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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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June 13, 2017

VIA ELECTRONIC SUBMISSION

The Honorable R. Alexander Acosta
Secretary
U.S. Department of Labor
Washington, D.C. 20520

Dear Secretary Acosta:

I write to request verification of a private analysis¹ shedding light on the use of H-1B visas for contingent workers.

On June 6, 2017, *Bloomberg Technology* reported the results of a private study showing that many U.S. companies employed more H-1B workers than previously reported.² Unsurprisingly, the study, which was based on DOL data, indicated that U.S. companies often use the H-1B program to hire high skill, high wage, foreign technology workers—a pattern long recognized by policy makers. Surprisingly, however, this study also showed that the same companies often contract through foreign tech firms to hire significant numbers of low wage and lower skill “contingent” workers via H-1B.³

A private individual generated new statistics by manually comparing the address listed as the “place of employment” in individual H-1B certification records—information already available on DOL’s web site—with the headquarters address for U.S. firms. By performing this manual comparison he arrived at a conclusion masked by DOL’s current data display. Thousands of contingent workers show up as employees of IT contracting companies, rather than employees of the U.S. firms that actually benefit from the workers’ services.⁴ As a result, policy makers may have an inaccurate understanding of the distribution of H-1B workers across U.S. labor markets.

¹ Brustein, Joshua *The Secret Way Silicon Valley Uses the H1-B Program*, Bloomberg News (June 6, 2017) available at <https://www.bloomberg.com/news/articles/2017-06-06/silicon-valley-s-h-1b-secret>.

² *Id.*

³ *Id.*

⁴ *Id.*

The Department has long recognized the risks of contingent employment. You listed “[u]pgrad[ing] the economic position of contingent workers” as number nine on your list of “Goals for the 21st Century Workplace”⁵ and noted that:

. . . contingent arrangements may be introduced simply to reduce the amount of compensation paid by the firm for the same amount and value of work, which raises some serious social questions. This is particularly true because contingent workers are drawn disproportionately from the most vulnerable sectors of the workforce. They often receive less pay and benefits than traditional full-time or “permanent” workers, and they are less likely to benefit from the protections of labor and employment laws. . . . *The expansion of contingent work has contributed to the increasing gap between high and low wage workers and to the increasing sense of insecurity among workers[.]*⁶

The negative impact on wages and the vulnerability of contingent workers are amplified in the H-1B context. The inequality inherent in the H-1B employer-employee relationship increases the risk that workers—whose legal status in the United States is tied to the employer—will accept otherwise unsatisfactory conditions of employment. And because foreign workers are often willing to accept lower wages than U.S. workers, the widespread use of low skill H-1B workers suppresses wages, particularly in entry level positions, reducing the incentive for U.S. workers to enter the field.

As you know, I have longstanding concerns regarding the impact the abuse of H-1B visas is having on American workers.⁷ If true, this study shows that lawmakers do not have a clear picture of the labor markets. Without this information, we can’t create laws that best protect the American people. Accordingly, please instruct your agency to perform and disseminate a similar verification of private data in the future, and respond to the following questions by no later than July 21, 2017:

1. Can you confirm that the conclusions drawn from DOL data, as described in the *Bloomberg* article represent an accurate analysis of the use of contingent workers by IT contractors?
2. Is there any impediment to DOL’s display of such data in its publicly available records, moving forward? If yes, please explain in detail.
3. Has DOL studied the impact of contingent employment on American wages in the H-1B context and if so, what were your conclusions?

⁵ U.S. Department of Labor, Office of the Secretary, *Special Report (Goals)* available at https://www.dol.gov/_sec/media/reports/dunlop/goals.htm.

⁶ *Id.* at § 5 (*Contingent Workers, General Observations*) available at https://www.dol.gov/_sec/media/reports/dunlop/section5.htm (emphasis added).

⁷ See, e.g., *Grassley, Durbin Ask for Details on Companies’ Use of H-1B Visas* (May 14, 2007) available at <https://www.grassley.senate.gov/news/news-releases/grassley-durbin-ask-details-companies%E2%80%99-use-h-1b-visas>.

Thank you in advance for your cooperation with this request. I appreciate your continued commitment to rooting out fraud and abuse in this program, and to protecting American jobs for American workers. I look forward to your reply, and to our continued work together on this very important issue. If you have questions, please contact Brad Watts or Katherine Nikas of my Committee staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Chairman
Committee on the Judiciary

cc:

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary