

Question for The Panel
Would transparency help?

Two witnesses at this hearing pointed in their testimony to a lack of publicly available information on nonimmigrant worker programs. In fact, some of the analysis discussed at the hearing involved data that was available only through FOIA, a process I know can be slow, difficult, and expensive.

The hearing discussed a number of incidents of apparent abuse of nonimmigrant visa programs for high-skilled workers. These abuses raise the obvious question of whether the American people are seeing an indication of systemic problems or a small number of unscrupulous companies abusing fundamentally sound programs. And it is worth pointing out that the potential for abuse goes beyond visa programs targeted at high-skilled workers. If anything, visa programs that allow employers to bring in workers without significant skills lend themselves even more to abuse.

Whether your goal is reforming nonimmigrant visa programs or simply rebuilding Americans' confidence in these programs, increased transparency could be an important part of the solution.

- a. In your view, would it help to make more information regarding nonimmigrant worker visa programs available to the public without the need to rely on the FOIA process?**
- b. Can you talk about what kinds of data should be made available and how such data could be used?**

It is vitally important that such data be made publicly available. Nonimmigrant visa programs are rife with waste, fraud and abuse, including violations of wage and anti-discrimination laws by employers. In order to improve oversight and understanding of the legal immigration system, agencies should annually publish online information in the form of a summary report divided by visa category and subcategory with the underlying raw data gathered from the I-129s, I-797s, 9142s, and other immigration forms as to the gender, age, wages, employer, place of origin, principal recruiter (when collected), and agents or sub-recruiters of persons who are on visas defined in subparagraphs of section 1101(a)(15) of the INA that permit employment in the United States under any circumstances, including training or business activities that result in receiving any form of compensation, including a stipend, from any source. Agencies should publicly disclose employers and foreign and domestic labor recruiters and information regarding their compliance records and practices.

Advocates will be better able to assess hiring trends and assist workers when such information is readily available. However, we should by no means limit our assessment of data transparency needs to retrospective reporting.

When unions and advocates are approached by U.S. workers alleging discrimination, it is difficult to find information about the employers and their hiring practices. Similarly, when workers with employment-based visas report abuses such as wage theft, it can be difficult to locate the job order and other information about the employer. These challenges are compounded by the fact that positions that are being offered to workers on nonimmigrant visas

are not adequately advertised. U.S. workers are unaware of the positions, and visa-contingent workers have difficulty leaving an abusive employment situation and finding a new employer.

The creation of a publicly available and searchable job database would greatly enhance the ability of interested parties to monitor and respond to employer intentions to hire visa-contingent workers. However, such a system will only be effective in protecting workers if it allows for access to employer information at the initial registration phase, and also creates an active mechanism for public objection and comment that will be taken into consideration by those certifying employer registrations. Providing an efficient and open process for unions and other parties familiar with local industries to provide input will enhance the integrity of these programs and prevent fraud and abuse.