

## **NSAC Principles on Immigration Reform** (Adopted April 2013)

A socially just farm labor policy is a basic element of agricultural sustainability, along with environmental stewardship and economic viability. We start from recognition of human dignity as a core principle for immigration reform. An agricultural immigration policy that treats workers as indentured servants and production inputs and not as members of families and social networks cannot be sustainable.

Comprehensive immigration reform is absolutely necessary to end the problems associated with having undocumented workers in the United States. Everyone in the country needs legal papers. The goal should be to eliminate all incentives for employment of undocumented workers. This requires the legalization of the existing undocumented immigrants and a sufficient annual influx of legal immigrants at all skill levels. However, if a significant population of undocumented workers remains after immigration reform, with no obvious path to legalization, then such measures as e-verify and secure ID cards will be just as problematic for agriculture as they are today.

Not everyone needs to be a U.S. citizen or a Legal Permanent Resident. There can be a transitional period for many immigrant workers, where they determine whether they want to remain in the United States. We do support an eventual path to citizenship for those who fit into the U.S. labor market.

Some of the principles of immigration reform that we would suggest include:

### **1. Legalization of all current undocumented individuals**

There are an estimated 11 million undocumented immigrants in the country, and the only way to resolve this problem is to legalize them, giving them either work visas (temporary status) or green cards (Legal Permanent Resident status). Long-term residents given temporary visas should have a fast-track opportunity to obtain green cards.

### **2. A path to citizenship for those who continue to work in the United States**

There should be a clear path to citizenship for anyone brought into the United States to work. We should not create groups of second-class workers who can never become citizens. Not all immigrants will stay and choose this path, but the opportunity should exist.

### **3. All workers have full labor rights, including the right to change jobs and work for any employer**

By granting all immigrant workers full labor rights, their impact on the labor market will be minimized. There should be no restrictions on the labor market mobility of any group of immigrants. This is a basic American value. Farm workers should be included in the protected right to freedom of association and collective bargaining, as they are in a few

states. All immigrant workers should also be able to collect on insurance payments that they and their employers contribute, including unemployment, workman's compensation, disability, and social security. They should also have the right to have drivers' licenses, have some way to purchase health insurance, and be included in nutrition programs.

**4. Enforcement of labor law standards**

The continued provision of immigrant labor to American employers should be counterbalanced with strict enforcement of labor standards.

**5. No industry-specific guestworker programs**

Programs that limit workers' rights and trap them in specific jobs or industry sectors will simply lead to desertion and the continued employment of undocumented workers by employers for whom the guestworker programs are too costly, slow, or unworkable. Guestworker programs are unfair to the workers involved, present unfair competition to domestic workers, favor a particular set of employers with the resources to utilize them, and create incentives leading away from a legal labor force.

**6. Work visa program for manually skilled workers and other classes of workers implemented rapidly**

In order to avoid the re-creation of an undocumented labor market in agriculture and other manually-skilled sectors, we propose that the government move rapidly to implement programs of provisional work visas for new immigrants. These portable work visas, good for some period of years, would allow immigrants to enter and exit the United States and work for any qualified employer. (We detail one concrete proposal below.)

**7. Quotas of different provisional worker types set by a commission**

A commission would set the total number of manually skilled or highly educated or other types of workers that would be admitted, define the characteristics of such workers, choose the countries of origin, and decide which employers would be qualified to hire them, if not all employers. It could also conduct research on the role and trajectory of immigrants in the American economy.

**8. Minimize the role of the federal government after issuance of visas, rely on labor markets**

Every attempt should be made to confine the government's role to issuing the visas and enforcing laws, both immigration laws and labor laws.

**9. Fees are charged to immigrants to cover the direct costs of the programs**

Though it is no doubt true that the costs of such immigration programs should be borne by all of society, immigrants can be charged fees to cover the direct costs. Employers

should not be charged excessive fees for employing immigrants because it will lead them to attempt to recover these costs through poorer wages and working conditions.

**10. Support development programs in migrant-sending countries to encourage options to emigration**

Programs to support development initiatives in areas of migrant origin will eventually lessen migration pressures.

**11. Support training programs to help workers integrate into American society or return to their countries of origin**

Many manually skilled immigrants enter the United States with low levels of formal education. They should be provided opportunities for adult education and skill improvement.

*The Community Alliance with Family Farmers (CAFF), an NSAC member organization headquartered in California, has put forward the following proposal as one concrete example of the general approach being advocated.*

### **The North American Visa Program**

The North American visa (NAVA) program for manually skilled workers would be part of a larger comprehensive immigration reform that we assume would also address requirements for highly educated workers, alter country quotas, reform family reunification, and eliminate guestworker programs. The NAVA program assumes that all undocumented adults and their dependents in the United States as of the cut-off date would be issued a green card or some type of provisional visa, subject to grounds of deportation if convicted of criminal conduct. This legalization of the undocumented would be a one-time event dependent on comprehensive immigration reform to improve the legal entry of migrants so as to avoid a repeat of the 1986 experience.

1. The NAVA program would initially apply to the countries of North America, including Mexico, the Caribbean, and Central America. These countries account for 75% of the undocumented individuals currently in the United States. This pilot program could be extended to other countries if the program is successful or if more workers are needed. Since we are focused on agriculture and a seasonal labor component, the ability of workers to return to their home countries at low cost would be important.
2. The basic element of the NAVA program is the creation of a W visa category, a temporary work visa for manually skilled workers, good for 5 years, which would allow a non-U.S. citizen to reside in the United States and seek employment from any qualified employer in the United States.
3. The U.S. Embassies regularly issue 5-year and 10-year tourist visas, and this program would assign the U.S. government the same role in issuing work visas.
4. The W visa would be the first work authorization document to be biometrically secure. Combined with some form of E-verify to check the list of individuals authorized to possess such a visa, it could become both reliable and protective of the privacy of individuals. The work identification program would apply to all jobs of 72 hours or more.
5. W visa holders could come and go from the United States.
6. W visa holders would have full labor rights but would not be eligible for welfare-type government transfers. However, a means of providing health care under the new federal law would need to be developed, for example to assure their right to buy insurance on the state health exchanges by defining them as “lawfully permanent” under the Affordable Care Act. They would be eligible to receive other insurance payments from funds that they and their employers paid into, including social security, disability, workman’s compensation, and unemployment insurance. They could have drivers’ licenses and should have access to nutrition programs.

7. There would be strict workplace law enforcement consistent across all states with respect to minimum wage, overtime, healthy workplaces and other labor law provisions.
8. A fee would be charged to workers for documents, which would be used to defray some of the costs implied by the reform. In addition, the undocumented in the United States could be additionally fined for having ignored immigration laws, however, they would not be required to return to their countries of origin in order to apply for a visa—a waste of time and money for them and their employers.
9. At the same time as the undocumented in the US were issued visas or green cards, a program would be created to issue W visas to a group of new manually-skilled immigrant workers each year, the number to be determined quarterly by a commission, and based on business cycle numbers, unemployment data, and job openings. Some have suggested 200,000 or more per year when the economy is growing well. These would be allocated to the North American sending countries according to a formula based on such factors as the number of immigrants from that country in the United States and the population of the country. The commission would be composed of labor and business representatives, academics, federal employees in charge of government labor market surveys, and elected officials. Regular studies would be conducted to provide the information needed by this commission.
10. The W visas for new immigrants would be issued by United States embassies and consulates in an attempt to prevent fraud, corruption, and extortion of migrants by intermediaries. Workers would apply individually and could present letters from U.S. employers, but this would not be required. They would need to demonstrate an upbringing and/or work history that qualified them to be considered “manually skilled,” for example growing up on a farm, being a skilled shoemaker, or having worked in food processing.
11. An aggressive program of enforcement against hiring undocumented workers would be enacted once the legalization documents were issued and the NAVA program implemented.
  - Employer sanctions—if employers break the rules, they would lose their licenses to conduct business in a consistent way across all states—have already passed in several states.
  - Regulate closely 3<sup>rd</sup> party hiring (e.g. farm labor contractors) to stop the effective avoidance of employer sanctions by the indirect hiring of undocumented workers.
  - Create a joint enforcement program with Mexico and other governments to combat the abuses of recruitment activities.
  - The focus of border enforcement would be on drugs or terrorists and not on workers. The proximate availability of a legal work visa combined with employer sanctions would discourage undocumented migration, and this would lead to lower federal costs at the border.

12. Employers would have no special obligation to engage in positive recruitment of domestic workers or engage in any other government hiring requirement. W visa workers would be treated the same as all other American workers.

13. After 5 years, a W visa holder would face three options:

- If s/he had worked less than a minimum threshold percentage of time (we propose 40% averaged over the years), then s/he would be ineligible to renew the visa. There should be a provision to allow him/her to apply for a new visa after some period of time.
- If s/he had worked more than 40% time and could demonstrate that s/he is not “inadmissible,” s/he would be eligible to apply for another W visa for an additional 5 years. The average farm worker works 50-60% of the year and might fall into this category.
- If s/he had worked more than (we propose) 75% time, could demonstrate a current full-time job, and could demonstrate that s/he is not inadmissible, then s/he would be eligible to apply for LPR status. S/he could immigrate the immediate family if s/he so chose. S/he would become eligible for certain government transfers, such as food stamps and educational assistance for children. At the end of 10 years from having first received the W visa, s/he and the family would be eligible for all government transfers. Since in our plan all current undocumented workers not issued green cards would be issued 5-year W work visas, many of them would be eligible for LPR status at the end of 5 years, as many of them currently have full-time jobs.
- An additional provision could be added to allow all W visa holders who continually maintain the visa for 10 years to apply for LPR status. This would provide a clear path to citizenship for all W visa holders.
- Neither spouses nor minor children currently in the United States would be required to work. Children could apply to extend this provision to the age of 24 in order to attend college.