DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO

January 5, 2017

| | |
|---|---|
| The Honorable Robert Goodlatte | The Honorable John Conyers, Jr. |
| Chairman | Ranking Member |
| Committee on the Judiciary | Committee on the Judiciary |
| United States House of Representatives | United States House of Representatives |
| 2138 Rayburn House Office Building | 2138 Rayburn House Office Building |
| Washington, DC 20515 | Washington, DC 20515 |

Re: Protect and Grow American Jobs Act (H.R. 170)

Dear Chairman Goodlatte and Ranking Member Conyers:

On behalf of the 22 national and international unions in the Department for Professional Employees, AFL-CIO (DPE), I strongly urge you to *oppose* the Protect and Grow American Jobs Act (H.R. 170.) This bill, which raises the annual wage rate companies can pay to be exempt from the "H-1B dependent" status, does not provide the reforms to the H-1B visa program that are needed to protect U.S. workers and temporary guest workers.

**H.R. 170 Will Not Stop the Displacement of U.S. Workers**

Misuse of the H-1B program occurs particularly in computer and engineering occupations where the majority of skilled guest workers are employed. Tech jobs already often pay near or more than $100,000 per year before including traditional benefits like health care and retirement. The case of Southern California Edison proves instructive. In 2015, Southern California Edison laid off 400 employees in its IT department, replacing them with H-1B beneficiaries employed by outsourcing firms.[1] According to a compensation survey commissioned by Southern California Edison, the laid off workers earned an average base pay of $110,466 per year.[2] Southern California Edison workers, and many like them across the country, would still likely have lost their jobs without any recourse if H.R. 170 was law.

Even in areas of the country where computer and engineering base salaries are less than $100,000 per year, the inherently coercive nature of the H-1B program means that employers have an economic incentive to replace U.S. workers with H-1B beneficiaries. An H-1B beneficiary cannot easily change jobs. And since employers control their visas and, therefore, their ability to live and work in the United States, H-1B beneficiaries are unlikely to speak up about poor working conditions or cooperate with authorities after a complaint has been filed.[3]

[1] Patrick Thibodeau. "Southern California Edison IT workers 'beyond furious' over H-1B replacements." *ComputerWorld*, February 4, 2015.
[2] Ron Hira. "New Data Show How Firms Like Infosys and Tata Abuse the H-1B Program." Economic Policy Institute, February 19, 2015.
[3] United States Government Accountability Office. *H-1B Visa Program: Reforms are Needed to Minimize the Risks and Costs of Current Program*, GAO-11-26. January 2011.

Thus, employers can work H-1B beneficiaries for longer hours and in worse conditions than a U.S. worker, realizing even greater cost savings along the way.

## **Real Reforms Needed to Fix the H-1B Visa Program**

The H-1B visa program, along with our other high-skilled guest worker visa programs are clearly broken and must be reformed. The current system is easily manipulated by "H-1B dependent" and non-H-1B dependent employers alike, harming workers across industries and national boundaries. Unfortunately, H.R. 170 will not stop this manipulation.

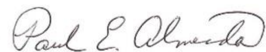
DPE supports making the following five reforms to all skilled guest worker programs (H-1B, L-1, B-1 in lieu of H-1B, and OPT), which would ensure that skilled guest workers are used to complement, rather than displace U.S. workers. If there is a shortage of qualified U.S. workers and employers are already paying market wages as many claim, then employers should not fear these reforms. DPE recommends:

**1)** An increase in the prevailing wage standard for guest workers to the 75th percentile of the prevailing U.S. wage, so that employers do not have an incentive to hire temporary guest workers. Higher wages would also create an incentive for employers to invest in training U.S. workers;
**2)** Evidence of a labor shortage before employers are authorized to seek guest workers;
**3)** Requiring all employers to advertise and offer jobs to U.S. workers who are equally or better qualified than the temporary guest worker sought;
**4)** Allowing guest workers to self-petition for green cards after two years of employment; and
**5)** Regular audits of top skilled guest worker visa users to ensure compliance with the above provisions.

Finally, the lack of data on these guest worker programs allows employers to evade scrutiny. The public should be provided with all available data, including how many guest workers are in the country, occupation and employer information, and how much they are actually being paid.

With thanks for your time and consideration –

Sincerely,



Paul E. Almeida
President