

Dear Acting Secretary Su:

We write to express concern about the Department of Labor (DOL)'s failure to process H-2B visa labor certifications in a timely manner.

As you know, many seasonal businesses rely on H-2B visas to meet the demands of their busy season. Before employers can apply to the Department of Homeland Security (DHS) for a visa, they must first receive approval for a labor certification from DOL. This approval certifies that the employer has demonstrated that they cannot find U.S. workers to fill these jobs.

Unfortunately, in recent years, employers have faced extreme delays in DOL's processing of applications for labor certifications. Regulations require DOL to issue a first action (either a Notice of Acceptance or Notice of Deficiency) on every application within seven business days of receipt. However, this year DOL has taken more than 90 days to issue a first action on an alarming number of applications. For many employers to receive their workers on time, they must receive a first action from DOL on or before the middle of February. But this year, more than half of applications did not receive a first action until after the middle of February. For example, many employers who first filed with DOL between January 1 and January 3 with a requested worker start date of April 1 did not receive a first action from DOL until as late as the third week of April, with labor certifications issued as late as the second week of May.

These delays mean that many employers have not been able to even begin their visa application process with DHS until after the date on which they needed their workers to start. This is entirely unacceptable.

We understand that demand for these visas has increased in recent years as seasonal industries face extensive workforce shortages. However, DOL must ensure it is able to meet this increased demand, as its current processes are causing substantial hardship to employers in our states. We request answers to the following questions:

1. What current and future actions are you taking to improve DOL's processing of applications for H-2B labor certifications?
2. What additional resources would be necessary for DOL to meet its own regulations governing the processing of H-2B labor certifications?
3. What additional changes to the H-2B application process would enable DOL to expeditiously adjudicate all labor certification applications such that all labor certifications would be issued at least 30 days prior to employers' requested start date?

Thank you for your timely attention to this important matter. We stand ready to work with you to improve these processes and ensure that DOL is able to meet the needs of our seasonal employers.

Sincerely,