



# AGC

## CAPÍTULO DE PUERTO RICO

LA ASOCIACIÓN DE LA CONSTRUCCIÓN

NOVEMBER 2022

### Parole for Significant Public Benefit: Proposal Summary

**Proposal:** Parole for Significant Public Benefit

**Proponent:** Puerto Rico's construction industry (represented by trade associations, led by the Puerto Rico Chapter of AGC of America, and the Puerto Rico Chapter of the Home Builders Association).

**Problem:** Puerto Rico, a U.S. territory, needs to significantly expand construction workforce (by 50K+) during the next ten years to execute the infrastructure reconstruction and modernization program financed with federal funds assigned to address (\$55 billion+, between FEMA and non-FEMA construction funds under the Bipartisan Budget Act 2018) the disaster caused by hurricane Irma and Maria (2017) and earthquakes (2020). The magnitude of the need requires more than one solution (existing and new). Given the urgency of the need, any additional solution must be efficient in terms of timing, and access to skilled employees.

**Current Solutions:** Construction labor training programs (with public and private academic institutions and several nonprofit organizations), apprenticeships, and H2-B visas. The combined potential of these initiatives is not sufficient to meet the anticipated labor needs within the required timeframe.

**Proposed Solution:** Parole for Significant Public Benefit established by Executive Order of the President of the United States. Could add 20K+ skilled construction workers.

**Legal basis:** Section 212(d)(5) of the Immigration and Nationality Act (INA).

**Definition of Significant Public Benefit under Section 212(d)(5):** According to [www.uscis.gov](http://www.uscis.gov) there is no statutory or regulatory definition of “significant public benefit”. Parole based on significant public benefit includes, but is not limited to, law enforcement and national security reasons or foreign or domestic policy considerations.

### **Definitions of Terms Under the Proposed Parole:**

- Beneficiary (recipient) of parole: an individual residing in Puerto Rico with indefinite migratory status who is skilled and available to work in construction.
- Petitioner: construction companies that demonstrate need for workforce to execute reconstruction projects covered under this initiative.
- Public: The more than 3 million US citizens living in Puerto Rico.
- Significant Public Benefit: Execution of the reconstruction and modernization of Puerto Rico’s dilapidated infrastructure financed with FEMA and federal recovery funds.
- Sponsor: N/A Because the beneficiaries are currently living and working in Puerto Rico, they don’t need a place to live and source of income.
- Length of Parole: Two years. Eligible for re-parole after the initial two-year term.
- Eligibility: individuals residing in Puerto Rico with indefinite migratory status on or before November 2020, who are skilled and available to work in construction.

**Possible point of reference:** For the creation of the proposed parole, a good point of reference could be the International Entrepreneur Parole. According to the USCIS, “under the International Entrepreneur Rule (IER), DHS may use its parole authority to grant a period of authorized stay, on a case-by-case basis, to foreign entrepreneurs who demonstrate that their stay in the United States would provide a significant public benefit through their business venture and that they merit a favorable exercise of discretion. Under this final rule, entrepreneurs granted parole will be eligible to work only for their start-up business. The spouses and children of the foreign entrepreneur may also be eligible for parole. While spouses may apply for work authorization once present in the United States as parolees, the children are not eligible to work. IER parole may be granted for up to three entrepreneurs per start-up entity.”

<https://www.uscis.gov/working-in-the-united-states/international-entrepreneur-parole>

**FAQ:**

- Is this the same as a Parole in Place? *No. The Parole in Place is reserved exclusively for family members of the military. It is rarely used.*
- Where will workers come from? *Workers will be noncitizens living on the island on or before November 2020. The Parole will not be available for immigrants that entered the U.S. illegally after the established date.*
- Why not use the H2-B visa program to expand workforce? *the scope of H2-B visas is limited, in terms of the number of workers that can be allocated to Puerto Rico, duration of the visas granted (12 months maximum for one-time occurrences), and application schedule. The program is intended to meet anticipated seasonal employment demand, whereas labor needs in construction cannot be anticipated and occur any time during the year. H2-B visas need to be procured more than six months prior to need, a process that does not match construction bidding procedures. In FY 2020 and FY 2021, Zero H2-B visas were granted in Puerto Rico.*
- Concern: *This mechanism was tailored made for Puerto Rico*

*Any state or territory under an emergency declaration under FEMA can request a similar parole*

- *Concern: This is a novel interpretation and use of Significant Public Benefit. Significant Public Benefit is not defined by Section 215 (d)(5) of the INA Act, and a Parole based on significant public can be granted for, but is not limited to, law enforcement and national security reasons or foreign or domestic policy considerations. Therefore, a Parole for Significant Public Benefit can be used to address the potential construction labor crisis in P.R. that could halt the infrastructure reconstruction and modernization program.*
- *Concern: High political cost. The most significant cost would come from not doing anything to address the anticipated labor shortage that could delay and negatively impact the reconstruction process, increase construction costs, and hold back economic recovery and progress on the island.*
- *Concern: May cause too much administrative demand on Immigration personnel. Arrangements should be made for making Immigration Offices in Puerto Rico responsible of processing the Paroles, avoiding an overload on other Immigration offices.*