

# United States Senate

WASHINGTON, DC 20510

July 7, 2022

Secretary Martin J. Walsh  
U.S. Department of Labor  
200 Constitution Ave NW  
Washington, DC 20210

Dear Secretary Walsh:

We write to inquire about steps that the Department of Labor is taking to address delays in the processing of prevailing wage determinations for immigrant and non-immigrant visas. As businesses across the country continue to face workforce shortages, taking long-term efforts to decrease processing backlogs and delays will help ensure that employers will be able to find the help that they need.

Several immigrant visas require employers to get approval from the Department of Labor before the employer can submit a visa petition to U.S. Citizenship and Immigration Services (USCIS). The H-1B, H-2B and employment-based visa programs all require the Department of Labor to conduct a prevailing wage determination to make sure that hiring a foreign worker will not negatively impact wages and working conditions of similar employees.<sup>1</sup>

As of May, some employers who filed applications for a prevailing wage determination in November were still waiting for their applications to be processed.<sup>2</sup> These delays make it hard for businesses to have the confidence that they will have the workers they need. This is especially true for seasonal businesses that have a small window of time where they can make all the revenue they need for the entire year.<sup>3</sup> Delays of even a few days can have devastating impacts on their ability to stay open.

We appreciate the steps that the administration has taken to implement short-term fixes, including temporarily allowing H-2B workers who are already in the United States to start working once their H-2B petition and temporary labor certification have been received by USCIS.<sup>4</sup>

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1 Prevailing Wage Information and Resources, U.S. Dep't of Labor, <https://www.dol.gov/agencies/eta/foreign-labor/wages>.

2 Prevailing Wage Determination Processing Times, U.S. Dep't of Labor, <https://flag.dol.gov/processingt看times>.

3 Office of Audit, U.S. Dep't of Labor Office of Inspector Gen., *ETA's Lack of Key Controls Over the H-2B Application Process Jeopardized Businesses that Depend on H-2B Workers*, at p. 4 (Sept. 28, 2018), available at <https://www.oversight.gov/sites/default/files/oig-reports/06-18-002%20--%20H-2B%20Application%20Process.pdf>.

4 Exercise of Time-Limited Authority To Increase the Numerical Limitation for Second Half of FY 2022 for the H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking To Change Employers, 87 Fed. Reg. 30334 (May 18, 2022), available at <https://www.federalregister.gov/documents/2022/05/18/2022-10631/exercise-of->

As communities across the country continue to face workforce shortages,<sup>5</sup> it is important that the Department of Labor has the resources it needs to decrease processing times.

Accordingly, we ask that you answer the following questions by July 29, 2022:

1. What challenges or constraints has the Department faced in making prevailing wage determinations for immigrant and non-immigrant visa applicants?
2. What steps has the Department taken, and what steps does it plan to take, to decrease prevailing wage processing times?
3. What role does the Department envision the Occupational Employment Statistics program playing in improving processing times?
4. What support can Congress provide to facilitate prevailing wage processing?

We appreciate your attention to this important matter.

Sincerely,



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Amy Klobuchar  
United States Senator



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Susan M. Collins  
United States Senator

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time-limited-authority-to-increase-the-numerical-limitation-for-second-half-of-fy-2022.  
5 News Release, U.S. Bureau of Labor Statistics, Job Openings and Labor Turnover Summary (June 1, 2022), <https://www.bls.gov/news.release/jolts.nr0.htm>.