

GROWERTALKS

JZ on D.C.

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USDA Unveils a New Farm Labor Pilot Grant Program

Jennifer Zurko

USDA announced it will begin gathering input for a new grant program focused on addressing labor shortages in agriculture, reducing irregular migration through expansion of legal pathways and improving labor protections for farmworkers.

According to USDA, the grant program will use up to \$65 million in American Rescue Plan Act funding “to provide support for agricultural employers in implementing robust labor standards to promote a safe, healthy work environment for both U.S. workers and workers hired from Northern Central American countries under the seasonal H-2A visa program.”

The goal of the program is to improve the resiliency of the food and agricultural supply chain, and advance several major Biden Administration priorities, including:

- Driving U.S. economic recovery and safeguarding domestic food security by addressing current labor shortages in agriculture. Even before the onset of the COVID-19 pandemic, agricultural employers were struggling to secure a stable workforce; the pandemic has only exacerbated this problem, threatening our domestic capacity to produce a safe and robust food supply. This pilot program will help address this shortage by expanding the potential pool of workers.
- Reducing irregular migration through the expansion of legal pathways. The H-2A visa program offers a lawful pathway for individuals from Northern Central America to come to the United States to engage in temporary or seasonal agricultural work. This pilot program will aim to address challenges that both workers and employers face in utilizing the program.
- Improving working conditions for farmworkers. Strong working conditions are critical to the resiliency of the food and agricultural supply chain. Through this pilot program, USDA will support efforts to improve working conditions for both U.S. and H-2A workers, and ensure that H-2A workers aren't subjected to unfair recruitment practices.

The USDA held listening sessions for agricultural employer organizations, labor unions and the farmworker advocacy community in September to gather input to help shape the program and AmericanHort was one of the participating organizations. Director of Advocacy & Government Affairs Sara Neagu-Reed said that there was a mix of speakers, including farmers, worker advocates and industry associations like AmericanHort.

One of the comments she made during the listening session was on access being the biggest incentive to drive growers to use the pilot.

“As you know, lots of green industry operations are deemed year-round, meaning they cannot partake in the current H-2A program,” she explained. “This program should give them access.”

The next step will be for the Farm Service Agency to consider comments received 30 days after the date of publication in the Federal Register. Stay tuned for updates as I receive more information. —JZ

USDA's Disaster Assistance Program Fix a Windfall for Growers

A recent correction in USDA's implementation of disaster relief could mean a windfall for some growers.

In August, USDA released a dashboard displaying payments to growers through its Emergency Relief Program, the new disaster relief program for 2020/2021. AmericanHort noticed that the horticulture sector received zero payments. Discussion with USDA ensued, leading to discovery that the Department's dataset of eligible growers inadvertently excluded our sector.

Phase I of the program provides payments to growers with crop insurance or NAP indemnity resulting from qualifying disaster events in 2020 and 2021. USDA's Farm Service Agency (FSA), which administers the program, sent pre-filled applications to growers earlier this year based on crop insurance data received from USDA's Risk Management Agency (RMA). When RMA transferred the dataset to FSA, it neglected to pull data from crop insurance policies used by horticulture growers.

USDA swiftly corrected the error once identified, notified its field offices of horticulture eligibility and sent letters to growers on August 24. All this to say, growers should check their mailboxes! Those who experienced a qualifying disaster event and carried crop insurance may receive an additional payment through the Emergency Relief Program.

To date, it appears several nursery and floriculture growers have already successfully applied. The latest payment data show horticulture crops received nearly \$2 million roughly one week since pre-filled applications were sent to growers.

If growers don't qualify for Phase I because they either don't carry crop insurance or their coverage didn't pay out in the program years, they still may become eligible for assistance in a second phase of the program. USDA is currently developing Phase II, which is intended to cover growers who experienced a qualifying disaster loss, but didn't receive a payment in Phase I.

—Evan Lee, Director of Policy & Government Relations, AmericanHort

DACA Drama

The fate of the Deferred Action for Childhood Arrivals (DACA) program is uncertain at best. The Obama-era program has shielded from deportation hundreds of thousands of young people who were brought to the U.S. as minors. Many of these work-authorized individuals are legally employed, leaving both the DACA recipients and their employers increasingly anxious about growing uncertainty with the program.

A decision is said to be imminent in a legal challenge under consideration in the U.S. Court of Appeals for the 5th Circuit. Meanwhile, the Biden Administration has moved forward to “fortify” the program via administrative rulemaking.

Court watchers do not believe the Biden administration's new DACA rule will affect the case's outcome. Potential outcomes include:

1) the 5th Circuit could halt DACA renewals immediately; 2) the district court could order a stop to renewals based on the 5th Circuit's decision and the renewal ban would go into effect unless the 5th Circuit stays its own decision; or 3) the Supreme Court intervenes and five justices rule to allow renewals to continue until they hear the case on the merits.

A 5th Circuit decision is likely in September or October. Experts who follow federal court proceedings closely do not believe that any DACA case that goes back to the Supreme Court would receive a favorable/positive decision. Finally, the program's legal peril may finally catalyze Congress to step in with either a temporary or permanent solution.

This year marked DACA's tenth anniversary. The program has provided nearly 1 million young adults who came to this country as children the ability to secure protection from deportation and work authorization through a two-year renewable work permit. If DACA renewals are halted, 1,000 DACA recipients each business day for the next 24 months will lose their ability to work legally. Some of these individuals are employed in the horticulture industry and at least a few are in key management-track roles in member companies. There are also many parents of DACA recipients in the horticulture industry workforce, leading to concerns about family unity and stability.

—Sara Neagu-Reed, Director of Advocacy & Government Relations, AmericanHort

Plant Import and Trade News & Notes

Geranium testing to resume—USDA's Animal & Plant Health Inspection Service (APHIS) resumed pathogen diagnostic testing of imported geranium (pelargonium) cuttings at its plant inspection stations in September. AmericanHort convened the major offshore cutting producers for an APHIS briefing, in which officials described the plan to test one shipment per month per plant inspection station from each certified offshore greenhouse facility. However, unlike one year ago, APHIS plans to employ a more recently validated test that's specific to *Ralstonia solanacearum* race 3 biovar 2, which is a quarantine pest and is regulated as a select agent.

Testing commenced about a year ago using a less specific test, which led to some false positive results that resulted in significant delays and disruptions. AmericanHort and the offshore cuttings suppliers have conveyed to APHIS the importance of the supply chain functioning without significant delays and will cooperate with the agency to maintain open communications regarding any testing implementation challenges.

APHIS to permanently accept electronic documents—In 2020, APHIS responded to the COVID-19 pandemic impacts on trade by allowing importers of plant commodities to upload copies of phytosanitary certificates and forms to the U.S. Customs and Border Protection's (CBP's) Automated Commercial Environment (ACE) using the Document Image System (DIS). Starting October 1, APHIS and CBP are accepting signed original and uploaded copies of phytosanitary certificates and forms for plant commodities. The many technical details may be found at content.govdelivery.com/accounts/USDAAPHIS/bulletins/32a93a1.

—Craig Regelbrugge, Executive Vice President Advocacy, Research, & Industry Relations, AmericanHort

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