SEA recommendation for FY 2023 visa release:

1. Announce visa release simultaneous with FY23 first half cap announcement (anticipated in early September).
   1. Planning- This provides employers much-needed time to plan and account for the additional visas. In previous years where there was no cap constraint on the first half visa availability, 40% of program demand was for February and March start dates. A September announcement would give employers the certainty they need to proceed with a first half filing.
   2. Cap analysis- In the FY22 July 2-4 filing period employers requested 21,116 positions. The 29,856 positions requested in FY23 represents a 41% increase over FY22.  In FY22 the cap was met on September 30th. Given the robust demand, we expect the cap to be met as early as early September.
2. Release maximum number of visas allowed under the law, 69,320, and roll over any unused visas to the second half.
   1. Justification- 206,953 workers were certified in FY22. We estimate roughly 15% of this number were in-country transfers. Thus, the actual FY22 demand was roughly 170,000 positions. If employers with April start dates have increased certainty about the option to request workers with a February or March start date in the first half of the fiscal year, we expect a significant number of April filers to switch to a February or March start date.  The historical data (attached) supports at least half of the April filers preferring an earlier date, which would place demand at roughly 120,000 positions based on the FY22 data.  However, if the cap relief visas are limited to returning workers, the requested number will not be 120,000 but would likely be closer to 90,000 (this is because the current pool of returning workers is less than 120,000). Regardless, the full 69,320 visas would still be necessary to come even close to satisfying the anticipated demand.
   2. Bifurcation- 55,000 Returning Worker visas and 14,320 visas to the Northern Triangle (NT) countries.
      1. We believe approximately 7,000 visas were issued to Northern Triangle workers as part of the recent allocation. If the announcement is made in September, this would give our members the time to coordinate mass hire events with the ministries and to establish themselves in the NT countries to ensure that this allocation is fully used. Prior NT releases came too late in the employers’ seasons, preventing them from making the commitment to these countries. A doubling of NT visa issuance is possible but only if the timing of the announcement allows for proper planning.
3. Aim to publish rule by mid-November.
   1. If a lottery is necessary for a Returning Worker allotment, employers will know the outcome by Thanksgiving. Those who find themselves capped out will still have time to reapply on January 1st for the April 1st visa allotment.
   2. Incentivizes employers to request NT workers. Capped employers will have the choice of either reapplying for NT workers with 100% certainty of availability (presumably a lottery will not be necessary for the NT allotment) or reapplying for the at-large April 1 allotment and risk being capped out again. This will incentivize more employers to request NT workers.