

March 13, 2013

The Honorable Tim Walberg  
Chairman  
Subcommittee on Workforce Protections  
U.S. House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20515

The Honorable Joe Courtney  
Ranking Member  
Subcommittee on Workforce Protections  
U.S. House of Representatives  
2101 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Walberg and Ranking Member Courtney:

The undersigned construction associations represent thousands of employers and hundreds of thousands of workers in all facets of construction—from home building, to road construction, to heavy industrial production, to specialty trade contractors and material suppliers. Together, we believe that in order to be successful in fixing America's broken immigration system, any viable remedy must do four things: strengthen our national security, create a role for employers in an employment system that functions in a fair, efficient and workable way, address the realities of future workforce needs in the less-skilled sectors, and find a reasonable, rational way of dealing with the current undocumented population in the United States.

As the economy recovers, companies in the construction sector will face more acute shortages of qualified workers—both craft professionals and laborers. Even in recent years during a slow economy, our members have experienced difficulty in finding workers. For decades, the immigrant workforce has played a vital role in the growth and sustainability of our industry, and we are proud to note that for many legal immigrants, jobs in the construction sector have provided them with a key opportunity to gain a foothold in the American middle class. Unfortunately, current immigration laws—which all but ignore the needs of sectors that utilize less-skilled immigrant workers—disproportionately affect construction companies because of their fluctuating work needs.

A major deficiency in the 1986 immigration law was its lack of a legal program to address the issue of a pathway for foreign workers to enter the United States to work. Because the 1986 law did not create a legal system, foreign workers drawn to the United States' dynamic economy came into the country illegally. Congress attempted to resolve this deficiency in 1990, when it created the H-2B classification for low-skilled non-agricultural workers. The program, however, is seriously flawed and unable to meet the market's needs. The program is capped at a mere 66,000 visas per year and is not market-based, which means by definition the supply almost never matches demand.

To resolve this problem going forward, any future immigration law must include a new market-driven program to provide a legal path for foreign workers to enter the United States when the economy needs them, with fewer entering when the U.S. economy contracts.

A successful future guestworker program must include:

- An annual visa cap that fluctuates based on a demand-driven system that reflects the real economic needs of the nation;
- An opportunity for employers to petition for an approved slot that allows them to hire visa-holding foreign workers, and replace those workers if/when they move onto another approved job slot;

- A time period for job slot approvals, and approved visas, that reflects a long enough time period to ensure that the training investment made by employers is not lost;
- A program that requires employers to treat these legal foreign workers in the same manner as U.S. workers—with all of the same benefits, workforce protections and wage rates as similarly-situated workers at the same location; and
- A dual-intent process that allows some foreign workers who have demonstrated a commitment to their jobs and their communities to choose to petition for a change of status to a permanent legal status in the United States, while also incentivizing most foreign workers to return to their home country at the end of their visa period.

We have a unique opportunity before us to reform our immigration policies to enhance our security, protect our economy, and continue our heritage as a welcoming country of immigrants. We urge you to continue working together to craft a reasonable and balanced approach to addressing America's immigration problems in a way that resolves the issue for the long-term. We look forward to working with you, and with the Senate and the Administration, to craft and support immigration reform legislation that can be considered and passed by Congress this year.

Thank you for your consideration of our views.

Respectfully,

Associated Builders and Contractors  
Associated General Contractors  
Leading Builders of America  
Mason Contractors Association of America  
National Association of Home Builders  
National Roofing Contractors Association