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DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-83,058

Sysco Denver LLC
A Subsidiary of Sysco Corporation
Information Technology (It) Department
Denver, Colorado

Notice of Negative Determination
on Reconsideration

On November 27, 2013, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Sysco Denver LLC, a subsidiary of Sysco Corporation, Information Technology (IT) Department, Denver, Colorado (Sysco Denver-IT Department). The Department's Notice of determination was published in the Federal Register on December 10, 2013 (78 FR 74162).

The Sysco Denver-IT Department worker group is engaged in activities related to the supply of information technology (IT) services. The Sysco Denver-IT Department is separately identifiable from other groups within Sysco Denver LLC, Denver, Colorado.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that a significant number or proportion of the workers in such workers' firm or appropriate subdivision have not become totally or partially separated, nor are they threatened with such separation.

Significant number or proportion of the workers means that:

(a) In most cases the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total unemployment of five percent (5 percent) of the workers or 50 workers, whichever is less; or (b) At least three workers in a firm (or appropriate subdivision thereof) with a work force of fewer than 50 workers would ordinarily have to be affected.

29 CFR 90.2

In the case at hand, fewer than three workers were totally or partially separated or threatened with such separation.

The request for reconsideration states that the two workers separated at Sysco Denver-IT Department were part of a larger worker group (those supplying IT services at various Sysco Corporation facilities) and that IT functions are being outsourced to India. The request also referenced a certification applicable to another worker group (TA-W-82,383; Sysco Boston LLC, Plympton, Massachusetts).

The reconsideration investigation revealed that the workers of Sysco Denver-IT Department were not part of a larger IT worker group nor did they report to any other firm locations.

During the reconsideration investigation, the subject firm confirmed that the subject workers did not report to nor were they part of the Sysco Boston LLC, Plympton, Massachusetts worker group. Consequently, the Department determined that an amendment to the TA-W-82,383 certification is not appropriate. Further, the reconsideration investigation revealed that the workers of Sysco Denver-IT Department reported to individuals within the Sysco Denver Operating Company and received wages as employees of Sysco Denver LLC. Sysco Corporation did not employ these individuals nor did Sysco Corporate control or direct their daily activities.

The request for reconsideration implies that since individuals and pairs of workers constitute a worker group, the subject workers constitute a worker group. 29 CFR 90.2 defines a

group of workers as three or more workers in a firm or appropriate subdivision thereof. The petitioning worker group in TA-W-82,383 met the requirements of a group.

Information obtained during the reconsideration investigation confirmed that with respect to Section 222(a) and Section 222(b) of the Act, Criterion (1) has not been met because a significant number or proportion of the workers in such workers' firm have not become totally or partially separated, nor are they threatened to become totally or partially separated.

A careful review of previously-submitted information and information obtained during the reconsideration investigation revealed that the worker group consisting of Sysco Denver LLC, a subsidiary of Sysco Corporation, Information Technology (IT) Department, Denver, Colorado, did not meet this requirement.

The workers' firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

Therefore, after careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of previously-submitted information and information obtained during the reconsideration investigation, I affirm the notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Sysco Denver LLC, a subsidiary of Sysco Corporation, Information Technology (IT) Department, Denver, Colorado, in accordance with Section 223 of the Act, 19 U.S.C. § 2273.

Signed in Washington, D.C. on this 13th day of March, 2014

/s/ Del Min Amy Chen

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

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