

## BRIEFLY...

Highlights of Report Number **17-12-001-03-321**, issued to the Assistant Secretary for Employment and Training.

### WHY READ THE REPORT

The Office of Inspector General (OIG) audited the Employment and Training Administration's (ETA) role in the H-2B visa program. Oregon Congressman Peter DeFazio asked the OIG in a letter dated September 3, 2010, to review the H-2B application process for four Oregon-based employers listed in an article in the Oregon Bend Bulletin News on August 9, 2010. The Congressman was concerned about possible H-2B visa irregularities related to Forest Service contracts in central Oregon funded by the American Recovery and Reinvestment Act (Recovery Act). According to U.S. Forest Service officials, the four employers reviewed were awarded 14 fiscal year (FY) 2010 Recovery Act contracts totaling \$7,140,782 for forestry work in Oregon.

Employers submit H-2B applications to the Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) within ETA. To obtain an H-2B certification and comply with employment protections, employers self-attest that U.S. workers capable of performing the job are not available and that the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. ETA is responsible for an initial review of the H-2B application and recruitment report. In addition, since a regulation change in January 2009, ETA can conduct post-adjudication reviews to validate employer self-attestations.

### WHY OIG CONDUCTED THE AUDIT

The audit objective was to answer the following question:

Was ETA able to ensure that the H-2B visa program provided adequate protections for U.S. workers in the applications filed by the four Oregon forestry employers?

### READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2012/17-12-001-03-321.pdf>

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## PROGRAM DESIGN ISSUES HAMPERED ETA'S ABILITY TO ENSURE THE H-2B VISA PROGRAM PROVIDED ADEQUATE PROTECTIONS FOR U.S. FORESTRY WORKERS IN OREGON

### WHAT OIG FOUND

The OIG found program design issues hampered ETA's ability to provide adequate protections for U.S. workers in the H-2B applications filed by the four Oregon forestry employers. On March 18, 2011, ETA issued proposed regulations to address these issues. We also found that certain State Workforce Agencies (SWA) did not fulfill their responsibilities, and ETA could improve its oversight and monitoring to better protect the interests of U.S. workers under the regulations.

Our audit identified that the H-2B application process did not allow for meaningful validation before applications were approved. We found two of the four employers reviewed reported to ETA they had made job offers to 29 U.S. workers; however, none of these workers began employment. Regulations required employers to post a job order and newspaper advertisement in the state of initial employment only, regardless of where subsequent work would be performed. Six of nine H-2B applications we reviewed included work in Oregon, but the work began in other states. Employers were not required to recruit U.S. workers in Oregon, and we were provided no evidence that they did. We also found that the five SWAs reviewed did not transmit posted job orders to Oregon or other states where work was occurring, and three SWAs were not making job referrals to employers — both H-2B requirements.

In addition, we identified that during the initial H-2B application review, ETA did not validate that the petitioning employer was a bonafide business or validate the employer-submitted prevailing wage. Also, during its post-adjudication process ETA did not verify the names listed on the employers' recruitment reports to determine if these individuals actually applied for employment.

### WHAT OIG RECOMMENDED

The OIG recommended that the ETA Assistant Secretary reassess the requirement for employers to only recruit U.S. workers in the state of initial employment, develop and implement procedures to strengthen the application review and post-adjudication processes, and develop and implement controls to better monitor SWAs' compliance with program requirements.

The Assistant Secretary generally agreed with our recommendations and has planned to take actions to address them.