



November 10, 2010

Mr. Thomas Dowd, Administrator  
Office of Policy Development and Research  
Employment and Training Administration, USDOL  
200 Constitution Avenue, NW.  
Room N-5641, Washington, DC 20210

Re: Regulatory Information Number (RIN) 1205-AB61;  
20 CFR Part 655: Wage Methodology for the Temporary Non-Agricultural Employment  
H-2B Program

Dear Administrator:

Thank you for the opportunity for ImmigrationWorks USA to comment on the proposed H-2B wage methodology regulations. ImmigrationWorks is a national federation of small business owners advocating immigration reform.

According to the proposed rule, the new wage methodology is based on the Department of Labor's mandate to ensure that H-2B employers do not offer wages that will adversely impact the wages of U.S. workers. But nowhere in the rule is there any evidence to support the assumption that the H-2B program adversely affects the wages of American workers.

Conversely, a recent study of the H-2B program conducted by distinguished immigration economist Madeline Zavodny on behalf of ImmigrationWorks USA and the U.S. Chamber of Commerce demonstrates the program's benefits to the U.S. workforce. This study disproves two widespread allegations against the H-2B program: that H-2B workers depress the wages of U.S. workers in similar occupations, and that employers hire H-2B workers because they are cheaper.

To fill the research vacuum surrounding the claim that the H-2B program undermines U.S. workers' earnings, an original economic analysis conducted for the ImmigrationWorks-Chamber study compared wages in sectors that rely heavily on H-2B visa holders with wages in other industries that hire few or no temporary workers. The analysis found that the number of H-2B workers in a given field has no negative effect on U.S. workers' employment or earnings. Specifically, the results indicate that a 1 percentage point increase in H-2B workers in a given occupation in a given year is associated with wages in that occupation increasing 0.05 percentage points faster than they otherwise would have over the next calendar year, and with employment also increasing 0.05 percentage points faster. These are small effects – not surprising since H-2B is a small program. But the fact is, the direction is positive – the H-2B program is not having an adverse impact on U.S. workers.

Nor do employers hire H-2B workers because they're cheaper. A second original economic analysis conducted for the ImmigrationWorks-Chamber report concludes that the number of H-2B workers increases when local labor markets tighten. In other words, far from taking jobs from Americans, H-2B visa use correlates with *higher* U.S. employment rates. The analysis compared state-by-state data on H-2B admissions with state unemployment rates and employment growth during the period from 2006 to 2009. The comparison showed that the

number of H-2B workers admitted increases as unemployment rates fall and employment growth accelerates. Specifically, in the average state, when employment growth increased by 1 percentage point, employers brought in 216 additional H-2B workers. This is consistent with responses to a survey of more than 365 H-2B employers conducted for our report indicating that the H-2B program helps employers fill positions when U.S. workers are scarce. Employers turn to the H-2B program to alleviate their difficulty finding workers when U.S. labor markets are tight – not, as critics claim, because H-2B workers are inherently cheaper to hire than Americans.

What would happen if employers were not able to bring in temporary foreign workers? Many business owners would be forced to move operations outside the country or shut down completely. In a few industries – the few instances where it's possible – some jobs might be mechanized. Still other employers might hire unauthorized workers. Or they might raise prices for the goods and services they produce. None of those alternatives help the average American.

Our report leaves no doubt about what must be done: cut burdensome regulation, streamline processing and make the H-2B program more sensitive to changing U.S. labor market needs. At the very least, the Department should not alter the methodology for determining the prevailing wage rate, which will prove devastating to small employers who follow the law and create jobs for U.S. workers.

Please do not hesitate to contact us if you have questions or concerns.

Thank you for your attention.

Yours sincerely,

A handwritten signature in black ink that reads "Tamar Jacoby". The signature is written in a cursive, flowing style.

Tamar Jacoby,  
President