming Onion also highlighted the longstanding challenge with farm labor contractors.⁷

- Will you commit to working to close power imbalances between farm labor contractors and workers within the H-2A program to protect farmworkers' rights? How?
- As they currently stand, the requirements to become a farm labor contractor are minimal and thus allow anyone, including bad actors, to obtain licenses.⁸ Will you implement a more rigorous application process for labor contractors to obtain their license?
- To more effectively prevent abuses by employers, more stringent requirements for contractors must be coupled with rigorous oversight and accountability. What does your agency need to conduct appropriate oversight of the H-2A visa program?
- The H-2B program requires labor contractors to submit their application with an underlying business as joint employers.⁹ Should DOL implement this same policy in the H-2A program to help ensure that employers hire law-abiding labor contractors and do not benefit from modern slavery?

For Secretary Mayorkas:

Your October 12, 2021 memo noted that one key measure to protect workers is to “provide for the consideration of deferred action, continued presence, parole, and other available relief for noncitizens who are witnesses to, or victims of, abusive and exploitative labor practices.”¹⁰

⁶ 20 CFR § 655

⁷ Economic Policy Institute, *70% of all investigations in agriculture detected violations of federal wage and hour laws and farm labor contractors are the biggest violators*, (Dec. 15, 2020) <https://www.epi.org/press/70-of-all-investigations-in-agriculture-detected-violations-of-federal-wage-and-hour-laws-and-farm-labor-contractors-are-the-biggest-violators-policymakers-must-do-more-to-protect-farmworkers-and-hol/>

⁸ 20 CFR § 655.132

⁹ 20 CFR § 655.

¹⁰ U.S. Department of Homeland Security, Policy Statement 065-06, Memo from Secretary Mayorkas, *Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual*, (Oct. 12, 2021) https://www.dhs.gov/sites/default/files/publications/memo_from_secretary_mayorkas_on_worksite_enforcement.pdf

- What plans do you have to ensure H-2A workers are aware of and able to access this protection?

I understand that the victims of abuse by the Defendants may be eligible for T or U visas and that some victims of abuse documented in Operation Blooming Onion have begun the process of applying.

- Under what circumstances would victims of the Defendants' abuse be eligible to apply for and get full and fair consideration for a T or U visa?
- If a victim applies for a T or U visa, what are you doing to ensure those applications are processed fairly and quickly? Will you commit to ensuring eligible applicants can schedule timely and efficient appointments with your Department?

Thank you for your attention to this pressing matter. I stand ready to work with you to ensure our government learns lessons from the serious allegations uncovered by Operation Blooming Onion and to prevent exploitation of farmworkers in Georgia and across our country.

Sincerely,



Jon Ossoff
United States Senator