TO: CECI ROUSE
FROM: JULIE F.

September 23, 1998
Changes to Abraham-Smith Proposal

1. Requires a $500 fee for each nonimmigrant for which an application is filed or renewed. Fee to fund training provided under JTPA Title IV (approx. 65%) and a percentage for a NSF scholarship and mentoring programs for minority students (approx. 30%). In addition, a ~~small~~ portion of these revenues would fund the administration of the H-1B visa program, including the cost of enforcement (approx. 5%).

2. Define H-1B-dependent employers as:

   a. Employers with fewer than 25 employees and more than 7 H-1B workers; and

   b. Employers with 26-49 employees and more than 12 H-1B workers; and

   c. ~~For~~ Employers with more than 50 workers, ~~that~~ where at least 15% of their workforce is H-1B.

3. The recruitment and no lay-off attestations apply to: (1) H-1B dependent employers; and (2) any employer who, within the previous 5 years, has been found to have willfully violated its obligations under this law.

4. H-1B dependent employers attest they will not place an H-1B worker with another employer, under certain employment circumstances, where the other employer has displaced or intends to displace a U.S. worker (as defined in paragraph (4)) during the period beginning 90 days before and ending 90 days after the date the placement would begin. ?

5. DOL would have the authority to investigate compliance either: (1) pursuant to a complaint by an aggrieved party; or (2) if the Secretary receives specific, credible information ~~not derived from a complaint by an aggrieved party but derived from a source which is likely to have knowledge of an employer's practices, employment conditions or compliance with the employer's labor condition application~~ that provides reasonable cause to believe that a willful violation, or pattern or practice of violations, or serious violations affecting multiple employees (or job applicants) may have occurred. ~~the Secretary may personally approve an investigation in the same manner as would be authorized under 212(n)(2)(A) if a complaint had been filed provided that the Secretary approves that the basis for proceeding with such investigation has been met.~~ or acting Sec

7. 6. ~~8.~~ ~~There must be~~ Appropriate sanctions for violations of "whistleblower" protections.

7. ~~9.~~ Closes loopholes in the attestations:

   a. Strike the provision that "[n]othing in the [recruitment attestation] shall be construed to prohibit an employer from using selection standards normal or customary to the type of job involved." Substitute with "[n]othing in the [recruitment attestation] shall be construed to prohibit an employer from using legitimate selection criteria relevant to the job that are normal and customary to the type of job involved, provided that the criteria are not applied in a discriminatory manner." Plus report language that this provision is not intended to subvert the recruitment attestation.

OK

b. Clari~~fy~~ies that job contractors can be sanctioned for placing an H-1B worker with an employer who subsequently lays off a U.S. worker within the 90 days following placement.

c. Does not exempt H-1B workers with at least a master's degree or the equivalent from calculations of the total number of H-1B employees; and does not exempt workers who earn at least $60,000.

d. Rather than defining ~~Define lay-off based on termination for "cause or voluntary termination," but exclude cases where there has been an offer of continuing employment,~~ Adds "Nothing herein is intended to limit an employee's rights under collective bargaining agreements or other employment contracts."

10. Maintains status quo with regard to LCA approval and petition processes.

11. Makes more explicit that the definition of U.S. workers ~~would~~ ~~shall~~ ~~will~~ does not include other H-1B workers for purposes of this bill. OK

12. Includes a provision that prohibits unconscionable contracts (with civil fines).

13. Includes a "no benching" requirement that an H-1B nonimmigrant in "non-productive status" for reasons such as training, lack of license, lack of assigned work, or other such reason (not including when the employee is unavailable for work) be paid for a 40 hour week or a prorated portion of a 40 hour week during such time.

14. Increases the annual cap on H-1B visas to 115,000 in FY 1999, 115,000 in FY 2000, and 107,500 in FY 2001. After FY 2001, the visa cap ~~shall~~ returns to 65,000.

15. Eliminates the 7500 cap on the number of non-physician health care workers admitted under the H-1B program to make the bill consistent with our obligations under the GATS agreement.

16. Amends 212(n)(2)(C) (willful violations) to specify $5000 penalty and 2 year debarment. Amends the new penalty section for willful violations plus layoff to specify $35,000 penalty and 3 year debarment.

17. Permanently broadens the definition of prevailing and actual wages to include other forms of compensation and benefits.

18. Transfers administration of the arbitration process to the ~~Justice Department.~~ Attorney General

pg. 4 : exempt H-1B nonimmigrant
pg. 7

pg. 9 : violations of workplace rules

pg. 20 : non-delegation by AG w/out Cong. approval ← maybe o.k.

pg. 23 : $500 fee for changing jobs ?

pg. 25 percentages & limiting

#3 (2) — is that in there ?

whistleblower protections [that H-1B worker can move jobs pg. 16]

#9 (c)
[illegible]
#10 : collective bargaining lang

~~#12 : unconscionable ICS~~

#13 : no benching
recruitment generally enf DOL

John Trasviña
if a person alleges nationality discrim. — YES
national origin — most cases that office has

Changes to 9/23/98 Smith H-1B

On page 3, line 16, after "employed by the employer", insert the following: "or obtained by the employer by contract, employee leasing, temporary help agreement, or other similar basis".

On page 4, line 3, delete the sentence beginning "An application", and insert the following: "An application is not described in this clause if the application specifies a wage rate which satisfies the definition of 'exempt H-1B nonimmigrant' in subparagraph (3)(B)(i)(I) or if the application is used to support the visa petition of an individual whose qualifications satisfy the requirements for 'exempt H-1B nonimmigrant' in subparagraph (3)(B)(i)(II)."

On page 4, line 19, delete "unless the employer has inquired of the other employer as to whether, and has no knowledge that,", and insert the following: "unless the employer has made reasonable inquiry of the other employer as to whether, and has no knowledge or reason to know that,".

On page 5, line 2, delete "." and insert the following: "in the same or substantially equivalent occupational classification as the H-1B nonimmigrant will be (or is) employed.".

On page 7, line 17, delete "(or its equivalent)".

On page 13, line 18, delete "(i)(I)".

On page 16, line 13, delete "(as determined under State law)" and insert the following: "(as determined by the Secretary with consideration of appropriate State law)".

On page 16, line 15, delete "a date agreed to by the nonimmigrant and the employer." ~~and~~ insert the following: "the expiration of the nonimmigrant's period of authorized employment."
or

On page 17, line 15, delete the sentence beginning "Complaints may be filed" and insert the following: "Complaints may be filed by any source whose identity is known to the Secretary, who is likely to have knowledge of the employer's recruitment or hiring practices, and who provides specific, credible information that provides reasonable cause to believe that an individual who submitted a resume or otherwise applied in a reasonable manner for the job that is the subject of the condition has been aggrieved."

Amend 212(n)(1)(A) to read:

(A) The employer--

(i) is offering and will offer during the period of authorized employment to aliens admitted or provided status as a nonimmigrant in section 101(a)(15)(H)(i)(b) wages that are at least--

(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or

(II) the prevailing wage level for the occupational classification in the area of employment, whichever is greater, based on the best information available as of the time of filing the application,

whichever is greater, based on the best information available as of the time of filing of the application;

INSERT A

(ii) is offering and will offer during the period of authorized employment to aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) the same benefits (including health, life, disability, and other insurance plans, and retirement and savings plans, bonuses and non-cash compensation such as stock options not based on employee performance, and the opportunity to earn bonuses and non-cash compensation based on employee performance) as those the employer offers to all other individuals with similar experience and qualifications for the specific employment in question, provided that if eligibility for a benefit is based on a criterion such as seniority, the nonimmigrant described in section 101(a)(15)(H)(i)(b) shall be eligible on the same basis; and

(ii) (iii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

Amend 212(n)(2)(C) (willful violations) to specify $5000 penalty and 2 year debarment

Amend our new penalty section for willful violations plus layoff to specify $35,000 penalty and 3 year debarment.

Amend 212(n)(2)(D) to read as follows:

If the Secretary finds, after notice and opportunity for a hearing, that an employer has not paid wages at the wage level specified under the application and required under paragraph (1), ~~or has not provided benefits as required under paragraph (1)~~, the Secretary shall order the employer to ~~provide for pay such amounts of back pay or provide such benefits as may be~~ correct such deficiency

(back pay or ben or both

~~required to comply with the requirements of paragraph (1)~~, whether or not a penalty under subparagraph (C) has been imposed.

INSERT A FOR H-1-B AMENDMENT

For purposes of this sub-paragraph [i], wages and wage level include all forms of compensation; in particular, the requirements of this sub-paragraph include the requirement that the employer . . . .

Q&A

Facts about the Administration's Agreement with Senator Abraham and Representative Smith for H-1B Visa Reform

September 23, 1998

Today the Administration reached an agreement with Senator Abraham and Congressman Smith on legislation to increase temporarily the number of H-1B visas and to reform the H-1B program to better protect U.S. workers.

- **Provides Substantial New Training for U.S. Workers** -- Provides new funds to help U.S. workers obtain the skills necessary for good-paying jobs in the new economy; these funds are at least three times more than those provided in earlier proposals. Fee

- **Closes Loopholes in the Former Republican Agreement** -- Eliminates loopholes that would have exempted many employers from the worker protections.

- **Protects All U.S. Workers** -- Eliminates the financial incentive to hire under-compensated foreign temporary workers by requiring for the first time ever that the "prevailing wage" include total compensation (including benefits, stock options, pensions, etc.); and does not allow job contractors that rely on H-1B workers to place those workers with employers who have laid-off comparable U.S. workers during a 6 month period that begins 90 days before placement of the H-1B worker and extends 90 days after the H-1B worker. prevailing wage / Job Contractors

- **Substantially Broadens the Enforcement Authority of the Department of Labor** -- Under current law, the Department of Labor can only investigate pursuant to a complaint by an aggrieved party. The agreement would give the Department of Labor broader authority to investigate abuses. Enf.

- **One Strike and You're Out** -- Strengthens penalties so that employers who abuse the program can be debared for up to 3 years and fined up to $35,000 per violation. Penalties

- **Includes a New Provision Against Illegal and Exploitative Labor Contracts** Allows for the compensation of workers that have been forced to sign unconscionable and illegal contracts.

- **Includes a New Provision Against "Benching" or "Parking" H-1B Workers** -- Eliminates the incentive for employers to bring over foreign workers even if there is no work for them. (?)

- **Provides New Funds to Improve Enforcement** of the program to ensure that it is not abused. Enf. $

- **Limits Duration of the Increase in the Number of H-1B Visas to 3 Years (through**

2001) -- Lowers the total number of additional visas relative to the former Republican agreement and shortens the duration of the increase.

DRAFT

H.R. 3736 as reported by the House Judiciary Committee with the following modifications:

- Increase cap for 4 years up to 115,000 with sunset back to 65,000 in FY02.
- Sunset recruitment and layoff attestations in FY02.
- ~~Delete Gallegly amendment.~~
- Add relief from per-country limitations as in S. 1723. NO
- Add "safe harbor" prevailing wage language from S. 1723 NO
- The Recruitment and No Layoff attestations only apply to an employer which:
  1. is H-1B dependent (as currently defined in bill but with exemption for employers with fewer than 15 employees) and/or
  2. is found by Secretary of Labor to have committed a willful failure to meet a condition of any attestation for any H-1B worker or ~~to have~~ made a willful misrepresentation of a material fact.
  3. Except that the attestation does not apply in the case of an H-1B worker who has a master's degree or whose total compensation is at least $60,000.
- Delete "and retain" in the current recruitment language. Note additional suggestions for improvement of this language will be forthcoming.
- Replace current no layoff language with the following:

SEC. 3 PROTECTION AGAINST DISPLACEMENT OF U.S. WORKERS

(a) IN GENERAL -- Section 212(n)(1) of the INA is amended by inserting after subparagraph (D) the following:

"(E)(i) The employer has not laid off and will not lay off within the 6 month period prior to or within the 90 days following the filing of the application, any U.S. worker (as defined in paragraph (3)) who has substantially equivalent qualifications and experience in the specific employment opportunity (as defined in paragraph (3)) for which H-1B workers are sought.

(ii) In the case of an employer that places an H-1B nonimmigrant with another employer, the other employer must also execute an attestation that it satisfies the conditions described in clause (i) if indicia of an employment relationship (as defined in paragraph (3)) exists between it and the nonimmigrant. Where such indicia of employment exist, the sponsoring employer of the H-1B nonimmigrant has the obligation to inform the other employer of the nonimmigrant's H-1B status and its obligations under the law.

(iii) This provision does not apply to aliens with a master's degree or total compensation of at least $60,000 or to non-profit research institutions or institutions of higher education.

DRAFT

(b) DEFINITIONS --

(1) IN GENERAL -- Section 212(n) of the INA is amended by adding at the end the following:

(3) for purposes of this subsection:

(A) the term "H-1B nonimmigrant" means an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b).

(B) the term "lay off" with respect to an employee

(i) means to cause the employee's loss of employment, other than through a discharge for cause, violation of workplace rules, inadequate performance, a voluntary departure, expiration of a grant, contract or other agreement, or a voluntary retirement; and

(ii) does not include any situation in which the U.S. worker is offered, as an alternative to such loss of employment, a similar job opportunity with the same employer carrying equivalent or higher compensation and benefits as the position from which the employee was laid off, regardless of whether the employee accepts the offer.

(C) The term "U.S. Worker" means:

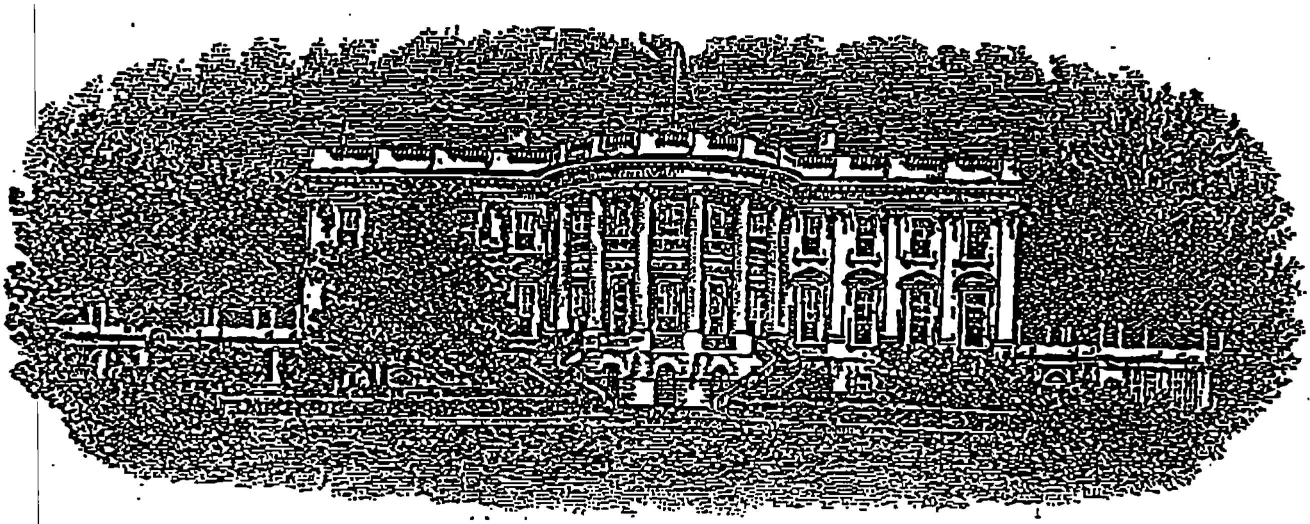
(I) persons in protected status as defined in the Immigration Reform and Control Act.

(D) The term "specific employment opportunity" means a position with the same job duties, requiring same level of education and experience, and at the same worksite. The employer shall not willfully redefine the job position or location to evade the requirements of this subsection.

(E) The term "indicia of employment relationship" includes but is not limited to: language to be determined but may have elements from common law, INA, FLSA or other existing statutes. This term will be narrowly defined.

- Determination on labor condition application is to be made by the Attorney General.
- Hathaway fix as in H.R. 2202 from the 104th Congress.
- Academic honoraria may accepted by aliens on B visas (with time limit on length of participation in academic activity).
- Complaints by aggrieved parties must be filed within one year of alleged violation or within one year of the time the party should have become aware of the violation.
- Professional athlete prevailing wage language from Senate bill.

THE WHITE HOUSE
OFFICE OF LEGISLATIVE AFFAIRS



FAX COVER SHEET

TO: Julie Fernandes

FROM: Peter Jacoby

Date: 7/14/98

No. of Pages including cover: ~~2~~ 3

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H-1B PROPOSAL DRAFT

- ***H-1B Numbers***

  A. Transition: 30,000 additional visas are made available for remaining weeks of FY 98, under current law. Unused visas of the 30,000 spillover to FY99.
  B. 4-Year Visa increase: 115,000 visas available in each of the next four fiscal years.
  C. Offsets: Additional numbers *are not* offset from the H-2B category.

- ***H-1C Health Care Workers***

  A. Separate Category: Health care workers in separate category (H-1C) from H-1Bs and have a separate cap. They also are subject to the same rules as H-1Bs.
  B. Numbers: 10,000 visas per year
  C. Category Sunsets: Category sunsets and reverts back to current law at the end of FY 2002.

- ***Duration of Visas*** – All H-1B and H-1C nonimmigrants subject to maximum stay of 6 years.

- ***Complaints*** -- Aggrieved parties must file complaints within one year.

- ***Additional Related Provisions***

  A. Employer relief from per-country limits: Relief from per-country limitations for employment-based immigrants/one time extension of H-1B status for individuals stuck in EB backlog (as in S. 1723).
  B. Prevailing wage survey safe harbor: Employers may use generally accepted published wage surveys, including industry-wide, regional and national surveys, and obtain safe harbor.
  C. Determination on LCA by AG: INS to receive LCAs with H-1B filings and forward to DOL.
  D. *Hathaway fix*: From H.R. 2202, add Federal research agencies and make applicable to *all* nonprofit research organizations, not just "scientific" ones.
  E. Academic honoraria may be accepted by aliens on B visas.
  F. Professional athlete: Prevailing wage language from S. 1723
  G. Electronic Posting: Allow electronic posting of LCAs by employers.
  H. Studies: Kyl workforce study and Lofgren study of industry treatment of older workers, done by National Science Foundation.
  I. Whistleblower: Retain House provision and Add Kennedy language from Senate bill re ability of H-1B whistleblowers to change jobs.

- ***Attestations***

A. Attestations only apply after first 65,000 visas and will sunset with the increase in the cap.

B. General Application:

- As specified in the grid below, different combinations of a modified recruitment attestation, a modified layoff attestation and a new recruitment penalty would apply to employers that have a larger percentage of H-1B employees, depending on the employer's degree of dependency.
- The modified attestations also would apply to employers that have been found by Secretary of Labor (after INA 212(n)(2) process) to have committed a willful failure to pay the required wage rate for any employee or to have met the "strike or lockout" requirement for any H-1B worker or to have made a willful misrepresentation of a material fact.

C. Exceptions: Regardless of whether an employer is H-1B dependent, the attestations will not generally apply in the case of

- An H-1B worker (1) who has a master's degree or equivalent experience *or* (2) whose total compensation is at least $60,000.

  Companies who demonstrate significant education and training programs for U.S. workers, if a company submits a plan to the Attorney General every six months describing education and training efforts to add US workers to the occupations of that particular industry and the Attorney General finds that plan to be sufficient.

  Small businesses (with 50 employees or less).

  Y2K Work:

  Any company, if at least 20% or more of whose business offerings or at least $200 million of whose revenue consists of Year 2000 remediation services.*

  Any individual who will spend at least 25% of his time on Y2K remediation services.*

  *"Y2K Remediation Services" includes conversion services, such as conversion planning and estimating, program and application configuration management, program inventory, impact analysis, conversion, software tools to assist in any stage of year 2000 remediation, individual application and system testing and interdependent application and system testing, system migration and compliant product application and system replacements.

  The preceding exceptions will not be available to companies found to have committed willful violations.

- ***H-1B Dependent Employers***

A. Sliding Scale: H-1B dependent employers will be determined on a sliding scale, with different combinations of attestations/penalties assessed depending on where on the scale an employer falls, and the compensation level of the employee. Levels for <25% H-1Bs, 26-49% H-1Bs, and 50% or more. Also variations based on compensation level of employee: <$50K total compensation, $50-60K, or >$60K. (*See grid at bottom.*)

- ***Recruitment***

A. Recruitment Penalty: Qualifying H-1B dependent employers who have been found, in a final administrative determination, to have willfully failed to meet a requirement of the H-1B program or have made a willful misrepresentation of a material fact in an application, *and* had failed to make a good faith effort to recruit for U.S. workers in the specialty occupation in which the H-1B worker is employed, would be subject to the recruitment penalty. "Good faith effort" shall be satisfied if the employer has taken steps that meet industry-wide recruitment standards *or* are usual and customary for similarly situated employers. Obligation is to recruit, not to select, so the employer's selection decisions cannot be used as a basis for imposition of the penalty or as evidence of failure to recruit. Penalty will be a $10,000 fine and up to 2-year debarment from any employer-sponsored immigration program. Recruitment penalty does not apply to employer of an H-1B nonimmigrant who: (a) has rare or unique skills or experience; or (b) has cultural, linguistic, or other expertise or knowledge of a foreign market or territory; or (c) is a professor or researcher of high regard or potential in his or her field; or (d) has previous experience with a foreign entity with which the U.S. employer has a relationship, including corporate, contractual, or otherwise.

B. Recruitment Attestation: Employer must attest that, prior to filing the application, it has taken good-faith steps to recruit sufficient U.S workers in the specialty occupation in which the H-1B nonimmigrant is to be employed. "Good Faith Steps" defined the same as in the penalty. No requirement to "retain" U.S. workers. Obligation is to recruit, not select, so the employer's selection decisions are not subject to DOL review as a result of the employer's signing of the attestation and cannot be used as a basis for a finding of non-compliance or as evidence of failure to recruit.

- ***Layoff***

A. Layoff Penalty: Layoff penalty for replacement of U.S. worker in the course of a willful violation. All employers, all visas, subject to this penalty. Reduce time frame to 90 days before filing the application and 90 days thereafter.

B. Layoff Attestation: (Would apply as set out in grid.) Employer must attest that, within the 90 days before the filing of the application and within 90 days thereafter, it has not or will not replace a U.S. worker with an H-1B nonimmigrant. "Replace" means that the employer filing the H-1B petition employs the H-1B nonimmigrant at the specific place of employment and in the specific employment opportunity from which that employer laid off a United States worker with substantially equivalent qualifications and experience. Definition of "laid off" shall not include discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or expiration of a grant, contract, or other agreement, etc. from S.1723. No joint attestation. Add language to prevent employers from simply "moving boxes around on a chart."

- ***Definitions/Effective Dates***

A. Workforce of employer (for determining H-1B dependents): All employers treated as a single entity under the tax code are considered one employer for purposes of determining H-1B "dependent" status.

B. Effective Date of Penalty Provisions: Employers are subject to penalties for only those violations that occur on or after September 30, 1999, to allow for publication of regulations and education of employers regarding new obligations.

Chart for determining applicable attestations/penalties

	$50 <~~$60~~K Total Compensation	$50-60 ~~$60K+~~ Total Compensation	$60+
Total Workforce has 25% or less H-1B workers	Current law	Current law	~~exemption~~
Total Workforce 26-49% H-1B	Layoff attestation *and* subject to recruitment penalty	Layoff attestation	exemption
Workforce is 50% or more H-1B	Layoff attestation; Recruitment attestation	Layoff attestation *and* subject to recruitment penalty	exemption
Willful violators	Layoff attestation; recruitment attestation	Layoff attestation; recruitment attestation	

28H18038

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Summary of H-1B Proposal

1. **H-1B Numbers:** Transition of 30,000 visas for FY98 (unused visas spillover to FY 99).115,000 visas for next four fiscal years. Health Care Workers in separate category (H-1C) with 10,000 cap. H-1Cs subject to same rules as H-1Bs.

2. **Duration of Visas:** Maximum of 6 years (current law).

3. **Complaints:** Complaint driven. Aggrieved parties must file within one year.

4. **Determination of Who Attestations Apply To:** On a sliding scale with different combinations of attestations/penalties, depending on the percentage of H-1B workers in an employer's workforce and employee's compensation level.

5. **New Attestations:**
   A. Only apply after first 65,000 visas and will sunset with increase in cap. Different combinations of modified recruitment and layoff attestations and a new recruitment penalty would apply, depending on employer's degree of dependency. Modified attestations apply to employers for willful failure to pay the required wage rate or meet the "strike or lockout" requirement or for willful misrepresentation of a material fact.
   B. Exemptions: New Attestations do not apply (for employers, H-1B dependent or not) to: H-1B workers with master's degree or equivalent experience *or* total compensation of at least $60,000; ~~companies demonstrating significant U.S. worker education and training programs~~; small businesses (50 employees or less); ~~and companies/individuals undertaking significant Y2K services.~~ Unavailable for willful violators.

Way to combine this with a way to investigate the others.

would be a loophole

6. **Recruitment**
   A. Willful violators subject to the penalty for violations occurring on/after September 30, 1999. Obligation is to recruit, not select. Penalty of $10,000 fine and up to 2-year debarment from any employer-sponsored immigration programs. (?)
   B. Attestation: Employer must attest that, prior to filing application, it has taken good-faith steps to recruit sufficient U.S. workers in the specialty occupation in which the H-1B nonimmigrant is to be employed. No requirement to "retain" or to select U.S. workers.
   C. Exemptions: Recruitment penalty does not apply to employer of an H-1B nonimmigrant with niche skills or experience. (?)

7. **Layoff**
   A. Penalty for replacing U.S. worker in the course of a willful violation occurring on ~~or after September 30, 1999~~. ?
   B. Attestation: Within the 90 days before the filing of the application and within 90 days thereafter, employers must attest that it has not replaced/will not replace U.S. worker with H-1B nonimmigrant. "Replace" means that the employer filing the H-1B petition employs the H-1B nonimmigrant at the specific place of employment and in the specific employment opportunity from which that employer laid off a United States worker with substantially equivalent qualifications and experience.
   C. Exemptions: Definition of "laid off" excludes such actions as discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or expiration of a grant, ~~contract,~~ or other agreement. No joint attestation.

instead would we want to have a prohibition against laying off and replacing (?)

(+) how enforced or investigations (?)

8. **Other Provisions**

(+) safe harbor (?) for recruitment (?) hard to construct.

A. Employer relief from per-country limits for employment-based immigrants/one time extension of H-1b status for individuals stuck in backlog.
B. ~~Prevailing wage survey safe harbor to allow employers to use generally accepted published wage surveys.~~
C. ~~Attorney General determination on LCA so that INS receives LCAs with H-1B filings and forwards them to DOL.~~
D. ~~Hathaway fix:~~ ok
E. Aliens on B visas may accept academic honoraria.
F. Prevailing wage language for professional athletes.
G. Electronic Posting of LCAs by employers.
H. NSF Studies of workforce and industry treatment of older workers.
I. Whistleblower provision

28h18039

On training: set goals that get company into safe harbor

I. Reforms

A. Basics

1. Attestations only apply after first 65,000 visas

2. Attestations sunset with the increase in the cap

B. Who do the attestations apply to?

1. Attestations only apply to certain employers (determined by a combination of % H-1B workforce and compensation level of job in question)

2. Attestations would also apply to (1) employers who have been found by the DOL to have committed willful failure to pay prevailing wage or to have violated "no strike or lock-out" provisions (existing attestations) OR (2) employers who have been found by DOL to have made a willful misrepresentation of a material fact on a prior application.

3. An exemption from recruit attestation for employers who demonstrate to the AG that they have a "significant education and training program."

4. An exemption from attestations for small businesses (50 employees or fewer).

5. An exemption from attestations for companys doing a lot of Y2K work

C. Substance

1. If qualifying employer has been found to ...

2. Recruitment only has to do with trying to recruit; nothing to say about who must be hired.

H-1B PROPOSAL DRAFT

- ***H-1B Numbers***

  A. Transition: 30,000 additional visas are made available for remaining weeks of FY 98, under current law. Unused visas of the 30,000 spillover to FY99.
  B. 4-Year Visa increase: 115,000 visas available in each of the next four fiscal years.
  C. Offsets: Additional numbers *are not* offset from the H-2B category.

- ***H-1C Health Care Workers***

  A. Separate Category: Health care workers in separate category (H-1C) from H-1Bs and have a separate cap. They also are subject to the same rules as H-1Bs.
  B. Numbers: 10,000 visas per year
  C. Category Sunsets: Category sunsets and reverts back to current law at the end of FY 2002.

- ***Duration of Visas*** – All H-1B and H-1C nonimmigrants subject to maximum stay of 6 years.

- ***Complaints*** -- Aggrieved parties must file complaints within one year.

- ***Additional Related Provisions***

  A. Employer relief from per-country limits: Relief from per-country limitations for employment-based immigrants/one time extension of H-1B status for individuals stuck in EB backlog (as in S. 1723).
  B. Prevailing wage survey safe harbor: Employers may use generally accepted published wage surveys, including industry-wide, regional and national surveys, and obtain safe harbor.
  C. Determination on LCA by AG: INS to receive LCAs with H-1B filings and forward to DOL.
  D. *Hathaway fix*: From H.R. 2202, add Federal research agencies and make applicable to *all* nonprofit research organizations, not just "scientific" ones.
  E. Academic honoraria may be accepted by aliens on B visas.
  F. Professional athlete: Prevailing wage language from S. 1723
  G. Electronic Posting: Allow electronic posting of LCAs by employers.
  H. Studies: Kyl workforce study and Lofgren study of industry treatment of older workers, done by National Science Foundation.
  I. Whistleblower: Retain House provision and Add Kennedy language from Senate bill re ability of H-1B whistleblowers to change jobs.

- ***Attestations***

A. Attestations only apply after first 65,000 visas and will sunset with the increase in the cap.

B. General Application:

- As specified in the grid below, different combinations of a modified recruitment attestation, a modified layoff attestation and a new recruitment penalty would apply to employers that have a larger percentage of H-1B employees, depending on the employer's degree of dependency.
- The modified attestations also would apply to employers that have been found by Secretary of Labor (after INA 212(n)(2) process) to have committed a willful failure to pay the required wage rate for any employee or to have met the "strike or lockout" requirement for any H-1B worker or to have made a willful misrepresentation of a material fact.

C. Exceptions: Regardless of whether an employer is H-1B dependent, the attestations will not generally apply in the case of

- An H-1B worker (1) who has a master's degree or equivalent experience *or* (2) whose total compensation is at least $60,000.

  Companies who demonstrate significant education and training programs for U.S. workers, if a company submits a plan to the Attorney General every six months describing education and training efforts to add US workers to the occupations of that particular industry and the Attorney General finds that plan to be sufficient.

  Small businesses (with 50 employees or less).

  Y2K Work:

  Any company, if at least 20% or more of whose business offerings or at least $200 million of whose revenue consists of Year 2000 remediation services.*

  Any individual who will spend at least 25% of his time on Y2K remediation services.*

  *"Y2K Remediation Services" includes conversion services, such as conversion planning and estimating, program and application configuration management, program inventory, impact analysis, conversion, software tools to assist in any stage of year 2000 remediation, individual application and system testing and interdependent application and system testing, system migration and compliant product application and system replacements.

  The preceding exceptions will not be available to companies found to have committed willful violations.

- ***H-1B Dependent Employers***

A. Sliding Scale: H-1B dependent employers will be determined on a sliding scale, with different combinations of attestations/penalties assessed depending on where on the scale an employer falls, and the compensation level of the employee. Levels for <25% H-1Bs, 26-49% H-1Bs, and 50% or more. Also variations based on compensation level of employee: <$50K total compensation, $50-60K, or >$60K. (*See grid at bottom.*)

- ***Recruitment***

A. Recruitment Penalty: Qualifying H-1B dependent employers who have been found, in a final administrative determination, to have willfully failed to meet a requirement of the H-1B program or have made a willful misrepresentation of a material fact in an application, *and* had failed to make a good faith effort to recruit for U.S. workers in the specialty occupation in which the H-1B worker is employed, would be subject to the recruitment penalty. "Good faith effort" shall be satisfied if the employer has taken steps that meet industry-wide recruitment standards *or* are usual and customary for similarly situated employers. Obligation is to recruit, not to select, so the employer's selection decisions cannot be used as a basis for imposition of the penalty or as evidence of failure to recruit. Penalty will be a $10,000 fine and up to 2-year debarment from any employer-sponsored immigration program. Recruitment penalty does not apply to employer of an H-1B nonimmigrant who: (a) has rare or unique skills or experience; or (b) has cultural, linguistic, or other expertise or knowledge of a foreign market or territory; or (c) is a professor or researcher of high regard or potential in his or her field; or (d) has previous experience with a foreign entity with which the U.S. employer has a relationship, including corporate, contractual, or otherwise.

B. Recruitment Attestation: Employer must attest that, prior to filing the application, it has taken good-faith steps to recruit sufficient U.S workers in the specialty occupation in which the H-1B nonimmigrant is to be employed. "Good Faith Steps" defined the same as in the penalty. No requirement to "retain" U.S. workers. Obligation is to recruit, not select, so the employer's selection decisions are not subject to DOL review as a result of the employer's signing of the attestation and cannot be used as a basis for a finding of non-compliance or as evidence of failure to recruit.

- ***Layoff***

A. Layoff Penalty: Layoff penalty for replacement of U.S. worker in the course of a willful violation. All employers, all visas, subject to this penalty. Reduce time frame to 90 days before filing the application and 90 days thereafter.

B. Layoff Attestation: (Would apply as set out in grid.) Employer must attest that, within the 90 days before the filing of the application and within 90 days thereafter, it has not or will not replace a U.S. worker with an H-1B nonimmigrant. "Replace" means that the employer filing the H-1B petition employs the H-1B nonimmigrant at the specific place of employment and in the specific employment opportunity from which that employer laid off a United States worker with substantially equivalent qualifications and experience. Definition of "laid off" shall not include discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or expiration of a grant, contract, or other agreement, etc. from S.1723. No joint attestation. Add language to prevent employers from simply "moving boxes around on a chart."

- ***Definitions/Effective Dates***

A. Workforce of employer (for determining H-1B dependents): All employers treated as a single entity under the tax code are considered one employer for purposes of determining H-1B "dependent" status.

B. Effective Date of Penalty Provisions: Employers are subject to penalties for only those violations that occur on or after September 30, 1999, to allow for publication of regulations and education of employers regarding new obligations.

Chart for determining applicable attestations/penalties

	<$50 <$~~[illegible]~~K Total Compensation	$50-60 ~~[illegible]~~ Total Compensation	$60+
Total Workforce has 25% or less H-1B workers	Current law	Current law	~~exemption~~
Total Workforce 26-49% H-1B	Layoff attestation *and* subject to recruitment penalty	Layoff attestation	exemption
Workforce is 50% or more H-1B	Layoff attestation; Recruitment attestation	Layoff attestation *and* subject to recruitment penalty	exemption
Willful violators	Layoff attestation; recruitment attestation	Layoff attestation, recruitment attestation	

28H18038

facsimile
TRANSMITTAL

to: C. C. Rouse
fax #: 456-2223
re: Changes to S. 1723, Worker Training
date: May 27, 1998
pages: 3, including this cover sheet.

MEP
Match
Consortia of businesses (private emp.)
overseen by
the PICS
(or successor entities)

From the desk of...

Laureen Daly

Office of Senator Lieberman
706 Senate Hart
Washington, DC 20510

(202) 224-4041
Fax: (202) 224-9750

MANAGER'S AMENDMENT TO S. 1723
[Suggested changes in bold and underlined]

Purpose: To provide for demonstration programs to provide technical skills training for workers, including incumbent workers.

IN THE SENATE OF THE UNITED STATES_105th Cong., 2d Sess.

S. 1723

To amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

Referred to the Committee on__________ and ordered to be printed

Ordered to lie on the table and to be printed

Amendment intended to be proposed by Mr. Abraham

Viz:

At the appropriate place, insert the following:

SEC. __. JOB TRAINING DEMONSTRATION PROGRAMS.

(a) In General._Subject to subsection (c), in establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of enactment of this Act, or a successor Federal law, the Secretary of Labor, **<u>in close consultation and coordination with, and making appropriate use of, the Department of Commerce's Manufacturing Extension Program,</u>** shall establish demonstration programs to provide technical skills training for workers, including incumbent workers.

(b) Grants._Subject to subsection (c), the Secretary of Labor shall award **<u>matching</u>** grants to carry out the programs to_

(1) <u>consortia consisting of at least, but not limited to, 10 private sector employers whose grant applications have been approved by and will be overseen by the</u> Private Industry Councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of enactment of this Act, or successor entities established under a successor Federal law;

(2) regional consortia of councils or entities described in paragraph (1).

(c) Limitation._The Secretary of Labor shall establish programs under subsection (a), including awarding grants to carry out such programs under subsection (b), only with funds made available to carry out such programs under subsection (a) and not with funds made available under the Job Training Partnership Act or a successor Federal law.

"Dispassionate" Summary of Compromise H-1B Legislation

- Temporary, modest increase in cap:
  - ⇒ Three year program
  - ⇒ 142,500 additional visas

- Training of U.S. workers:
  - ⇒ $500 fee per new/renewal visa (colleges/universities excluded)
  - ⇒ 55 percent to JTPA job training programs
  - ⇒ 29.5 percent to NSF-administered low-income scholarship program

- Meaningful protections of U.S. workers:
  - ⇒ New **recruitment** and **lay-off** attestations:
    - Neither apply during first 6 mo. of (three year) program
    - Both apply only to "H-1B dependent" employers (and willful violators) – tiny fraction of universe
    - Within "H-1B dependent" employers (and willful violators), neither apply to "exempt H-1B" employees, *i.e.*, those making >$60,000 or with a "Master's degree (or equivalent)" – could exempt most H-1B employees of H-1B dependent employers
    - **Recruitment** attestation requiring employer to promise to hire any equally or more qualified U.S. worker can only be enforced by DOJ and only pursuant to a complaint from a non-hired U.S. worker who bears a very high burden of proof – unlikely to occur or prevail
    - **Lay-off attestation**:
      - ✓ Does not apply unless H-1B in same job, same location, same personal characteristics of laid-off U.S. worker – *i.e.*, almost never
      - ✓ Only covers "employees of the employer" – excludes U.S. workers working for the employer as "independent contractors," consultants, contract employees, temporary help agency placements, *etc.* – perhaps encourages more "contingent" work arrangements
      - ✓ Encompass placements by H-1B dependent employers at client's worksites, except excludes exempt H-1B workers and easily can be circumvented
- ⇒ Certain abuses addressed
  - H-1B employee kickback of employer's fee subject to penalty
  - "Benching" of H-1B employees available/ready to work must be paid for
  - Employer retaliation/discrimination subject to penalty
  - "Abusive employment contracts" subject to penalty
  - Discrimination in providing benefits subject to penalty – if provided to U.S. workers, if there are U.S. workers employed
- ⇒ Enforcement enhanced
  - Penalties for certain serious violations increased – though "willful" standard quite difficult to reach
  - Enforcement authority of Secretary of Labor slightly expanded
  - Portion of fees finance enforcement – though not until Secretary can certify timely processing of employers' applications

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  - ⇒ 29.5 percent to NSF-administered low-income scholarship program
  - ⇒ (Some?) percent to other training/mentoring program

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    - Portion of fees finance enforcement – though not until Secretary can certify timely processing of employers' applications

DoL

Changes to 9/23/98 Smith H-1B

On page 3, line 16, and on page 14 line 24, after "employed by the employer", insert the following: "or obtained by the employer by contract, employee leasing, temporary help agreement, or other similar basis".

clarifies (real world)

On page 4, line 3, delete the sentence beginning "An application", and insert the following: "An application is not described in this clause if the application specifies a wage rate which satisfies the definition of 'exempt H-1B nonimmigrant' in subparagraph (3)(B)(i)(I) or if the application is used to support the ~~visa~~ petition ~~of~~ for an ~~individual~~ alien whose qualifications satisfy the requirements for 'exempt H-1B nonimmigrant' in subparagraph (3)(B)(i)(II)."

On page 4, line 19, delete "unless the employer has inquired of the other employer as to whether, and has no knowledge that,", and insert the following: "unless the employer has made reasonable inquiry of the other employer as to whether, and has no knowledge or reason to know that,".

On page 5, line 2, delete "." and insert the following: "in the same or substantially equivalent occupational classification as the H-1B nonimmigrant will be (or is) employed.".

On page 7, line 17, delete "(or its equivalent)".

On page 13, line 18, delete "(i)(I)".

On page 16, line 13, delete "(as determined under State law)" and insert the following: "(as determined by the Secretary with consideration of appropriate State law)".

On page 16, line 15, after "a date agreed to by the nonimmigrant and the employer.", insert the following: "or the expiration of the nonimmigrant's period of authorized employment."

On page 16, line 25, insert the following new subparagraph: "(vii) It is a violation of this clause for an employer who has filed an application under this subsection to have an H-1B nonimmigrant in nonproductive status for any reason related to employment (including ~~training,~~ lack of assigned work, and lack of license), without paying wages and providing benefits and working conditions (in accordance with subparagraph (1)(A)) for all such nonproductive time as measured either on a full-time work week or on such part-time employment as the employer identifies on the labor condition application and the visa petition."

no benching

preserve DOL recruitment enf. authority

On page 17, line 9, delete "." after the words "subparagraph (B)" and insert the following: ", but shall not otherwise limit or affect the authority of the Secretary, under subparagraphs (A) through (E) of paragraph (2), to investigate and to assess appropriate remedies with regard to an employer's failure to meet the conditions of paragraph (1)(G)("i)(I). removes ambiguity

On page 17, line 15, delete the sentence beginning "Complaints may be filed" and insert the following: "Complaints may be filed by any source whose identity is known to the Attorney General, who is likely to have knowledge of the employer's recruitment or hiring practices, and who provides specific, credible information that provides reasonable cause to believe that an individual who submitted a resume or otherwise applied in a reasonable manner for the job that is the subject of the condition has been aggrieved."

On page 22, line 9, the referenced Addendum is amended as follows --

Delete the last sentence of "(G)(i)", beginning "At the request", and insert the following: "The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be disclosable pursuant to a Freedom of Information Act request, unless the source specifically authorizes disclosure." ok

Delete the language of "(G)(iv)" and insert the following: "Nothing in this subparagraph shall authorize the Secretary to initiate or approve the initiation of an investigation based upon information provided by a person or persons employed by the Department of Labor, *except that* such initiation or approval may be based upon specific credible information obtained by a Department of Labor employee where such information concerns an employer's practices, employment conditions or compliance with the employer's labor condition application, *and* such information is obtained by the Department of Labor employee *either* in the course of an unrelated investigation of the employer under a program other than the H-1B program, or in the course of administering the H-1B program or other program under this Act with respect to the employer.". ok

TRAINING ISSUES

• Amendments to section 104(a) relating to imposition of fees--

--On page 23, line 11, insert "and may not otherwise accept such reimbursement or compensation from such alien" after "fee".

Explanation: This addition clarifies that an employer may not require or otherwise receive reimbursement from the alien. This removes a defense that the reimbursement was "voluntary" rather than "required".

--On page 23, 1.12-14 amend clause (ii) to read as follows:

"(ii) If the Secretary of Labor determines, after notice and opportunity for a hearing, that a violation of clause (i) has occurred, the Secretary of Labor may impose a civil penalty in an amount not to exceed $1,000 per violation and an administrative order requiring the return of any amounts received in violation of clause (i) to the alien, or if the alien cannot be located, to the general fund of the Treasury.

Explanation: The current provision cross-references to a procedure and determination that is carried out by the Attorney General. This amendment provides the same penalties as in the cross-referenced section, but has the Secretary of Labor make the determination since it is more likely that the Secretary will identify instances where the prohibition on requiring the alien to pay the fees will have been violated.

• Amendments to section 104(c) relating to Job Training Demonstration programs--
--On page 25, line 20 strike "Subject to paragraph (3), in " and insert "In";
--On page 26, line 1, insert "use funds available under section 206(s)(2) of the Immigration and Nationality Act to" after "shall";
--On page 26, line 5 strike "Subject to paragraph (3), the " and insert "The";
--On page 26, strike lines 19-25; and
--On page 27, strike lines 1-2.

Explanation: This amendment strikes a provision that would effectively repeal the existing authority under JTPA and the WIA to conduct demonstrations that include technical training for employed or unemployed workers. In fact, depending on the definition of technical training, most current demonstrations involve such training. We believe the intent of this provision is or should be to ensure that funds from the fees are only used for certain demonstrations--not to restrict the use of funds that are otherwise authorized to carry out demonstrations under JTPA and WIA. The amendment clarifies that intent.

September 24, 1998

The Administration's Non-exhaustive List of Required Changes/Concerns

Page 3

1. L. 2: Strike "1998"; add "1999" Technical

2. L. 16: Strike "employed by the employer" Technical (inconsistent)

Page 4

1. L. 2-3: Strike "on or after the date of the enactment of this subparagraph"; add "within the previous 5 years" error (agreed to this)

2. L. 3-6: Strike "An application is not described in this clause if the only H-1B non-immigrants sought in the application are exempt H-1B nonimmigrant." error

3. L. 19-24: Needs to be clarified. DOL will provide. technical

Page 5

1. L. 2: Add "in the same or substantially similar occupational classification." technical

Page 7

1. Strike lines 10-21. error

Page 8

1. L. 1: Strike "exempt H-1B nonimmigrants shall not be taken into account" substitute "H-1B nonimmigrants who receive wages (including cash bonuses and similar compensation) at an annual rate equal to at least $60,000 or have attained a master's degree in a specialty related to the intended employment shall not be taken into account" technical (inconsistent)

Page 9

1. L. 10-11 Strike "was held by a United States worker with substantially equivalent qualifications and experience" OK

Page 10

1. Insert after L. 13: "Nothing herein is intended to limit an employee's rights under collective bargaining agreements or other employment contracts." error (agreed to this)

Page 11

1. Lines 18-22: Modify to conform to the changes suggested on the attachment.
error (agreed)

Page 13

1. Lines 4-9: Is this intended to preclude the issuance of an interium rule? ?

Page 14

1. L. 24: Strike "employed by the employer" error (inconsistent)

Page 16

1. L. 9-10 Strike "duration of the alien's authorized admission as such a nonimmigrant" add "period of stay authorized in such nonimmigrant classification" clarification (technical)

2. Need to clean up lines 11-24. DOL will provide. clarification (tech.)

Page 17

1. Need to add language clarifying the scope of the arbitration process. DOL will provide.
(clarification)

Page 20

1. L. 23-24: Strike "non-exempt" error

Pages 22-23

1. Unclear to which visas the fee would apply. Need to clarify language. (clarification)

2. Need clarification on L. 12. DOL will provide. (clarification)

3. INS may need some time to set up an account for the fee. technical

Page 23

1. Line 24: Strike "offsetting" technical

Addendum

1. Need to clarify. DOL will provide revisions. technical (agreed)

Page 24

1. L. 3: Strike "63" add "60"

2. L. 12: Strike "32" add "30"

technical

3. Add a section on the MESA Program roughly along the lines of:

USE OF FEES FOR MENTORING PROGRAMS

5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for the Mathematics, Engineering and Science Achievement Program under the Informal Science Program administered by the National Science Foundation (42 U.S.C. 1861 et. seq.).

Page 25

1. Strike line 5 (after "212(n)(2).) - line 16. clarification

2. Line 20: Strike "Subject to paragraph (3)" consistent

Page 26

1. Strike Lines 19-25 error

Page 27

1. Strike Lines 1-2. same

Pages 31-32

1. Where did Sec. 107 come from? Who will pay for the study? Who is tasking the Commerce Dept. with this study? error

2. Line 5: A quarterly report would be burdensome and would not make sense. technical

3. Lines 11-15: The INS does not have the data collection capability in place now. technical

Page 37

1. Lines 10-15: Is this just a technical conforming amendment or does it contain something substantive? technical

Other

Need provision prohibiting "benching." error

Some of the enforcement revenues should help the Justice Dept. pay for arbitration.

101(a)(15)(O)

Insert new subparagraph (iii) and change existing (iii) to (iv).
(iii) (I) notwithstanding section 214(c), seeks to enter the United States temporarily,
(II) may receive an honorarium payment and necessary incidental expenses for engaging in usual academic activity or activities, as defined by the Attorney General and the Secretary of State in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in section 212(p)(1) and is made for services conducted for the benefit of that institution or entity,
(III) may engage in such activities for a period of no longer than 9 days at any single institution,
(IV) may not accept such payment or expenses from more than 5 institutions or organizations in any 6 month period,
(V) has a foreign residence which the alien has no intention of abandoning: or

(iv) is the alien spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien:

Section shall become effective April 1, 1999.

Explanation:

This creates a new worker visa classification which appropriately addresses scholars and similarly situated persons. The B-1 visa classification is not a working visa classification. These activities do not appropriately fall within the B-1 classification. The new O-3 classification does NOT require petition approval by INS before issuance of a visa. (The notwithstanding 214(c) language specifically removes the petition requirement.) As in the case of the B-1 visa, the consular officer can issue the visa directly. The AG and SecState will by regulation define standards, academic and/or experience, of aliens to engage in specific academic activities.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL # of pages ▶ 1

To Julie Fernandez | From Jackie Bednarz or Steve Fischer
Dept/Agency DPC | Phone #
Fax # 456-5581 | Fax # 305-8751 663-1184

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

101(a)(15)(O)

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NSN 7540-01-317 7368 5099-101 GENERAL SERVICES ADMINISTRATION

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General | *Washington, D.C. 20530*

FAX COVER SHEET

DATE: ______________

TO: Julie Fernandes
DPC-WH

PHONE NO. ______________

FAX NO. 456-5581

FROM: GEORGINA VERDUGO
DEPUTY ASSISTANT ATTORNEY GENERAL

PHONE NO. 202/305-0091

FAX NO. 202/514-9149

NO. OF PAGES: ______ (EXCLUDING COVER)

COMMENTS: see attached - OSC/H-1B

Verdugo Georgina

From: Robin M. Stutman
Sent: Thursday, October 01, 1998 2:57 PM
To: First Patricia A; Verdugo Georgina
Cc: Marmolejos Policarpio; Friedman Bruce; Trasvina John
Subject: H-1B bill -Reply

Pursuant to my telephone conversations today with John Trasvina and Georgina Verdugo, OSC recommends adding the following language to the H-1B bill:

"This does not supersede or preempt enforcement of 8 U.S.C. section 1324b."

This

Per Georgina's suggestion, I will also call Julie Fernandez at the Domestic Policy Counsel to convey this to her. Pls. let me know if you need anything further on this. Thanks.

>>> First Patricia A 09/30/98 06:15pm >>>
Robin --

Per your earlier email, does any language need to be added to the H-1B bill to clarify what other remedies are available for labor certification complaints (page 19 of the bill) for you all to be able to apply these remedies?

If so, would you please draft some language to ensure victims are provided the proper remedies?

I will be out of the office Thursday and Friday. Please call Gina Verdugo at 5-0091 with any questions/concerns. In addition, please fax her the necessary language, if any, at 4-9149.

Thanks

Patty.

Congressional-White House Agreement on H-1B

Increased Access to Skilled Personnel for U.S. Companies and Universities: H-1B temporary visas will increase from the current cap of 65,000 annually as follows: *1999*: 115,000 visas; *2000*: 115,000; *2001*: 107,500; H-1B numbers go back to current law of 65,000 a year in 2002.

Training and Education for American Workers and Students: The bill provides 10,000 scholarships a year and mentoring programs for low-income students in math, engineering, and computer science through the National Science Foundation and training for many thousands of Americans through the Jobs Partnership Act. These are funded by a $500 fee per visa petition, and a $500 fee for renewal of the visas, which should raise at least $75 million a year to fund the scholarships and training in the bill. The money is split 65% for training, 30% for scholarships, and 5% to be divided between administration and enforcement of H-1B visa program.

Layoff protection for American workers. The bill provides *three types of layoff protection* for American workers. 1) A company that is H-1B dependent (see below) must attest that it will not layoff an American employee in the same job 90 days before or after the filing of a petition for an H-1B professional. 2) An H-1B dependent company acting as a contractor must attest that it similarly will not place an H-1B professional in *another company* to fill the same job held by a laid off American 90 days before or after the date of placement. 3) If a U.S. employer commits a willful violation and underpays an individual on an H-1B visa and replaces an American worker, that employer will be hit with a 3-year debarment from all employment immigration programs and be slapped with a $35,000 fine per violation. This 3rd provision applies to all employers, regardless of their level of H-1B usage.

Recruitment Requirements on Dependent Employers. H-1B dependent companies must attest they recruit according to industry-wide standards. Moreover, they must attest that the H-1B was as, or more, qualified than any American job applicant. An American not hired can file a complaint with an arbitration panel, which can fine employers found to violate this provision.

H-1B Dependent Companies: An employer is defined as H-1B dependent in the legislation and subject to the new recruitment and layoff attestations if its workforce consists of 15% or more H-1B visa holders. There is a provision to help smaller employers and start-ups by defining as "non-dependent" an employer with 25 employees that has no more than 7 H-1Bs and an employer with 26 to 50 employees that has no more than 12 H-1Bs. Employers who are found to have committed willful violations in the prior 5 years will be subject to these new attestations.

Increased Enforcement & Penalties. The bill increases by five-fold -- to $5,000 -- fines for willful violators and of the H-1B program, doubles the debarment period for such violation from one to two years. It gives the Department of Labor authority to initiate "spot" investigations, without a complaint filed, on those found to have committed for willful violations. DOL also will have the authority to investigate suspected willful and serious violations of H-1B visas if it receives specific and credible evidence of such violations and receives the Secretary of Labor's approval.

Administration of H-1B Visas: The bill eliminates the financial incentive to hire under-compensated foreign temporary workers by permanently reforming the prevailing wage attestation. It requires employers to offer benefits and the opportunity to earn bonuses to H-1B employees who are similarly-employed to U.S. workers if such benefits or the opportunity to earn bonuses are available to the company's U.S. employees. The bill provides for sanctions for violations of new whistleblower protections and contains provisions against unconscionable contracts and against "benching." The division of labor between INS and DOL for processing the Labor Condition Applications (LCAs) will remain as in current law.

To: Kelu J. Ceci R. Julie F. Jackie D. Barbara S.

AMENDMENTS TO INA
Temporary Access to Skilled Workers and H-1B Non-immigrant Program Improvement
Act of 1998
DOL COMMENTS

Location of Comment	Comment
Pg 3 line 2	Should be 1999 not 1998
Pg 3 line 16	Delete "employed by employer" and change language to include consultants, contractors, etc
Pg 4 lines 3-6	Delete
Pg 4 line 2	Delete "on or after date of enactment"
Pg 4 lines 19-20	We are drafting language to tighten this up
Pg 5, line 2	Add "in the same or substantially similar occupational classification"
Pg 7, line 17	If for transitional period, OK but otherwise delete "or its equivalent"
Pg 9, lines 10-11	Delete "was held by U.S. worker. . . experience".
Pg 9, bottom of page	Collective bargaining agreement not there.
Pg 10, lines 3-13	Doesn't deal with situations where employer offers equivalent employment but in Lala Land.
Pg 13, line 18	The Secy is limited to section G(i)(I). The Secy cannot examine. U.S. employees not offered employment if complaint comes from a worker – complaint cannot come from whistleblower. This is outside DOL's authority. If OSC reviews, we cna refer to OSC. We cna evaluate if recruitment of U.S. workers if using proper industry standards.
Pg 14, line 24	Like pg 3, line 16, delete "employed by the employer"
Pg 16, lines 11-24	Redrafting to avoid Federal interpreting/applying State law.
Pg 16, lines 23-24	Proceeds should go to training fund
Pg 17 lines 7-9	Yesterday's language: preserve Secy's investigative authority. Adds but shall not limit. . . re: employer's failure to comply with 1(G)
Pg 17, lines 15-18	Would prohibit complaints from other than affected applicant.
Pg 19, lines 20-25	No clear remedy for applicant
Enforcement Language	Last sentence, 1st paragraph: We are drafting language. Secy cna withhold with consent of complainant. And, redrafting limits on DOL employee as source in last paragraph.
Pg 22, lines 19-20	"New concurrent employment" means?
Pg 23, lines 12-14	Penalty by AG. This has remedy but only the Secretary will impose. We are drafting language.
Pg 25, line 10	Delete language on line 5 starting with "Notwithstanding".
Pg 26-27, lines 19-2	Delete limitation.

Missing any provision re benching.

H-1B

9/29/98

(1) The \$60K + [~~masters~~ or equivalent] seems bad
must get rid of.
Bad faith on their part
we have the

(GS thinks #1 is the bigger deal.)

(2) "similarly situated"
same ~~qualif~~ education and experience loop-hole.
either get rid of or a colloquy on this

Kitty: "or equivalent" is first priority
if same qualif/experience is benign, let's have leg. lang.

Peter: they are open to ~~c~~colloquy language.

(3) employed by the employer [redacted]
Working ~~fo~~ for the employer

Daschle has a hold on it.
144 They walked away ~~@ a~~ last night

Someone to offer these as amendments (?)

GP: Had bad votes on this in the Senate.

GS: Go to Kennedy; Kennedy goes to Abraham.
PJ: Wants to work Abraham a bit more
our leverage gets stronger w/each passing day.

(*) Conference call afterwords.

Cecilia E. Rouse
10/05/98 11:42:28 AM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP

cc:
Subject: H-1B INS questions

Hi Julie,

I just talked to Peter J who had more questions for INS. In particular, he wanted to know:

(2) ~~1.~~ Universities and non-profits account for what percentage of visa petitions?
research institutions

(3) ~~4.~~ Is the fact that when an individual changes jobs (or a company restructures), the individual gets a "new" 6 years on her H-1B visa in statutue or is it an INS regulation? (Lee Otis had not heard of this before.)

Also, Peter would like you to ask INS the following:

1. He and Lee have been talking about a Dec. 1st start date for the filing fee. This is slightly less than 60 days. Would INS be OK with that? (Personally I think that we shouldn't push it and should go for 60 days after enactment (or, perhaps Jan 1); 60 days is already going to be a stretch for INS and less than 60 just might give them a collective heart attack....)

Finally, would it be possible for you to strongly suggest to Barbara or Bob that INS start drafting their regs, etc. so that the fee could come into effect as soon as possible. Peter's point is that they should already be on notice that this is coming down the pike and therefore should start working on it.

(start drafting now)

Thanks.

-- Ceci

(1) Total # of petitions :

6-2599

Total 174,005 H1B visa petition application rcvd FY98

of those: new emp — 134,215

subset [new employment as amend to prior applications] 24,576 not new bodies

page Bob

616-7767

Extensions [→ Continuations — 21,556 $\boxed{\text{renewals}}$]

approx. ~~40K~~ job changes 44,639

→ Amendments to existing employment > 16,691
(change employer name (merger)
change jobs w/in same employer)

~~changes job description for same employer~~

6 yr. Q.

? new concurrent ~~currently employed~~ — 1465
[day jobs for employer A
night job for " B]

unknown — 78

Job changes (?) → new employment (based upon employer)

If change employers, can only get 6 yrs. total

If leave and re-apply

Admission — new visa

no tracking

Universities — approx 10%

1st week in Dec. can happen

U.S. DEPARTMENT OF COMMERCE

Office of the Assistant Secretary for Technology Policy

FAX COVER SHEET

DATE: 6/2/98
TO: Julie Fernandez

TIME:
PHONE: 456-6558
FAX: 456-5581

FROM: Kelly H. Carnes

PHONE: 202-482-5687
FAX: 202-482-4817

RE:

CC:

Number of pages including cover sheet: 11

Message

Fax number:
456-5581

MANUFACTURING EXTENSION PARTNERSHIP

Overview

The NIST Manufacturing Extension Partnership is a nationwide network of locally managed centers offering technical assistance and the newest business practices to help the nation's 381,000 small and medium-sized manufacturers improve their competitiveness. All centers rely on experienced field agents who work directly with smaller manufacturers to address their most critical needs. Typical MEP services include helping small manufacturers access information on new equipment such as automation systems, find high-quality consultant advice for optimizing manufacturing systems, reduce costs by lowering waste, improve quality, expand markets for products, and find financing for modernization efforts. Today, all states and Puerto Rico have centers affiliated with MEP.

To ensure that federal participation and investment in manufacturing extension efforts add value and contribute new capabilities to the mix of services available to manufacturers, MEP:

- is industry driven and market defined;
- builds on the foundation of existing state and local industrial extension resources;
- focuses on needed services that the private sector cannot deliver economically to smaller manufacturers;
- focuses services on those companies that demonstrate a commitment to investing in their own growth and development;
- develops common tools, resources, and systems needed by each of the individual centers—enhancing centers' local efforts while achieving economies of scale;
- supports shared learning between and integration among individual manufacturing extension centers;
- promotes continuous improvement of services through common evaluation methodologies and a focus on bottom-line results;
- forges constructive working relationships with consultants to make private-sector expertise more accessible to smaller manufacturers; and
- brings national technology and information resources—from federal laboratory technology to national information databases—to support and enhance state and local efforts.

MEP Extension Services

MEP extension centers are designed to help link sources of improved manufacturing technology and the small and mid-sized companies that need it. Center staff work with individual companies or with groups of companies organized around common needs, industries, or technologies.

While each center tailors its services to meet the needs dictated by its location and manufacturing client base, some common services are offered by most extension centers. Broadly, these include helping manufacturers assess their current technology and business needs, define avenues for change, and implement improvements. Many centers also assist companies with quality management, workforce training, workplace organization, business systems, marketing, or financial issues.

With the goal of improving access for smaller manufacturers to public and private-sector resources, MEP and the individual centers have developed relationships with hundreds of organizations. Among these partners are non-profit technology or business assistance centers, non-profit economic development organizations, community colleges and technical schools, private consultants, universities and four-year colleges, and federal agencies.

Centers encourage client companies to establish programs for continuous improvement and to focus on long-term "bottom-line" impacts, rather than working just to solve an immediate problem. Centers rely on experienced field agents and private consultants who provide the companies with on-site advice and practical assistance. Since 1989, MEP centers have provided services to more than 44,000 companies.

NIST's Role

In 1988, Congress directed NIST to begin helping the nation's smaller manufacturers adopt and apply performance-improving technologies as needed to meet intensifying domestic and global competition in manufacturing. NIST was selected for this role because of its expertise in manufacturing engineering and its long-standing tradition of productive partnerships forged with public and private organizations at the national, state, and local levels.

To carry out this role, NIST/MEP conducts a variety of regional, national, and program development activities. Regionally, MEP works with the states or local organizations to establish manufacturing extension centers or expand existing services that assist smaller manufacturers. Future centers are cultivated through MEP's State Technology Extension Program (STEP). STEP helps states better understand the needs of their smaller manufacturing companies and offer services these companies need to modernize and to become more competitive. STEP-funded projects enable states to build their own infrastructure for business and technology outreach services by planning extension systems or technical and business assistance

MEP Success Stories

MEP's locally managed centers have worked with thousands of smaller manufacturers, providing the technical and business assistance the companies needed to turn their businesses around. The following examples show how companies have benefited by working with an MEP center.

• A producer of space solar arrays and power subassemblies used in satellites, TECSTAR INC., City of Industry, Calif., wanted to cut down on solar cell breakage and to reduce costs while increasing production throughput and yields to keep up with increased sales. TECSTAR requested the assistance of the California Manufacturing Technology Center (CMTC) to improve its process. With CMTC's help, TECSTAR was able to save $3 million annually, increase staffing by 56 employees, reduce reactor downtime by 15 percent, and improve cycle time by 10 percent. "CMTC's recommendations to reduce solar cell mechanical breakage and cycle time made us realize where the major dollar losses were occurring within our production processes," says Mark Shumaker, director of quality and production support. The $3 million savings equals the amount the CMTC received in FY 1995 from NIST.

• Chicago Metal Rolled Products (CMRP), Chicago, Ill., bends, rolls, and coils metal, producing structural elements for such major projects as the International Terminal at O'Hare Airport, the McCormick Place expansion, and the Navy Pier renovation. The Chicago Manufacturing Center helped Chicago Metal President George Wendt institute a company-wide learning program involving basic reading, language and math skills, and job training. Wendt believes his investment in workforce development is key to the company's growth. Over the past 2 years, CMRP has seen a 30 percent increase in sales and a 20 percent growth in employment.

• Midland Lithographing Co., a North Kansas City, Mo., printer of greeting cards, sports trading cards, and pre-printed litho labels, decided it needed more efficient and effective ways of operating as well as a new marketing plan to attract new business. That's when Midland went to the Mid-America Manufacturing Technology Center (MAMTC) for help. MAMTC's assessment of the company and subsequent actions by Midland led to sales increases and cost decreases totaling $1 million in the following year and a 30 percent reduction in press set-up time. "We're happy with the progress we've made so far. We're working with MAMTC to apply this same methodology to other plant functions, such as our pre-press operation," notes Janice Keefer, plant manager.

• With locations in Latrobe and Glassport, Pa., Pakco Industrial Ceramics asked the Southwestern Pennsylvania Industrial Resource Center (SPIRC) to help it develop an overall improvement program. A SPIRC consulting team first started working with Pakco in June 1992 and has worked on a variety of Pakco projects over the years. The partnership reduced set-up time by about 50 percent without major capital expenditures and decreased throughput time from 10 to 12 weeks to approximately 6 weeks in 1992-1993. Sales rose more than 40 percent in 1994, and higher demand levels are now being serviced with 10 percent less work-in-progress inventory than 2 years ago.

• Sherwood Plastics, Fostoria, Ohio, found its production area too small and the layout too inefficient to meet increased market demands for its roto-molded plastic products. The Lake Erie Manufacturing Extension Partnership worked with Sherwood to create a larger, more efficient, and better organized plant. Their collaboration more than doubled Sherwood's workforce and, with new order-handling machinery, Sherwood grew from a $3 million operation to a $6 million company in 2 years. "The Lake Erie MEP helped us meet the demands of our growing markets. Now we have a much roomier, more efficient operation," notes President Mark Jones.

• After 3 years of declining profits, a feeling of slowly losing their competitive edge was prevalent among management at Tiffany Fine Woods, White Hall, Wis., so they contacted the Northwest Wisconsin Manufacturing Outreach Center (NWMOC) for assistance. Working with NWMOC, Tiffany had an initial cost savings of $250,000 and expects sales to grow 5 percent in 1995-1996 and 10 percent per year for the next 2 years. "Without this program we would have been forced to decrease our work force by 20 percent. As things now appear, we anticipate increasing our work force by 10 percent over the next 3 years," adds Vice President Robert Ofsdahl.

programs, supporting the initial implementation of such programs, or developing links between existing programs and those in other regions.

STEP grants provide matching funds (the grantee provides at least 50 percent of the cost of the proposed project) to qualified proposals from state governments and public/private, non-profit organizations acting with the approval of state governments. Since 1990, STEP has supported 32 states in building and improving manufacturing extension programs.

MEP also helps foster a more unified network by working with centers to identify and coordinate the services, technology, and information needed at a national scale. MEP is developing a uniform system to help centers evaluate and continuously improve the success of services they deliver.

To increase the breadth and depth of capabilities at each center and of the entire network, MEP makes a variety of services available to the centers. For example, MEP is funding projects that will develop training and tools to help MEP center field engineers provide improved services to smaller manufacturers. Easy-to-use, readily available courses are being designed in sales skills, assessment skills, and solving business problems. These courses will help field agents diagnose a smaller manufacturer's problems and then work with the company to find the right solutions that fit its financial resources. Special tools will better prepare agents to help smaller firms in areas such as environmental assessment, benchmarking, and marketing.

Access to credit and financing is vital for small manufacturing firms to survive and prosper. A study by the National Research Council found that a scarcity of capital and difficulty acquiring sufficient investment funds are barriers to increased manufacturing competitiveness for America's smaller manufacturers. MEP is funding four pilot projects to help smaller manufacturers better understand, identify, and access sources of financing and credit options that will enhance their ability to compete. The pilots are being conducted at four MEP affiliates: the Chicago Manufacturing Center, the Michigan Manufacturing Technology Center/Industrial Technology Institute, the Mid-America Manufacturing Technology Center, and the New York City Industrial Technology Assistance Corp.

The purpose of these pilot projects is to develop a method by which service providers at the MEP centers can forge strong relationships with financial intermediaries and institutions such as investment banking firms, merchant bank operations, leasing firms, venture capital firms, and private investors that are looking for qualified firms with which they can do business. Ultimately, the goal is to satisfy the financing demands of extension center clientele by developing innovative services that expand their range of financing alternatives, including private placements of debt and equity, industrial revenue and bonds, employee stock ownership plans, mergers and acquisitions, and equipment leasing.

Developing working linkages with other organizations in support of the entire extension network also is a high MEP priority. Among MEP's strategic partners are the National Governors Association, the National Alliance for Business, the U.S. Environmental Protection Agency (EPA), and the U.S. Department of Labor (DOL). With the EPA, for example, MEP has launched several programs aimed at helping smaller manufacturers solve environmental concerns in the most cost-effective manner before they become problems requiring regulatory or compliance action.

MEP currently is providing cost-shared funding for 17 projects to help smaller manufacturers reduce or eliminate pollution sources in their operations. The projects are in the following three areas:

- Integration of environmental services into Manufacturing Extension Centers. Eleven projects, for which an MEP center is the lead partner, support the integration of environmentally focused technical assistance, especially pollution-prevention assistance, into the broader services provided by MEP centers.

- Development of environmentally related technical assistance tools and techniques. Five projects encourage the development and implementation of tools or techniques that will aid manufacturing extension centers in providing environmentally related services to smaller manufacturers.

- Pilot for a national industry-specific pollution prevention and environmental compliance information center. This project enables pilot implementation of a national center to provide specific industries with easy access to current, reliable, and comprehensive information on innovative technologies, pollution prevention opportunities, and regulatory compliance.

Other activities provide information, best practices, and professional development to help centers address the workforce development needs of smaller manufacturers. Some examples of current projects are:

- Labor Participation in Modernization Project—works to involve organized labor more effectively in the process of planning and implementing modernization efforts in unionized manufacturing plants. The project funds labor specialists and educational and modernization projects in four manufacturing extension centers and is conducted in conjunction with the Work and Technology Institute and Eastern Michigan University.

- Skills for Industrial Modernization—develops regional skills coalitions in Cleveland. The project's goal is to model the effectiveness of networks of small manufacturers in jointly addressing training and development needs.

- Competitive Firms, Skilled Workers—promotes the integration of workforce, technology, and economic development activities at the state level through working conferences and research. The work is conducted in cooperation with the National Governors' Association.

- Implementing High-Performance Work Organizations—supports two consortia of supplier firms in the implementation of training necessary for the adoption of high-performance work practices. Conducted by the Council of Adult and Experiential Learning, the National Association of Manufacturers/Manufacturing Institute, and the Massachusetts Industrial Service Program, the project's funding partners include the PEW Charitable Trusts and DOL.

Looking toward the future, MEP conducts research to better understand the barriers small firms face in modernizing and is finding new services, products, and delivery systems to help them overcome these hurdles. In addition, MEP is exploring new partnerships with organizations that have a stake in manufacturing modernization and new technology to help smaller manufacturers take advantage of electronic information and communications.

For example, MEP is funding a project to provide MEP centers with tools and techniques that will make it easier to find, synthesize, and present electronic information needed by center staff. In particular, centers will be able to access a variety of on-line and internal information sources using a single information interface.

How Are Centers Funded?

Funding to support this network of non-profit manufacturing extension centers initially is shared by the federal, state, and local partners. Federal funding is provided either directly by NIST or through the Technology Reinvestment Project, led by the Defense Advanced Research Projects Agency. In all cases, federal support is matched by state or local funding, fees for services, and industry contributions. The regional sponsor must contribute 50 percent or more of the center's capital and annual operating and maintenance costs. At least 50 percent of the sponsor's initial contribution must be in cash. As the center's program becomes more established, federal funding decreases.

How Are Centers Created?

NIST selects which programs to fund through a rigorous, merit-based competition that begins with a request for proposals posted in the *Federal Register*. NIST cannot accept proposals unless they are in response to a specific solicitation. In general, proposals are evaluated and selected based on knowledge of the numbers, types, and needs of target firms in the proposed region; technology and business resources; technology delivery mechanisms; and an effective management and financial plan.

Where Are MEP Centers Located?

ALABAMA

Alabama Technology Network
1500 Resource Dr.
Birmingham, Ala. 35242
(205) 250-4727
Serving firms throughout Alabama via 10 regional centers. In development.

ALASKA

Alaska Manufacturing Extension Partnership
c/o Industry Network Corp.
1155 University Blvd. S.E.
Albuquerque, N.M. 87106
(505) 843-4250
Serving firms throughout Alaska. Affiliated with the Alaska Science and Technology Foundation, the Alaska Human Resource Investment Council, and the University of Alaska Small Business Center. In development.

ARIZONA

Industry Network Corp.
1155 University Blvd. S.E.
Albuquerque, N.M. 87106
(505) 843- 4250
Serving firms throughout Arizona through service centers in Phoenix, Tucson, Yuma, Kingman, and Prescott.

ARKANSAS

Arkansas Technology Exchange Centers
100 Main St., Suite 450
Little Rock, Ark. 72201
(501) 324-9006
Serving firms throughout Arkansas through seven field offices. Affiliated with the Arkansas Science and Technology Authority. In development.

CALIFORNIA

California Manufacturing Technology Center
13430 Hawthorne Blvd.
Hawthorne, Calif. 90250
(310) 355-3060
Serving the five-county Los Angeles basin through two regional offices and three manufacturing outreach centers. Established in 1992 and affiliated with the El Camino Community College District, the California Trade and Commerce Agency, the California Community Colleges, and the California Employment Training Panel.

Corporation for Manufacturing Excellence
46750 Fremont Blvd., Suite 200
Fremont, Calif. 94537
(510) 249-1480
Serving firms initially in the nine-county San Francisco Bay region. Established in 1995.

San Diego Manufacturing Extension Center
World Trade Center
1250 Sixth Ave., 5th Floor
San Diego, Calif. 92101-4301
(619) 685-1425
Serving firms in San Diego county. Affiliated with the Center for Applied Competitive Technologies-San Diego and UCSD CONNECT. In development.

COLORADO

Mid-America Manufacturing Technology Center
10561 Barkley, Suite 602
Overland Park, Kan. 66212
(913) 649-4333 or (800) 653-4333
Serving firms throughout Colorado through six offices. Affiliated with Colorado State University.

CONNECTICUT

Connecticut State Technology Extension Program
185 Main St., Suite 408
New Britain, Conn. 06051
(860) 832-4600
Serving firms throughout Connecticut through four offices. Established in 1994 and affiliated with the Connecticut Technology Associates, the Edison Welding Institute, and the Central Connecticut State University.

DELAWARE

Delaware Manufacturing Alliance
Delaware Technology Park
One Innovation Way, Suite 301
Newark, Del. 19711
(302) 452-2520
Serving firms throughout Delaware. Established in 1994 and affiliated with the Delaware Development Office.

FLORIDA

Florida Manufacturing Extension Partnership
Sun Trust Center
200 S. Orange Ave., Suite 1200
Orlando, Fla. 32801
(407) 425-5313
Serving firms throughout the state through four regional centers. Established in 1995 and affiliated with Enterprise Florida Innovation Partnership, Inc.

GEORGIA

Georgia Manufacturing Extension Alliance
Georgia Institute of Technology
223 O'Keefe Building
Atlanta, Ga. 30332-0640
(404) 894-8989
Headquartered in Atlanta, with 18 regional offices serving firms throughout Georgia. Established in 1994 and affiliated with Georgia Tech's Economic Development Institute, the Georgia Department of Technical and Adult Education, the University of Georgia Small Business Development Centers, and Georgia Power Co.

HAWAII

Hawaii Manufacturing Extension Partnership
c/o Industry Network Corp.
1155 University Blvd. S.E.
Albuquerque, N.M. 87106
(505) 843-4250
Serving firms throughout Hawaii. Affiliated with the Hawaii Department of Business, Economic Development and Tourism, the Hawaii Board of Agriculture, the Hawaii Department of Labor and Industrial Relations, and the Hawaii Small Business Development Center. In development.

IDAHO

Idaho Manufacturing Alliance
1021 Manitou Ave.
Boise, Idaho 83706
(208) 385-3767
Serving firms throughout Idaho through three regional offices. In development.

ILLINOIS

Chicago Manufacturing Center
Homan Square
3333 West Arthington
Chicago, Ill. 60624
(312) 265-2020
Serving metropolitan Chicago. Established in 1994 and affiliated with the Economic Development Commission of the City of Chicago.

Illinois Manufacturing Extension Center
1501 W. Bradley Ave.
Peoria, Ill. 61625
(309) 677-2264
Serving firms throughout Illinois outside the Chicago metropolitan region. Affiliated with Bradley University. In development.

INDIANA
Indiana Business Modernization and Technology Corp.
One North Capitol Ave., Suite 925
Indianapolis. Ind. 46204-2242
(317) 635-3058
Serving firms throughout Indiana through 13 regional offices.

IOWA
Iowa Manufacturing Technology Center
Des Moines Area Community College
ATC Bldg. 3E
2006 South Ankeny Blvd.
Ankeny, Iowa 50021
(515) 965-7040
Serving firms throughout Iowa via 24 field agents. Established in 1994 and affiliated with Iowa State University and the Des Moines Area Community College.

KANSAS
Mid-America Manufacturing Technology Center
10561 Barkley, Suite 602
Overland Park, Kan. 66212
(913) 649-4333 or (800) 653-4333
Serving firms throughout Kansas through eight offices. Established in 1991 and affiliated with the Kansas Technology Enterprise Corp.

KENTUCKY
Kentucky Technology Service
P.O. Box 1125
Lexington, Ky. 40589
(606) 252-7801
Serving firms throughout Kentucky. Established in 1994 and affiliated with the Kentucky Economic Development Cabinet.

LOUISIANA
Louisiana Manufacturers Technical Extension Center
P.O. Box 44172
Lafayette, La. 70504-4172
(318) 482-6767
Serving firms throughout Louisiana. Affiliated with the Louisiana Productivity Center at the University of Southwestern Louisiana. In development.

MAINE
Maine Manufacturing Extension Partnership
87 Winthrop St.
Augusta, Maine 04330
(207) 621-6350
Serving firms throughout Maine through three regional offices. Established in 1995 and affiliated with the Maine Science and Technology Foundation.

MARYLAND
Maryland Manufacturing Modernization Network
University of Maryland Engineering Research Center
Potomac Building 092, Room 2104
College Park, Md. 20742-3415
(301) 405-3883
Serving firms throughout Maryland. Established in 1994 and affiliated with the University of Maryland.

MASSACHUSETTS
Massachusetts Manufacturing Partnership
Bay State Skills Corp.
101 Summer St., 4th Floor
Boston, Mass. 02110
(617) 292-5100, ext. 271
Serving firms throughout Massachusetts through five regional offices. Established in 1994 with the Massachusetts Executive Office of Economic Affairs and the Bay State Skills Corp.

MICHIGAN
Michigan Manufacturing Technology Center
P.O. Box 1485
2901 Hubbard Rd.
Ann Arbor, Mich. 48106
(800) 292-4484
Serving firms throughout Michigan, through seven regional offices. Established in 1991 and operated by the Industrial Technology Institute.

MINNESOTA
Minnesota Manufacturing Technology Center
111 Third Ave. South, Suite 400
Minneapolis, Minn. 55401
(612) 338-7722
Serving firms throughout Minnesota through six regional offices. Established in 1992 and operated by Minnesota Technology, Inc.

MISSISSIPPI
Mississippi Technology Extension Partnership
Building 1103, Room 140
Stennis Space Center, Miss. 39529
(601) 688-3144
Serving firms throughout Mississippi. Affiliated with the Mississippi Enterprise for Technology. In development.

Mississippi Polymer Institute and Pilot Manufacturing Extension Center
P.O. Box 10003
Hattiesburg, Miss. 39406-5157
(601) 266-4607
Serving polymer and polymer-related firms throughout Mississippi. Affiliated with the University of Southern Mississippi. In development.

MISSOURI
Mid-America Manufacturing Technology Center
10561 Barkley, Suite 602
Overland Park, Kan. 66212
(913) 649-4333 or (800) 653-4333
Through two offices, serving 21 counties in western Missouri as well as the seven-county St. Louis metropolitan area.

MAMTC Missouri Rolla Regional Office
800 W. 14th St., Suite 111
Rolla, Mo. 65401
(573) 364-8570
Serving rural Missouri through four regional offices. Affiliated with the Missouri Enterprise Business Assistance Center.

MONTANA
Montana Manufacturing Extension Center
315 Roberts Hall
Montana State University
Bozeman, Mont. 59717
(406) 994-3812
Serving firms statewide. Established in 1995 and affiliated with Montana State University.

NEBRASKA
Nebraska Industrial Competitiveness Service
8800 O St.
Lincoln, Neb. 68520
(402) 437-2535
Serving firms statewide via 10 field agents. Established in 1994 and affiliated with the Nebraska Department of Economic Development.

NEVADA
Nevada Manufacturing Extension Partnership
c/o Industry Network Corp.
1155 University Blvd. S.E.
Albuquerque, N.M. 87106
(505) 843-4250
Serving firms throughout Nevada. Affiliated with the University and Community College System of Nevada and the Nevada Manufacturers Association. In development.

NEW HAMPSHIRE
New Hampshire Regional Manufacturing Technology Center
505 Amherst St.
Nashua, N.H. 03061-2052
(603) 598-8800
Serving firms throughout New Hampshire. Established in 1995 and affiliated with the New Hampshire Regional Community Technical College System.

NEW JERSEY
New Jersey Manufacturing Extension Partnership
Center for Manufacturing Systems, NJIT
218 Central Ave., Suite 350 ITC
Newark, N.J. 07102-1982
(201) 642-4869
Serving firms statewide through two regional offices. Affiliated with the New Jersey Commission on Science and Technology. In development.

NEW MEXICO
Industry Network Corp.
1155 University Blvd. S.E.
Albuquerque, N.M. 87106
(505) 843-4250
Serving firms statewide through eight field engineers. Established in 1994.

NEW YORK
New York Manufacturing Extension Partnership
New York Science and Technology Foundation
99 Washington Ave., Suite 1730
Albany, N.Y. 12210
(518) 474-4349
Serving firms statewide through 10 regional manufacturing outreach centers listed below. Affiliated with the New York Science and Technology Foundation.

- Alliance for Manufacturing and Technology
  61 Court St., 6th Floor
  Binghamton, N.Y. 13901
  (607) 774-0022
  Serving a nine-county area within New York's southern tier through two offices.
- Center for Economic Growth
  One Key Corp. Plaza, Suite 600
  Albany, N.Y. 12207
  (518) 465-8975
  Serving the 11-county Capital District in the Albany area.
- Central New York TDO
  1201 E. Fayette St.
  Syracuse, N.Y. 13201
  (315) 425-5144
  Serving the five counties in Central New York in the Syracuse area.
- CI-TEC
  Box 8561
  Peyton Hall
  Potsdam, N.Y. 13699-8561
  (315) 268-3778
  Serving six counties in the North Country area through three offices.
- High Technology of Rochester
  Five United Way
  Rochester, N.Y. 14604
  (716) 327-7930
  Serving the nine-county Finger Lakes region in and around Rochester.
- Hudson Valley Technology Development Center
  300 Westage Business Center, Suite 130
  Fishkill, N.Y. 12524
  (914) 896-6934
  Serving the seven-county mid-Hudson region.
- Industrial Technology Assistance Corp.
  253 Broadway, Room 302
  New York, N.Y. 10007
  (212) 240-6920
  Serving the five boroughs of New York City.
- Long Island Forum for Technology
  P.O. Box 170
  Farmingdale, N.Y. 11735
  (516) 755-3321
  Serving Nassau and Suffolk counties.
- Mohawk Valley Applied Technology Commission
  207 Genessee St., Room 1604
  Utica, N.Y. 13501
  (315) 793-8050
  Serving Oneida, Herkimer, Hamilton, Fulton, Montgomery, and Schohari counties.

- Western New York Technology Development Center
  1576 Sweet Home Rd.
  Amherst, N.Y. 14228
  (716) 636-3626
  Serving New York's five western-most counties through three field offices.

National Center for Printing, Publishing and Imaging (CIMSPrint)
Rochester Institute of Technology
111 Lomb Memorial Dr.
Rochester, N.Y. 14623
(716) 475-5101
Center will partner with and act as a printing industry resource for all MEP affiliates. Affiliated with the Rochester Institute of Technology. In development.

NORTH CAROLINA

North Carolina Manufacturing Extension Partnership
IES Technical Services
Box 7902
North Carolina State University
Raleigh, N.C. 27695-7902
(919) 515-5408
Serving firms statewide through six outreach offices. Two additional offices in development. Established in 1995 and affiliated with North Carolina State University Industrial Extension Service.

NORTH DAKOTA

North Dakota Manufacturing Technology Partnership
1833 East Bismarck Expressway
Bismarck, N.D. 58504
(701) 328-5300
Serving firms statewide through four field offices. Established in 1995 and affiliated with Technology Transfer, Inc.

OHIO

Great Lakes Manufacturing Technology Center
Prospect Park Building
4600 Prospect Ave.
Cleveland, Ohio 44103-4314
(216) 432-5322
Serving northeast Ohio through seven field offices. Established in 1989 and affiliated with the Cleveland Advanced Manufacturing Program.

Lake Erie Manufacturing Extension Partnership
1700 N. Westwood St.
Toledo, Ohio 43607
(419) 534-3705
Serving 26 counties of northwest Ohio through four satellite offices. Established in 1995 and affiliated with the Edison Industrial Systems Center.

Miami Valley Manufacturing Extension Center
3171 Research Blvd.
Kettering, Ohio 45420
(513) 258-6187
Serving 23 counties of southwest Ohio. Established in 1994 in partnership with the Institute for Advanced Manufacturing Sciences. Affiliated with the Edison Materials Technology Center.

Plastics Technology Deployment Center
GLMTC Manufacturing Outreach Program
Prospect Park Building
4600 Prospect Ave.
Cleveland, Ohio 44103
(216) 432-5340
Serving 10 counties in northeast Ohio surrounding Cleveland and 14 counties in northwest Pennsylvania surrounding Erie. Established in 1994 and affiliated with the Great Lakes MTC and Penn State-Erie.

OKLAHOMA

Oklahoma Alliance for Manufacturing Excellence
525 South Main St., Suite 500
Tulsa, Okla. 74103
(918) 592-0722
Serving firms throughout Oklahoma via a network of over 25 broker/agents and sector specialists. Established in 1994 and affiliated with the Oklahoma Center for the Advancement of Science and Technology.

OREGON

Oregon Manufacturing Extension Partnership
29353 Town Center, Loop East
Wilsonville, Ore. 97070
(503) 657-6958
Serving manufacturing firms throughout Oregon. Affiliated with the Oregon Advanced Technology Consortium. In development.

PENNSYLVANIA

North/East Pennsylvania Manufacturing Extension Partnership
125 Goodman Dr.
Bethlehem, Pa. 18015
(610) 758-5599
Through two offices, serving the region north of Doylestown, east of Reading, and west of the Delaware River. Established in 1994 and affiliated with the Manufacturers Resource Center.

Southeastern Pennsylvania Manufacturing Extension Partnership
A coalition of organizations providing assistance to manufacturers throughout the region:

- Delaware Valley Industrial Resource Center
  12265 Townsend Rd., Suite 500
  Philadelphia, Pa. 19154-1286
  (215) 464-8550
  Serving the five counties surrounding Philadelphia and greater southeastern Pennsylvania in coordination with the following two offices. Established in 1995.

- Industrial Modernization Center, Inc.
  Farm Complex
  R.R. #5, Box 220-62A
  Montoursville, Pa. 17754
  (717) 368-8361
  Serving 12 counties in central Pennsylvania. In development.
- Manufacturing Technology Industrial Resource Center
  227 W. Market St.
  P.O. Box 5046
  York, Pa. 17405
  (717) 843-5054
  Serving nine counties in southcentral Pennsylvania. In development.

Southwestern Pennsylvania Industrial Resource Center/Northwest Pennsylvania Industrial Resource Center
4516 Henry St.
Pittsburgh, Pa. 15213
(412) 469-3530
Serving firms in western Pennsylvania. Established in 1994. Expansion into northwest Pennsylvania in coordination with the Northwest Pennsylvania Industrial Resource Center. In development.

Plastics Technology Deployment Center
c/o Penn State-Erie
Behrend College Station Rd.
Erie, Pa. 16563-0101
(814) 898-6132
Serving 14 counties in northwest Pennsylvania surrounding Erie. Established in 1994 and affiliated with the Great Lakes Manufacturing Technology Center and Penn State-Erie.

PUERTO RICO

Puerto Rico Manufacturing Extension, Inc.
Economic Development Administration
Mercantil Plaza Building, Suite 819
2 Ponce de Leon Ave.
Hato Rey, Puerto Rico 00918
(787) 756-0505
Serving firms throughout Puerto Rico. Affiliated with Puerto Rico's Economic Development Administration.

RHODE ISLAND

Rhode Island Manufacturing Extension Services
205 Lippitt Hall
University of Rhode Island
Kingston, R.I. 02881
(401) 874-2381
Serving firms throughout the state. Established in 1995 and affiliated with the University of Rhode Island.

SOUTH CAROLINA

Southeast Manufacturing Technology Center
1136 Washington St., Suite 300
Columbia, S.C. 29201
(803) 252-6976
Through 13 regional outreach centers, serving firms in South Carolina and the western/foothills region of North Carolina. Established in 1989 and operated jointly by the University of South Carolina and Enterprise Development, Inc.

SOUTH DAKOTA

South Dakota Manufacturing Extension Partnership Center
South Dakota State University
Harding Hall
P.O. Box 2220
Brookings, S.D. 57007-0199
(605) 688-4184
Serving manufacturing firms throughout South Dakota. Affiliated with South Dakota State University. In development.

TENNESSEE

Tennessee Manufacturing Extension Partnership
Department of Economic and Community Development
7th Floor, Rachel Jackson Building
320 6th Ave. North
Nashville, Tenn. 37243-0405
(615) 741-2626
Serving firms throughout Tennessee through five regional offices. Established in 1994 and affiliated with the State of Tennessee Economic and Community Development Department and the University of Tennessee.

TEXAS

Texas Manufacturing Assistance Center
1700 Congress Ave., Suite 200
Austin, Texas 78701
(512) 936-0235
Serving firms throughout Texas through five regional offices. Established in 1995 and affiliated with the Texas Department of Commerce.

UTAH

Utah Manufacturing Extension Partnership
Western Coalition for Advanced Manufacturing Processes
1025 Riverbreeze Dr., Suite 300
Orem, Utah 84058
(801) 378-9000
Serving firms via a network of manufacturing and business resource centers located throughout the state. Established in 1995.

VERMONT

Vermont Manufacturing Extension Center
Box 500
Randolph Center, Vt. 05061
(802) 728-1312
Serving firms throughout the state through three regional offices. Established in 1996 and affiliated with Vermont Technical College.

VIRGINIA

A.L. Philpott Manufacturing Center
P.O. Box 5311
645 Patriot Ave.
Martinsville, Va. 24115
(540) 666-8890
Serving 23 counties of southern Virginia through four regional offices. Established in 1994.

WASHINGTON

Washington Manufacturing Extension Partnership
2001 6th Ave., Suite 2700
Seattle, Wash. 98121
(206) 464-6009
Serving firms throughout Washington. In development.

WEST VIRGINIA
West Virginia Partnership for Industrial Modernization
634 8th St.
Huntington, W.Va. 25701
(304) 525-1916
Serving firms throughout West Virginia through five regional offices. Established in 1995 and affiliated with the West Virginia Development Office, the Marshall University Research Corp./Robert C. Byrd Institute, and the West Virginia University Extension Service.

WISCONSIN
Northwest Wisconsin Manufacturing Outreach Center
University of Wisconsin
Stout Technology Transfer Institute
103 First Ave. West
Menomonie, Wis. 54751
(715) 232-2397
In coordination with Wisconsin Manufacturing Extension Partnership, serving 32 counties in northwest Wisconsin through five satellite offices. Established in 1994 and affiliated with the University of Wisconsin-Stout.

Wisconsin Manufacturing Extension Partnership
Wisconsin Center for Manufacturing and Productivity
432 N. Lake St., Room B121-B
Madison, Wis. 53706-1498
(608) 262-2224
Serving manufacturers throughout the state through four regional offices, including the Northwest Wisconsin Manufacturing Outreach Center.

WYOMING
MAMTC Wyoming Regional Office
10561 Barkley, Suite 602
Overland Park, Kan. 66212
(913) 649-4333 or (800) 653-4333
Serving firms throughout Wyoming. Affiliated with the Mid-America MTC.

Additional Information

For further information contact:

Manufacturing Extension Partnership
(301) 975-5020
email: MEPinfo@mep.nist.gov
fax: (301) 963-6556
http://www.mep.nist.gov
C121 Building 301
or phone 1-800-MEP-4MFG
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Backgrounder

February 1998

Building New Skills for the New Economy

Regional Skills Alliances

Robert D. Atkinson

The Problem

There is an increasing realization across the nation that firms in a wide range of industries face serious difficulties in hiring workers with needed skills, and that we need to do a better job of training and educating new entrants to the workforce and workers dislocated by economic change.

Many industries point to the lack of skilled workers as a critical factor limiting their competitiveness and growth. For example, the Information Technology Association of America recently concluded that there are approximately 190,000 unfilled information technology jobs in the United States today due to a shortage of qualified workers.[1] But it is not just high-tech firms. When asked "what are the main barriers firms face to expanding and becoming more competitive," companies across the country in different industries point to the difficulty in getting skilled workers. These shortages not only slow regional and national economic growth, they mean that hundreds of thousands of workers are not increasing their skills and standards of living.

While the current low unemployment rate contributes to this problem, its roots are more fundamental. In the New Economy, skill requirements are going up in many industries, even so-called low-tech industries. More than half of the new jobs created between 1984 and 2005 will require some education beyond high school.[2] The percentage of workers who use computers at work has risen from 25 percent to 46 percent between 1984 and 1993.[3] These changes are being felt around the nation. States such as Colorado, Maryland, Rhode Island, and Washington have all recently released reports highlighting the pressing need of employers for skilled workers. Today, to be competitive, firms are not only using more technology but are also reorganizing production processes in new ways, such as cellular production, use of teams, and other high performance work organization methods that require higher levels and new kinds of skills. For example, a recent survey of U.S. manufacturers found that in 81 percent of plants, production workers participate in empowered or self-directed teams. Marty Cohen, President of the Work in America Institute, states: "Thanks to e-mail, statistical process control, Just-In-Time, [...] and so forth, the need for production workers to master new technology is almost universal, whether they work on loading docks or in silicon clean rooms." And much of the needed knowledge is not firm-specific, but rather generic (related to math, communication, writing, and computing) and industry-specific (such as manufacturing methods).

There is increasing interest in addressing skills shortages. Several high-tech trade

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associations, in conjunction with the U.S. Department of Labor (DOL) and Department of Commerce (DOC), hosted a skills "summit" earlier this month in Berkeley, CA. President Clinton recently announced several proposals, including creation of a nationwide job bank and modest increases in funding for training programs.[4] The awareness of the problem and the interest in finding effective solutions is growing.

The Administration's proposal, while a useful start, is not enough. The problem cannot be solved at the federal level: solutions need to be regional, diverse, and industry-led. However, the federal government can and should play a catalytic role in bringing together the firms and other institutions that are critical to crafting effective solutions.

The Progressive Policy Institute (PPI) proposes that the federal government invest $40 to $60 million annually to support industry-led, regional skills alliances (RSAs). RSAs—independent, staffed collaborations among firms in an industry, and including educational institutions such as community colleges, formed to identify common areas of skills shortages and develop and implement effective training solutions—would be supported in part for the first three years by federal funds. Funds would be allocated through a competitive grant process administered by the DOC's Manufacturing Extension Partnership (MEP), with consortia of firms as applicants.

Why Existing Institutions Cannot Solve the Problem

According to the American Society for Training and Development, company spending on training has not kept up with the need. In 1995, American businesses spent $55 billion per year upgrading the skills of their employees, 20 percent more than a dozen years ago.[5] But the number of workers has risen 24 percent, meaning that private-sector spending hasn't kept pace. Considering that skills upgrading is far more important now than in the early 1980s, this shortfall is troubling.

Most firms, but particularly small and medium-sized enterprises (SMEs), have limited capacity (financial, institutional, and informational) to engage in significant and sustained workforce development efforts. There are several reasons why. Managers and owners of most firms are simply too busy running their business to develop training systems, especially for new or dislocated workers. SMEs often lack information on what kind of training their firms need and where to get it. And finding this information is very time consuming. As a result, when confronted with a shortage of skilled workers, most firms try to hire workers from other companies.

Moreover, because workers are so mobile, it is difficult for individual employers to bear all the burden of training employees, whether new or incumbent workers, especially since the employee is likely to leave at some time and go to work for a competitor. In this case, not only does the firm "not realize an adequate return on the investment," it is actually at a disadvantage since it has spent money other firms have not, and has made its competitors stronger in the meantime. This serves as a disincentive for individual firms to provide training without a concerted effort on the part of the entire industry regionally. This factor, coupled with increasingly competitive markets, is one reason why many larger companies that supported in-house, dedicated training programs in the 1960s and 1970s have eliminated these efforts.

The skills shortage is also a problem for workers. Millions of American workers would like to upgrade their skills, but it is often difficult for government-run training programs to provide the kinds of skills that employees need. Dislocated workers (even a low unemployment economy has dislocated workers—approximately 1.4 million per year between 1993 and 1995[6]), young people coming out of high school, and workers making the transition from welfare to work may especially need the types of skills demanded by growing industries.

The educational system has not proven up to the task of providing technical training for workers. Many community colleges, and even four-year colleges and universities, lack the resources to purchase up-to-date equipment (machines, computers, software) on which to train workers in relevant knowledge and skills. In addition, while some post-secondary training institutions (especially private ones) have reached out to industry and become more customer-focused, many more have not adequately responded to the changing skills needs of employers. The lack of partnerships with industry means that many educational institutions continue to train students for old economy jobs with old economy methods and equipment.

In some cases this may reflect a lack of entrepreneurial and innovative spirit in bureaucratic institutions. But there is a more fundamental issue: While colleges and universities, especially community colleges, may be able to establish partnerships with larger firms that have human resource departments, building partnerships and a two-way dialogue with small- and medium-sized firms has proven more difficult.

Finally, it has been difficult to use federally funded training programs for these kinds of industry-driven, innovative programs. Most federal training funds go to displaced and disadvantaged workers, not to incumbent workers. Yet, because of rigid and bureaucratic rules, it is difficult to use these federal funds to support effective industry-driven efforts, including some of the most successful and creative industry-community alliances training disadvantaged youth.[7] Moreover, even if the much-needed reforms of federal employment and training efforts are implemented, these efforts are largely focused on making it easier for workers to access training and reemployment services. To really address the skills issues in the New Economy, we need both—a more user-friendly employment and training system and an industry-driven skills effort based on firm alliances. Each complements the other.

The Solution: RSAs

It is becoming clear to many firms and training experts working in the trenches of the New American Economy that if we are going to begin to meaningfully address the skills problem, we have to motivate and assist companies in the same or similar industries to work collaboratively at the regional level to lead this process. As training expert Bill Nothdurft argues, "creating the workforce of the future requires partnerships and private industry leadership."[8]

Employers are most qualified to do this for several reasons. First, employers are the best positioned—often in partnership with others, such as community colleges—to identify the skills and knowledge needed for emerging jobs. Second, by letting employers lead, it is much easier to tie training directly to employment. And third, employers and industries facing skills shortages will be the ones to participate.

While employers need to take the lead, crafting effective solutions requires collaboration among firms. Because a skilled workforce benefits all firms in a region, a small handful of skills alliances have already been established, often with large firms and their employee unions. It has been more difficult for small- and medium-sized firms to band together to tackle educational and training needs. As a result, a critical task is helping firms build ongoing capacities to collaboratively address their own industries' workforce development issues.

Collaborative solutions are more effective than going it alone. First, by working together, firms in the same or similar industries can pool resources (information, on-the-job training opportunities, equipment, curricula) that lower costs of training. Moreover, by supporting sector-based alliances (e.g., metal working, tourism, information technology), firms focus on building a regional training pool, rather than on "poaching" other firms in the industry to get workers.

Second, collaboration allows firms to develop joint solutions and communicate these to educational institutions. Without this ongoing collaboration, it is often very difficult for educational institutions to communicate effectively with industry and develop needed curricula. Moreover, alliances could serve as the intermediary between firms in an industry and the complex array of training programs and initiatives in any particular region.

Finally, solutions need to be regional. Too often Washington forgets that the economy runs through firms, institutions, and workers operating in locales and regions which are very diverse in their industrial structure, growth patterns, and institutional resources. At any one time, some regions may be booming and have the need for new workers, while others may not be growing and are struggling to address the needs of displaced workers. Some regions may be characterized by large firms that can address "infrastructure" needs related to skills, while many others may be populated by smaller firms. In addition, regions differ profoundly in terms of industrial mix. Many industries cluster regionally. In fact, regional industrial clusters are becoming more, not less, a feature of the New Economy—e.g., high-tech electronics and software in places like Silicon Valley, Boston, and Northern Virginia; plastics in Western Massachusetts; rubber in Akron; metal working in Pennsylvania; aerospace in Wichita; and financial services in Wilmington. All of these places have different needs and different problems.

The few collaborative training programs in place today act as powerful and innovative models of industry working together to address common skills shortages. Collaborative training is one reason why German firms invest more in training than U.S. firms do. There, a dense network of industry associations makes it much easier for firms, most of which are small, to jointly address training, with the German federal government contributing half the cost.[9] In the last several years, a small number of regional and industry-based training alliances in the United States have emerged, usually in partnership with state and local governments and technical colleges.

- As part of the Wisconsin Regional Training Partnership, a number of metal-working firms, in conjunction with the AFL-CIO, used an abandoned mill building to set up a teaching factory to train workers with needed skills. The workers learn directly on state-of-the-art manufacturing equipment.

- In Rhode Island, with help from the state's Human Resource Investment Council, plastics firms developed a skills alliance. Funds supported a part-time alliance coordinator who worked with firms to assess skills needs and develop curricula. In addition, a share of the funds went to establish a state-of-the-art polymer training laboratory at the local community college which trains workers in an apprenticeship program that guarantees jobs for graduates.

- In Wichita, a small federal grant, coupled with state and industry funds, helped 33 small aerospace supplier firms develop joint training curricula for new workers in partnership with the local community college.

- In Washington, D.C., regional telecommunications firms donated computers and helped set up a program to train public high school students to be computer network administrators. The companies hire students who pass a standard certification exam for $25,000 to $30,000 a year.[10]

While successful, these kinds of alliances are by far the exception rather than the rule.

Why a Federal Role?

There are several reasons why a limited but strategic federal role would be highly effective:

- The federal government already spends millions on training, but not as effectively as it could.

- Federal, state, and local governments have created a wide array of complicated and disjointed bureaucratic training programs. New initiatives are needed that empower customers and serve as models for service delivery integration.

- While a small handful of these kinds of partnerships have emerged around the nation, there are documented difficulties in fostering this kind of collective action without some federal "glue" money. Widespread and timely deployment of these kinds of partnerships is simply not likely to happen without the incentives established by a federal initiative. This can help create successful models and templates that others can replicate across the nation.

- Because workers are mobile across regions and state borders, the federal government has an incentive to help new workers get an adequate education and skills to be employed in well-paid and rewarding jobs.

- Without some kind of support to create alliances, small firms just don't have the time or resources to collaborate with anybody on training, and over 99 percent of all businesses in the United States are small. In fact, almost all existing RSAs report that they would not have been able to get off the ground without an independent, staffed entity to operate the alliance.

How Regional Skills Alliances Would Work

PPI proposes that the federal government invest $40 to $60 million annually to support industry-led RSAs. Funds would be allocated through a competitive grant process, with consortia of firms as applicants. Federal support would be limited to three years, after which the efforts would be required to be self-supporting.

Successful applicants would be:

- *Consortia:* Alliances would have to have meaningful participation with a large number of firms, ideally at least 10 firms and/or employing at least 50 percent of the workers in that industry in the region.

- *Industry-led* (e.g., board of directors predominantly made up of industry, with state and local officials, educational leaders, and union officials also eligible as participants): Regional chapters of industry trade associations would be eligible to apply.

- *Sector-based:* The efforts would have to be organized around one or more industry sectors.

- *Alliances providing a 2-to-1 match for federal funds:* For every $1 in federal funds, state and/or local government would need to provide at least $1, and industry $1. Industry equipment donations to shared, off-site facilities (e.g., community colleges) would count as matching, while "in-kind" donations would not, but would be considered in ranking proposals.

How Many Alliances and What Level of Support?

Funds could be used to support alliance coordinator staff to work with firms to develop joint standards, curricula, apprenticeships, and other joint efforts. In addition, funds could be used to market the program, to purchase equipment on which to train workers, and to develop curricula. Alliances could also focus on other areas of joint concern, such as technology transfer or industrial modernization. Estimated costs for each alliance would be between $350,000 and $1 million per year, depending on the size of the area, the need, and the extent of effort by firms. Assuming that the federal government provides, at a maximum, one-third of the funds, $50 million would allow approximately 200 alliances to be established.

What Activities Would Qualify for Support?

Virtually all activities directly related to improving the skills of a region's workforce would qualify for support, including:

- Salaries and expenses to support a skills alliance manager;
- Joint assessment of industry training and skills needs;
- Development of skills standards benchmarked to advanced industry practices;
- Development of joint curriculum and training methods;
- Purchases or donations of equipment on which to train workers;
- Identification and development of training providers, and establishment of training programs;
- Development of apprenticeship and school-to-work programs;
- Development of training programs for dislocated workers;
- Initiatives to link technology and business modernization to skills upgrades; and
- Development of performance outcome measures.

Funding would not be allowed to subsidize workers wages (even training wages), could not be used for lobbying or political action, and could not be devoted to senior management development except possibly for skills development focused on team building or employee involvement.[11] Alliances would also be required to report evaluation and outcome measures.

Administration

Because this is a skills and training effort it could be argued that DOL should administer the program nationally. However, because it is also an industry competitiveness effort, it may be more appropriate for DOC to administer it in partnership with DOL. The program could be run out of the Manufacturing Extension Partnership (MEP), an initiative at the National Institute of Standards and Technology (NIST), since NIST is already actively engaged in regional business modernization efforts around the nation. However, because the initiatives could support alliances in non-manufacturing sectors, and because these should be industry-led efforts, NIST should operate this program separate from, but linked to, the MEP.

Advantages of Regional Skills Alliances

Catalyzing the formation of RSAs has several advantages. These include:

- Engaging firms, particularly small- and medium-sized firms, more deeply in the issue of skills training and constructive interaction with educational institutions;

- Engaging public-sector educational providers (e.g., community colleges) more actively in on-going working relationships with groups of employers (i.e., encouraging them to be more responsive by creating the kinds of curricula needed by New Economy employers);

- Significantly increasing the scale of state and local training efforts, by moving away from a one-on-one approach toward engaging whole industries. (Workforce training in states is almost always one-on-one, customized training with individual firms); and

- Providing flexibility in the system to focus on a wide variety of training issues, including new workers, dislocated workers (e.g., Massachusetts Software Alliance), and welfare-to-work (e.g., Wisconsin Regional Training Partnership).

Conclusion

The transition underway to a more technological and skills-intensive economy has led to skills shortages in many industries and regions of the country. Yet, existing government-run training programs are not up to the task at hand. Effective solutions require collaboration between government and industry, and between firms in similar industries in the same region. Federal matching grants to industry to form skill alliances can be a catalyst to the formation of new, innovative, and flexible solutions.

Robert D. Atkinson is director of the Technology and Innovation Project at the Progressive Policy Institute.

For further information about the Center or PPI publications, please call the publications department at 202-544-6172, write: Progressive Policy Institute, 518 C Street, NE, Washington, DC 20002, or visit PPI's site on the World Wide Web at: http://www.dlcppi.org/.

Endnotes

1. "Help Wanted: The IT Workforce Gap at the Dawn of a New Century," (Arlington, VA: Information Technology Association of America, 1997). See also "America's New Deficit: The Shortage of Information Technology Workers," (Washington, DC: U.S. Department of Commerce, Office of Technology Policy, 1997).

2. Arnold E. Packer, et al., *Workforce 2000: Work and Workers for the 21st Century* (Indianapolis, Ind.: Hudson Institute, 1987).

3. "Computer Use and Ownership: Level of Access and Use of Computers, 1984, 1989, 1993, Table A," (Washington, DC: U.S. Census Bureau, October 1993).

4. Rajiv Chandrasekaran, "U.S. to Train Workers for Tech Jobs," *Washington Post*, (January 12, 1998), p. A1.

5. Dr. Laurie J. Bassi, "Expenditures on Employer-Provided Training" (Alexandria, VA: American Society for Training and Development, July 1996).

6. DOL defines dislocated workers as workers who lose their jobs due to their plant closing down or moving, insufficient work for them to do, or their position being abolished. Source: U.S. Department of Labor, Employment and Training Administration.

7. Peter Behr, "Job Training Success Story at Risk," *Washington Post*, (January 16, 1998), G1.

8. William E. Nothdurft, "How to Produce Work-Ready Workers," *Across the Board*, (September 1990), pp. 47-52.

9. Margaret Hilton, "Shared Training: Lessons from Germany," *Monthly Labor Review*, (March 1991).

10. *Washington Post*, op. cit.

11. PPI has proposed a similar non-discrimination rule that would treat firm expenses on training as taxable compensation unless the firm extends training to all its workers, just as health care coverage and retirement benefits are not taxable if all workers in a firm are eligible for them.

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OCT96	318 0.39 5.50 6.73	5463 6.68 94.50 7.09	5781 7.07
NOV96	265 0.32 5.61 5.61	4462 5.46 94.39 5.79	4727 5.78
DEC96	331 0.40 5.95 7.01	5235 6.40 94.05 6.80	5566 6.81
JAN97	298 0.36 4.78 6.31	5934 7.26 95.22 7.70	6232 7.62
FEB97	275 0.34 4.80 5.82	5450 6.67 95.20 7.07	5725 7.00
MAR97	341 0.42 5.13 7.22	6304 7.71 94.87 8.18	6645 8.13
Total	4722 5.78	77039 94.22	81761 100.00

(Continued)

HI-B PETIONERS APPROVED IN FY 1997
COLLEGES/UNIVERISTIES AND OTHER EMPLOYERS
BY MONTH OF APPROVAL

TABLE OF APPROVE BY FLAG

APPROVE	Frequency / Percent / Row Pct / Col Pct	FLAG: COLLEGE OR UNIV.	FLAG: OTHER	Total
APR97	Frequency	404	7468	7872
	Percent	0.49	9.13	9.63
	Row Pct	5.13	94.87	
	Col Pct	8.56	9.69	
MAY97	Frequency	507	7777	8284
	Percent	0.62	9.51	10.13
	Row Pct	6.12	93.88	
	Col Pct	10.74	10.09	
JUN97	Frequency	575	7650	8225
	Percent	0.70	9.36	10.06
	Row Pct	6.99	93.01	
	Col Pct	12.18	9.93	
JUL97	Frequency	655	8438	9093
	Percent	0.80	10.32	11.12
	Row Pct	7.20	92.80	
	Col Pct	13.87	10.95	
AUG97	Frequency	435	7407	7842
	Percent	0.53	9.06	9.59
	Row Pct	5.55	94.45	
	Col Pct	9.21	9.61	
SEP97	Frequency	318	5451	5769
	Percent	0.39	6.67	7.06
	Row Pct	5.51	94.49	
	Col Pct	6.73	7.08	
Total	Frequency	4722	77039	81761
	Percent	5.78	94.22	100.00