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United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

April 8, 2013

REPLY TO:

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The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, D.C. 20393

Dear Secretary Napolitano:

On Friday, the number of H-1B petitions exceeded the annual statutory cap. While the Congress debates increasing the numerical limits, it's important for policy makers to know if gender bias is present in the program and playing a part in keeping women out of STEM fields.

For years, I have been concerned that the H-1B visa program has been abused and is failing to meet congressional intent. The program was meant to complement an employer's workforce, and to provide employers with an opportunity to legally bring in highly skilled workers for temporary admission. Instead, we have learned that the program has disadvantaged American workers, including women. The H-1B Benefit Fraud and Compliance Assessment – done by your own department -- acknowledged that many employers disregard the spirit of the law, and find ways to circumvent worker protections to hire cheaper foreign labor.

Recently, Congress heard testimony that highlights the gender bias of some employers who bring in foreign workers through the H-1B visa program. Dr. Karen Panetta, an engineering professor at Tufts University and a past President of Women in Engineering, testified before the Senate Judiciary Committee last month that 85% of H-1Bs working in the outsourcing companies that make up the largest H-1B users are men. The 2010 National Survey of College Graduates done by the National Center for Science and Engineering Statistics indicates that less than 23% of temporary foreign workers in natural science and engineering occupations are women.

I understand that the IEEE-USA filed a Freedom of Information Act months ago requesting gender data on H-1B petition approvals. Gender is specifically recorded on the petition form, yet your department has responded saying it does not know the answer. DHS has released data, but from a different form, the I-94, which counts entries to the country, not individual employee approvals. Still, that data indicates less than 30% of H-1Bs are women. However, the petition data is still needed to get an accurate count.

Committee Assignments:

RANKING MEMBER,
JUDICIARY

AGRICULTURE
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Co-CHAIRMAN,
INTERNATIONAL NARCOTICS
CONTROL CAUCUS

Having the data is critical to understanding the problem and finding an answer. Therefore, I ask that your department provide me with data provided by employers on the I-129 form to better determine how many women get H-1B visas on an annual basis, dating back to 1992. I would also appreciate receiving information on source countries, occupation, and employer to help determine if the imbalance is isolated or broadly-based.

I also ask that your department consider the gender bias issues as it starts to approve H-1B petitions filed for fiscal year 2013. I strongly urge you to do everything within your authority to make sure that the program is used as Congress intended, and that discrimination against women is not tolerated when employers seek to bring in foreign workers.

I look forward to receiving data in a timely manner and seeing the department make every effort to ensure that the H-1B visa program is not working to the detriment of women in STEM fields.

Sincerely,



Charles E. Grassley
United States Senator