

Radio Actuality Available

DEFAZIO SECURES PROTECTIONS FOR AMERICAN WORKERS

Department of Labor closes H-2B loopholes

WASHINGTON, DC – Rep. Peter DeFazio (D-Springfield) applauded the Department of Labor’s (DOL) decision to make critical changes to their H-2B temporary worker program. DeFazio urged DOL to quickly make these changes after an Office of Inspector General (IG) report found federal stimulus funds were awarded to contractors in Oregon who underbid competition by using foreign laborers.

DeFazio initiated the IG investigation after the Bend Bulletin reported that several companies awarded Forest Service contracts filed H-2B applications to use foreign workers rather than Oregon workers.

“These were common sense changes that needed to be made. The stimulus money was intended to create jobs for American workers, not foreign workers,” said DeFazio. “U.S. companies that game the system and exploit immigration loopholes to undercut competition should not be awarded federal contracts. The Department of Labor has addressed many of their failings and closed the loopholes these companies took advantage of. I will continue to work with the Department of Labor to make meaningful changes to protect American workers.”

□

To Access the Radio Actuality: [2.10.12 DeFazio Statement on H-2B Visa Reforms](#)

□

CHANGES MADE TO H-2B PROGRAM

- The Oregon Stimulus contracts were awarded to companies who then advertised in obscure papers outside of the state in order to avoid hiring American workers. Employment opportunities will now be advertised in the states in which work will be done. The new DOL rule requires local employer advertising, local recruitment through State Workforce Agencies, and posting on a national database. In addition, employers must now provide documentation that they are complying with this rule.
- The IG report found that employers given Oregon Stimulus contracts failed to notice the State Workforce Agency of open positions. DeFazio had asked that the DOL require contractors to alert State Workforce Agencies of employment opportunities in the states in which work will be done. The new rule does this.
- The IG audit identified that current H2B regulations permit a four month gap between U.S. worker recruitment/job offer and the job start date, which contractors used to avoid hiring American workers. DeFazio urged the DOL to require that positions be advertised reasonably near to the date of employment. The new rule requires that H-2B applications be submitted between 75 and 90 days before the date of need. Recruitment of US workers must continue until 21 days before the date of need.
- The IG audit found that certain State Workforce Agencies did not fulfill their responsibilities, and DOL could improve its oversight and monitoring to better protect the interests of U.S. workers under the regulations. DOL has strengthened oversight of H-2B applicants and State Workforce Agencies. As mentioned, recruitment must now be fully documented.
- According to interviews with workers, the OIG found that the employers used discouraging language such as references to age and the ability to speak additional languages in their recruiting process. Neither reference was a job requirement of H-2B applications. The DOL will now require that employers use identical and relevant employment requirements when recruiting U.S citizens and H-2B workers performing the same job.

Background:

In 2010, the Bend Bulletin ran a series of articles highlighting possible H-2B Visa irregularities related to Forest Service contacts in central Oregon funded by the American Recovery and Reinvestment Act.

The H-2B non-agricultural temporary worker program allows U.S. employers to bring foreign nationals to the United States to fill temporary nonagricultural jobs. Federal regulations require that employers who file H-2B petitions must include a certification from the Department of Labor (DOL) stating that qualified workers are not available in the U.S. and that the foreign worker's employment will not adversely affect wages and working conditions of similarly employed U.S. workers.

DeFazio asked IG to review DOL's certification of these the H-2B applications in question for any improprieties.

In response to the IG's findings, DeFazio sent a letter to the Department of Labor, demanding they reform the H-2B visa program to ensure that taxpayer dollars intended to hire American workers are not used to hire foreign workers.