



News Release

U.S. DEPARTMENT OF LABOR ISSUES FINAL RULE TO REFORM PREVAILING WAGES FOR FOREIGN WORKER PROGRAMS TO PREVENT POTENTIAL ABUSES

WASHINGTON, DC – The U.S. Department of Labor today announced a Final Rule to help protect the wages and job opportunities of American workers by reforming the wage methodology it uses to set prevailing wage rates to prevent potential abuses of its Permanent Employment Certification, H-1B, H-1B1 and E-3 Visa foreign worker programs. The Department’s Employment and Training Administration administers the foreign labor programs covered by the Department’s wage methodology.

On Oct. 8, 2020, the Department published an Interim Final Rule, and invited public comment. After an extensive review of the comments received, the Department has determined that the existing wage methodology undermines the wages and job opportunities of U.S. workers, and that it is in tension with the governing statute.

“The U.S. Department of Labor is taking these steps to strengthen wage protections, address abuses in visa programs, and protect American workers from being undercut by cheaper foreign labor,” said U.S. Secretary of Labor Eugene Scalia. “These changes help ensure that these important foreign worker programs function as Congress intended, while securing American workers’ opportunities for stable, good-paying jobs. In response to the comments we received, the Department has adjusted the wages levels used in the Interim Final Rule to better reflect market wages and included provisions to smooth the transition to the new wage levels.”

The Final Rule will improve the accuracy of prevailing wages paid to foreign workers by bringing them in line with the wages paid to similarly employed U.S. workers. This will ensure the Department more effectively protects the job opportunities and wages of American workers by removing the economic incentive to hire foreign workers on a permanent or temporary basis in the U.S. over American workers.

When seeking H-1B, H-1B1 or E-3 visas for workers, U.S. employers must attest that they will pay nonimmigrant workers, during the period of authorized employment, the higher of the prevailing wage or the actual wage paid to other employees with similar experience and qualifications.

Similarly, when an employer seeks to hire an immigrant under an EB-2 or EB-3 classification, the employer must recruit U.S. workers for the position using a prevailing wage issued by the Department. They must also attest that they will pay foreign workers the prevailing wage.

The prevailing wage rates in these programs serve to protect U.S. workers from unfair competition posed by the entry of lower cost foreign labor into the U.S. labor market. Using the Department’s methodology in calculating the prevailing wage rates to reflect accurately the wages that U.S. workers who perform the same kinds of jobs and possess similar qualifications, ensures that the use of these programs will not adversely affect the wages and job opportunities of American workers.

The mission of the Department of Labor is to foster, promote and develop the welfare of the wage earners, job seekers and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.

Agency: Employment and Training Administration

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