
Hearings Convened November 10 - December 8, 2021

Blue Ribbon Commission on Protections for Immigrant Workers

Highlights and Recommendations



"TO THOSE WHO ARE ABUSED AT WORK."

"THAT THE WHOLE NATION REALIZES THESE ABUSES EXIST."



Dedicated to the thousands of working people lost during the COVID pandemic, and many still on the frontlines.



INTRODUCTION

Workers in the United States are facing a crisis. The basic rights we have on the job, enshrined in legislation passed over half of a century ago, have been attacked and eroded for decades. What is left of those protections is barely enforced by a shrinking Department of Labor that has few resources to combat rampant abuse.

This crisis is exacerbated because too many workers on the frontline of every major industry in this country are effectively exempt from any labor protections. When immigrants speak out about abuse or dangerous work conditions, ICE and bad employers use the threat of deportation to threaten, punish, and retaliate. We are the past, present, and future of the US workforce, but many of us are told that we have no right to challenge wage theft, unsafe working conditions, discrimination, or harassment because we don't have documents.

But we will not remain silent. We have spent the last year calling on the Biden Administration, Labor Secretary Marty Walsh, and Homeland Security Secretary Alejandro Mayorkas to take action to protect workers that denounce workplace abuse, repair the harms committed against us, stop workers' deportations and grant work authorization - action to confront the crisis of workplace abuse. In at least three separate cases, workers confronting labor violations have submitted requests for deferred action.

We've used every opportunity to lift the demand: In Mississippi, poultry workers called on President Biden and Labor Secretary Walsh to repair the harms committed by ICE workplace raids, in Las Vegas painters targeted by an abusive employer made the ask directly to Secretary Walsh, and together, we have rallied at the US Labor Dept., then marched to the White House, as we demanded immigration protections for workers reporting workplace abuse: ¡Dale ya, Sr. Presidente!



On October 12, DHS Secretary Alejandro Mayorkas responded with a “Worksite Enforcement” memo that acknowledged immigration enforcement is often used to undermine workers’ rights and directed DHS agencies to give recommendations within 60 days to protect immigrant workers that denounce workplace abuse. It is a step toward a new paradigm for workplace protections, but it will not happen without our input.

That is why we convened a Blue Ribbon Commission on Protections for Immigrant Workers, composed of workers and members of immigrant worker organizations, to provide input, guidance, and evaluation of the new policies under development in the sixty-day period of review and beyond. Our goal is to ensure that the commitments made by DHS to respect workers’ rights are fulfilled and to offer a vision of labor rights enforcement that lifts all workers.





PRINCIPLES

1

DEFENDING UNDOCUMENTED IMMIGRANT WORKERS SHOULD BE THE RISING TIDE THAT LIFTS ALL.

Our employment system can no longer support multiple classes of workers with differing levels of enforcement based on immigration status. Because they are more susceptible to retaliation due to their status, immigrant workers are targeted by the worst employers in order to take advantage of their vulnerability.

2

UNTIL LABOR ENFORCEMENT HAS TEETH AND IS TAKEN SERIOUSLY BY EMPLOYERS, THE CURRENT TREND OF LABOR VIOLATIONS WILL CONTINUE.

Workplace abuses are rampant and increasing. Sanctions must meaningfully penalize violators who steal wages, ignore safety precautions, discriminate against, sexually harass, and retaliate against employees. Investigations need to be reliable and efficient for immigrant whistleblowers who report abuse. Only then will we see transformation in labor practices nationwide.

3

FOR DECADES IMMIGRATION ENFORCEMENT HAS BEEN WEAPONIZED TO UNDERMINE WORKERS' RIGHTS, TO THE DETRIMENT OF THE ENTIRE WORKFORCE.

Immigration enforcement creates an extremely chilling effect among immigrant workers who fear they will be targeted by DHS if they come forward with a labor complaint. Bosses that take advantage of this dynamic can effectively evade labor standards using DHS as a bludgeon against their workforce, and replace those that are courageous enough to come forward. Whenever DHS arrests and deports a worker who has experienced some form of labor abuse, they are lowering the floor of labor standards for all workers.

4

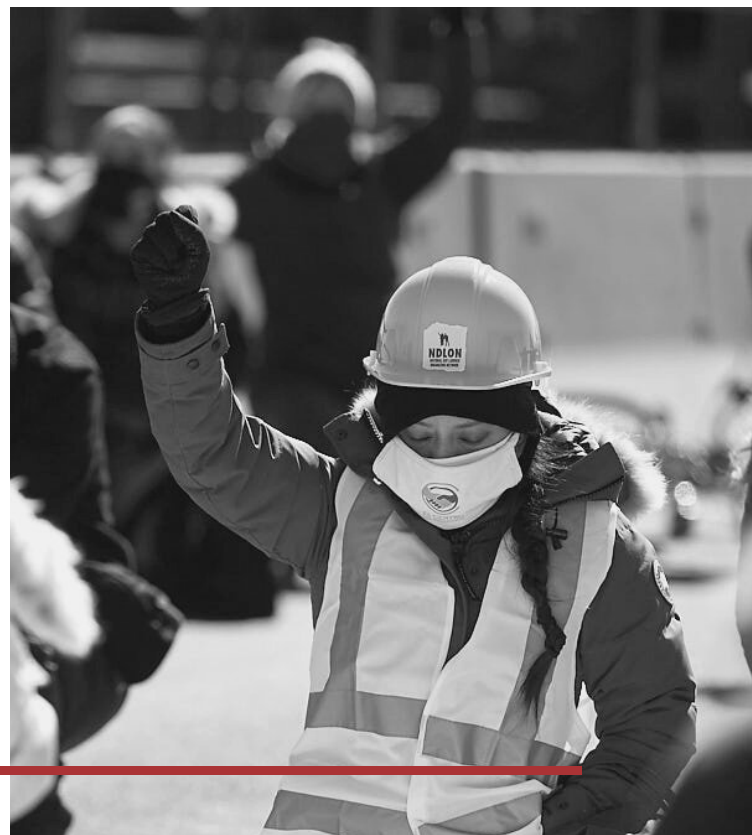
ENFORCEMENT OF LABOR PROTECTIONS MUST TAKE PRECEDENCE OVER IMMIGRATION ENFORCEMENT.

Federal and state labor departments must be empowered to defend immigrant workers who face abuse, regardless of immigration status. To start, that means workers need to be guaranteed protection and shielded from immigration enforcement when they report to a labor agency.

5

THE US LABOR DEPARTMENT MUST BE PRESENT - AND ADEQUATELY FUNDED - NATIONWIDE TO EFFECTIVELY CARRY OUT ITS MISSION FOR ALL US WORKERS.

On a federal level, the Department of Labor has 1.4% of the budget that DHS has, and is charged with protecting the rights of almost 160 million workers in the United States. This illogical budget imbalance highlights the need to deprioritize immigration enforcement and prioritize labor enforcement, at all levels.



SUMMARY OF RECOMMENDATIONS

(see full highlights and excerpts below)

1. Deferred action, work authorization, and other immigration protection must be provided as extensively and broadly as needed to turn the tide on workers' exploitation.

2. DHS must expedite immigration protection and work authorization requests. Employers move very quickly to retaliate against workers. To truly protect them, DHS and DOL need to work together seamlessly to protect workers first.

3. Create accessible and formal paths for the many workers who go to state and local labor enforcement agencies, as well as civil courts, to receive evidentiary letters and deferred action.

4. Because of the dehumanizing and anti-worker message sent by worksite immigration raids, it is not enough to end future raids. DHS should treat workers and families affected by previous immigration raids as presumptively subjected to exploitation and discrimination, and grant deferred action.

5. End 287(g) and similar programs. Contracts between local governments and DHS to enforce immigration law have been disastrous for local communities and clearly undermine workers' rights. The chilling effect and fear of retaliation is multiplied when racist and xenophobic local law enforcement bodies are empowered to carry out federal immigration law.

6. Provide deferred action for workers regardless of traditional positive and negative factors, such as length of time in the US, family ties, or other categories.

7. DHS should not issue temporary H-2 visas, and DOL should not certify labor certifications for businesses that workers report as being abusive.

8. DHS should support USDOL and local labor agencies as they proactively reach out to workers, by providing deferred action status to all workers in zones of disaster, in order to prevent labor abuse and encourage reporting of violations as soon as they occur.

9. DHS should publicly issue a geographic moratorium or stand down on enforcement actions of any kind when immigrant families and communities are struggling to survive in post-disaster situations, for at least 12 months. This should also include workplace disasters where there are deaths or multiple severe injuries.

10. DHS should work together with DOL to prevent retaliation against workers affected by the pandemic, unsafe workplaces, and natural disasters. Employers who question workers related to their immigration status whether after a workplace injury or disaster are clearly engaging in retaliation and should be sanctioned, and whistleblowers should be provided with deferred action.

11. Workers that were excluded from state and federal emergency assistance and continued working during the pandemic must be given protection and encouraged to report employers who violated COVID restrictions.

12. Family members of workers are also exposed to employer retaliation and threats. Children and spouses of workers also suffer from the harms of wage theft and unsafe working conditions. Deferred action and parole provisions should be extended to immediate family members of impacted workers.



HIGHLIGHTS & RECOMMENDATIONS



From November 10, 2021, through December 8, 2021, the Blue Ribbon Commission on Protections for Immigrant Workers (BRC) hosted a series of open hearings to visibilize the specific abuses confronting immigrant workers, to offer specific recommendations, and ensure workers' voices are injected into the development of DHS and DOL policy. Below are highlights and recommendations for DHS Secretary Mayorkas that arose from the BRC hearings alongside excerpts from participants' testimony and remarks.

BRC Hearing #1 **The Epidemic of Wage Theft (November 10, 2021)**

Every day, employers steal workers' wages by not paying what was agreed, by not covering overtime hours, by not allowing for breaks as provided by the law, or by misclassifying workers. Experts estimate that billions of dollars are stolen every year - more than all other property crimes combined. Immigrant workers are the most vulnerable to wage theft, and scofflaw employers target them because of their perceived diminished rights and fear of retaliation. Below are the highlights from the first hearing:



The Epidemic of Wage Theft

RECOMMENDATION #1

**DEFERRED ACTION, WORK
AUTHORIZATION, AND OTHER
IMMIGRATION PROTECTIONS MUST BE
PROVIDED AS EXTENSIVELY AND
BROADLY AS NEEDED TO TURN THE
TIDE ON WORKERS' EXPLOITATION.**

Workers are taking leadership across the country, but are also subjected to retaliation, threats, and violations on a daily basis. In order to make a difference in the environment of exploitation, DHS should not see deferred action as a last resort, but rather as an inoculation. When workers know they can speak safely, they are more able to enforce their rights, and they will protect thousands more.

“Three days of work, three days of wages, and in addition abuse directed at us. He took out a pistol because we wanted him to pay. We decided to denounce this at the center and our case is now with a workers clinic. We have been [waiting] for a year.”

FRANCISCO, SOUTHSIDE WORKER CENTER

“There are still thousands of workers who for fear of retaliation, for fear of being deported, are in the same position that I was in ... At risk of losing their homes and in some cases their lives.”

SULI GARCIA, ARRIBA LAS VEGAS

“We are experiencing abuse because they say “You don’t have documents so we take advantage.” The only thing we are asking for from this government is for deferred action, immigration reform, and work permits so that we can have protection that we can present on the job so there is not this kind of abuse.”

JOSE ORELLANO, SALVA

The Epidemic of Wage Theft

RECOMMENDATION #2

DHS MUST EXPEDITE IMMIGRATION PROTECTION AND WORK AUTHORIZATION REQUESTS. EMPLOYERS MOVE VERY QUICKLY TO RETALIATE AGAINST WORKERS. TO TRULY PROTECT THEM, DHS AND DOL NEED TO WORK TOGETHER SEAMLESSLY TO PROTECT WORKERS FIRST.

This means reliable and efficient response to requests for protection and clear protection of information for workers that come forward.

Now we need support from Secretary Mayorkas of DHS. He gave a memorandum where he said that now the laws are going to be in favor of the workers and against abusive employers but until now, they are only promises. A reality which is good for us would be, to begin with them giving deferred action to those of us who are in an advanced process so that we can freely denounce those abusive employers.”

ROSARIO ORTIZ, ARRIBA LAS VEGAS

RECOMMENDATION #3

CREATE ACCESSIBLE AND FORMAL PATHS FOR THE MANY WORKERS TO GO TO STATE AND LOCAL LABOR ENFORCEMENT AGENCIES, AS WELL AS CIVIL COURTS, TO RECEIVE EVIDENTIARY LETTERS AND DEFERRED ACTION.

Many workers, in fact, the majority of workers, work in small businesses, not under the jurisdiction of the federal labor laws.



“Three of us worked for him and then when we demanded that he pay us what he owed for the work we completed, he threatened us with the police and because we didn’t have papers and didn’t speak English. We contacted Unidad Latina of New Jersey... We filed a complaint with the Department of Labor (of New Jersey) and the court decided in our favor. But he appealed the decision and we are waiting to see if the department gives us a decision.”

ELIAS ROJOP, UNIDAD LATINA EN ACCIÓN NJ

BRC Hearing #2

ICE Raids and Workers in Factories and Farms (November 17, 2021)

Factories, farms, and warehouses are worksites that have long been hotbeds of abuse against immigrant workers. Despite immigrant labor subsidizing major US industries and making indispensable contributions to our economy during booms and busts, pandemics, and supply crises, these workers are routinely ignored when they bring claims against their abusive employers. Even worse, they are targeted by immigration enforcement through unjust raids that separate families and create extreme fear of further retaliation. Below are the recommendations that were identified for Secretary Mayorkas:

RECOMMENDATION #4

BECAUSE OF THE DEHUMANIZING AND ANTI-WORKER MESSAGE SENT BY WORKSITE IMMIGRATION RAIDS, IT IS NOT ENOUGH TO END FUTURE RAIDS. DHS SHOULD TREAT WORKERS AND FAMILIES AFFECTED BY PREVIOUS IMMIGRATION RAIDS AS PRESUMPTIVELY SUBJECTED TO EXPLOITATION AND DISCRIMINATION, AND GRANT DEFERRED ACTION.

Addressing the harm unleashed by ICE raids requires equally broad, bold, and visible action from DHS to counteract the message.

“Hopefully what Secretary Mayorkas said are deeds and not words. We demand that the people who were affected by the raids [in Mississippi] should not be forgotten, that they are given a work permit. Because they deserve it - not just one person, all of them. Many are still detained. They should compensate these people and also those who are abused at work. We ask that they are given an opportunity, which is a work permit. Without us, this country is nothing.”

SILVIA GARCIA, IAJE MISSISSIPPI



ICE Raids and Workers in Factories and Farms

RECOMMENDATION #5

END 287(G) AND SIMILAR PROGRAMS.

Contracts between local governments and DHS created to enforce immigration law have been disastrous for local communities and clearly undermine workers' rights. The chilling effect and fear of retaliation is multiplied when racist and xenophobic local law enforcement bodies are empowered to carry out federal immigration law. These contracts must be ended now.

“We are talking about the 287(g) program, which is an optional federal program. In the case of Gainesville, GA, we live in a county which is called Hall County. The sheriff has decided to continue with an agreement that is called 287(g) where the sheriffs can act as immigration. Here in the state of Georgia, we have criminalized traffic violations such as missing a taillight on your car. We give the Sheriff the right to stop you for this traffic violation, and with this 287(g) contract, [people] can fall in the hands of the Sheriff acting as immigration, and they start the deportation process. This creates many problems for our community to be able to ask for the rights that they deserve... because they act as immigration, they are doing the job of the migra.”

MARIA DEL ROSARIO PALACIOS,
GEORGIA FAMILIAS UNIDAS (GAFU)



ICE Raids and Workers in Factories and Farms

RECOMMENDATION #6

PROVIDE DEFERRED ACTION FOR WORKERS REGARDLESS OF TRADITIONAL POSITIVE AND NEGATIVE FACTORS, SUCH AS LENGTH OF TIME IN THE US, FAMILY TIES, OR OTHER CATEGORIES.

To protect workers' rights, labor laws apply to and protect every worker, and DHS must recognize that their traditional categorizations do not apply in a labor setting.

RECOMMENDATION #7

DHS SHOULD NOT ISSUE TEMPORARY H-2 VISAS, AND DOL SHOULD NOT CERTIFY LABOR CERTIFICATIONS FOR BUSINESSES THAT WORKERS REPORT AS BEING ABUSIVE.

We work in the fields and we bring food to all the tables in this country. Why don't they respect our rights? I was afraid of making a report and many people are afraid. [My employer] said that workers who filed reports were stupid and that he was going to find out who was the person who complained about him. He said he had the police on his side and the lawyers on his side. And that he was working according to the law but that wasn't true. They didn't have bathrooms, they didn't have paper, they didn't have anything. I want this whole country to learn about the abuses that are happening. What Biden has promised - no more promises!"

JOSE DELGADO, WECOUNT!
HOMESTEAD, FL



BRC Hearing #3 Natural Disasters and Health and Safety (December 1, 2021)

When there is a large-scale disaster, the first responders are emergency workers who save the lives of all caught in the path of these destructive events. After urgent needs have been met, there is a wave of cleanup, demolition, and reconstruction performed largely by construction workers. Who are these Second Responders? In the context of hurricanes, fires, flooding, and many other manmade and natural disasters, it is often immigrant workers who confront dangerous conditions to remove debris, clean mold-ridden basements, and rebuild our communities. On top of these health risks, they are targeted by state and federal anti-immigrant laws, facing persecution and predatory actions from employers that would take advantage of worker fear to underpay them and provide minimal labor protections.

The Blue Ribbon Commission convened a hearing on second responders and essential workers on December 1, 2021, where the importance of protections for these workers during and after crises was highlighted. Below are the compiled recommendations for Secretary Mayorkas:



Natural Disasters and Health and Safety


RECOMMENDATION #8

DHS SHOULD SUPPORT USDOL AND LOCAL LABOR AGENCIES AS THEY PROACTIVELY REACH OUT TO WORKERS, BY PROVIDING DEFERRED ACTION STATUS TO ALL WORKERS IN THOSE DISASTER ZONES, IN ORDER TO PREVENT LABOR ABUSE AND ENCOURAGE REPORTING OF VIOLATIONS AS SOON AS THEY OCCUR.

When hurricanes, wildfires, or other natural disasters occur, immigrant workers are often key responders who are cleaning, mucking, gutting, and rebuilding in communities across the country. At the same time, employers use the desire for quick rebuilding and chaotic environments to steal workers' wages, endanger their health and safety, and disregard labor laws with impunity.

“When Hurricane Sandy happened, fellow workers were not given the equipment necessary to work in the conditions that they were in, they were given no training, and workers suffered wage theft. They threatened us saying that they would call the police or immigration. There have been other disasters and we are there on the front lines, but the story continues being the same because the labor laws are not enforced. We need for there to be a deferred action to avoid being victims of labor abuse. It is needed to save the lives of the people who have given everything for the most difficult moments in this great country.”

PEDRO PEÑA,
DON BOSCO WORKERS



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ciales y Todavía Excluidos
Excluded Workers NOW!
dores Esenciales y Excluidos
d #YM #otrosQue #FundExcluid

Natural Disasters and Health and Safety

RECOMMENDATION #9

DHS SHOULD PUBLICLY ISSUE A GEOGRAPHIC MORATORIUM OR STAND DOWN ON ALL ENFORCEMENT ACTIONS OF ANY KIND WHEN IMMIGRANT FAMILIES AND COMMUNITIES ARE STRUGGLING TO SURVIVE IN POST-DISASTER SITUATIONS, FOR AT LEAST 12 MONTHS. THIS SHOULD ALSO INCLUDE WORKPLACE DISASTERS WHERE THERE ARE DEATHS OR MULTIPLE SEVERE INJURIES.

“It is very hard when these emergencies happen. We, the Latinos, need this work, and we are the ones who bring the food, and the wine, and clean the houses so that people can return to their homes. Many people were displaced. That is why we are asking for deferred action and a work permit - so we are not afraid of the threats of immigration, so that we can report labor abuses like these to which we have been exposed. Because every year, climate change brings us different surprises.”

ANABEL GARCIA,
GRATON DAY LABOR CENTER

BRC Hearing #4 The COVID Pandemic and Excluded Workers (December 8, 2021)

RECOMMENDATION #10

DHS SHOULD WORK TOGETHER WITH DOL TO PREVENT RETALIATION AGAINST WORKERS AFFECTED BY THE PANDEMIC, UNSAFE WORKPLACES, AND NATURAL DISASTERS. EMPLOYERS WHO QUESTION WORKERS RELATED TO THEIR IMMIGRATION STATUS WHETHER AFTER A WORKPLACE INJURY OR DISASTER ARE CLEARLY ENGAGING IN RETALIATION AND SHOULD BE SANCTIONED, AND WHISTLEBLOWERS SHOULD BE PROVIDED WITH DEFERRED ACTION.



The COVID Pandemic and Excluded Workers

RECOMMENDATION #11

WORKERS THAT HAVE BEEN EXCLUDED FROM STATE AND FEDERAL EMERGENCY ASSISTANCE AND CONTINUED WORKING DURING THE PANDEMIC MUST BE GIVEN PROTECTION AND ENCOURAGED TO REPORT EMPLOYERS WHO VIOLATED COVID RESTRICTIONS.

Many immigrant workers were forced to continue working during the pandemic as they were excluded from any assistance due to their immigration status. They were unlawfully exposed to the virus by employers who took advantage of their uncertainty. Today, the US has a duty to provide protection for these frontline workers and a pathway to report violations.

“Many of my fellow workers work exposed to silicone and other chemicals. During the pandemic, we were practically forced to work without adequate PPE, and on various occasions, we asked the management for better protection. Unfortunately, we were ignored. Two of our co-workers lost their lives [due to COVID]. We asked that they do deep disinfection but they didn’t listen to us. As essential workers, we had to keep the production going. In the end, the company retaliated against us and fired 18 workers for reclaiming our right to a safe and healthy workplace.”

EMILIO FLORES, LAUNDRY WORKER CENTER

The COVID Pandemic and Excluded Workers RECOMMENDATION #12

FAMILY MEMBERS OF WORKERS ARE ALSO EXPOSED TO EMPLOYER RETALIATION AND THREATS. CHILDREN AND SPOUSES OF WORKERS ALSO SUFFER FROM THE HARMS OF WAGE THEFT AND UNSAFE WORKING CONDITIONS. DEFERRED ACTION AND PAROLE PROVISIONS SHOULD BE EXTENDED TO IMMEDIATE FAMILY MEMBERS OF IMPACTED WORKERS.



CONCLUSION.

Workers are watching, as key deferred action requests are now pending before the USDOL and DHS. If nothing happens for Las Vegas UCI workers, Mississippi poultry workers, and Georgia Foundation Foods workers, both workers and employers are receiving a message that DOL and DHS pronouncements against worker exploitation are meaningless. But if strong, visible actions are taken, workers' movements will be stronger and this will inspire more worker leadership and actions to enforce their rights.

Finally, while workers' voices are crucial, the responsibility should not lie only with them to speak out. The unscrupulous business owners, the shady contractors, and the massive corporations that play with the lives of workers on a daily basis know that business as usual can continue, regardless of what policy changes are made. They need to hear a strong message that comes straight from the top of the U.S. government, straight from the President, echoed in every news outlet across the country, that every worker has rights, that undocumented workers can and will be protected, and that as a country we will always place workers' civil, human, and labor rights first. When the country hears that message, we will have begun to make real strides towards a vision of labor law enforcement that lifts all workers.

THANK YOU

The Blue Ribbon Commission extends its profound gratitude to the workers across the country who provided testimony to call on President Biden, Secretary Mayorkas, and Secretary Walsh to take action in order to protect workers' lives. Thank you, most especially, to:

- Jose Delgado, WeCount! Homestead, FL
- Pedro Peña, Don Bosco Workers
- Anabel Garcia, Graton Day Labor Center
- Mario Mendoza, Familias Unidas en Acción
- Emilio Flores, Laundry Worker Center
- Adriana Gopar and Enrique Arroyo, Warehouse Workers Resource Center
- Betzy Regua, El Sol, Florida
- Plus many other workers in brief video interviews
- Hermelinda Gutierrez, Unidad Latina en Accion, CT
- Francisco Rafael Ruiz Soto, Southside Worker Center, Tucson AZ
- Suli Barrientos, Arriba Las Vegas
- Jose Orellana, SALVA
- Alfredo, Pomona Economic Opportunity Center
- Julieta Aragon, Pasadena Community Job Center
- Nelson Gamio, Employee Resource Center, San Diego, CA
- Rosario Ortiz, Arriba Las Vegas Worker Center
- Jonas Reyes, Arriba Las Vegas Worker Center
- Isaac Umaña, Arriba Las Vegas Worker Center
- Elias Rojop, Unidad Latina en Acción NJ
- Silvia Garcia, Immigrant Alliance for Justice and Equity, Mississippi
- Maria del Rosario Palacios, Georgia Familias Unidas (GAFU)
- Karina Antunes, worker from Espiga de Oro, TX

ORGANIZATIONAL ENDORSEMENTS

We also thank the organizations that have endorsed the Blue Ribbon Commission process, and provided logistical and organizing support:



- Arriba Las Vegas Workers Center of Nevada
- National Day Laborer Organizing Network (NDLON)
- Immigrant Alliance for Justice & Equity of Mississippi (IAJE of MS)
- Georgia Familias Unidas (GAFU)
- Unidad Latina en Acción - ULA CT
- Unidad Latina en Acción - ULA NJ
- SALVA Org of Palmdale California
- Adelante Alabama Worker Center
- Pomona Economic Opportunity Center (PEOC)
- Employee Rights Center, San Diego
- WeCount FL!
- CRECEN, TX
- Laundry Workers Center
- Colorado Jobs With Justice
- Justice in Motion
- Graton Day Labor Center
- Monument Impact, CA
- Workplace Project NY
- El Centro Inmigrante NY
- New Labor
- Chicago Workers Collaborative
- Southside Workers Center AZ
- San Francisco Living Wage Coalition
- Warehouse Workers Resource Center
- Trabajadores Unidos of Washington, DC
- Center for Worker Justice of Eastern IOWA
- Street Level Health Project, Oakland
- Voces de la Frontera Essential Worker Rights Network
- United Community Center of Westchester, Inc., NY
- Day Worker Center of Mountain View, CA
- VOZ Workers Rights Education Project, Oregon
- COPAL Centro de Trabajadores Primero de Mayo MN
- Centro Humanitario para los Trabajadores of Denver, CO
- National Council for Occupational Safety and Health (NCOSH)