

May 13, 2024

The Honorable Brent Parton
Assistant Secretary for Employment and Training
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Modernizing Schedule A to Include the Consideration of Additional Occupations
DOL Docket No. ETA-2023-0006, RIN 1205-AC16

Dear Assistant Secretary Parton,

The Worldwide Employee Relocation Council (WERC) greatly appreciates the opportunity to provide feedback to the Request for Information (RFI) issued by the Department of Labor (DOL) entitled "Modernizing Schedule A to Include the Consideration of Additional Occupations." We applaud the Department for seeking public input on how best to establish a methodology and reoccurring process for revising Schedule A and which occupations should be added to the list of covered professions. We look forward to continuing to work with the Department in modernizing Schedule A to help better ensure that U.S. workers are aware of job opportunities and facilitate access to foreign labor for occupations which experience a chronic shortage of available workers.

About WERC

The Worldwide Employee Relocation Council (WERC) represents talent mobility professionals representing over 2,500 enterprises, including corporations and government agencies moving employees across the United States and around the world. Our membership is also comprised of the many service providers who support the move, such as relocation management companies, movers, real estate brokerages, tax and legal experts, and destination service providers. We are bringing our industry together, helping global mobility and relocation professionals navigate current and emerging sustainability issues and forging the future for our industry and our world.

Need for Updated Immigration Policy for U.S. Businesses and Economy

Worldwide ERC® is committed to supporting strong business immigration policies which provide for the unhindered movement of workers around the globe. Workforce relocation is critical to the financial viability of a business and, in turn, to the vibrancy of local and national economies as well as the global economy. It is therefore vital that business immigration laws, regulations and practices allow for the easy movement of workers throughout the world.

The success of business is dependent on accessing the most productive, talented, and innovative workers wherever they can be found. Increasingly, modern business and the competition for the best talent to drive business and economic growth transcend international boundaries. In order for companies to thrive in the global economy, our members must be able to access needed resources, labor, and innovation in all corners of the globe. Companies need immigration policies that respond to the realities of doing business on a global scale – *allowing foreign citizens to travel and work in a particular country and their nationals to travel and work internationally.*

History and scholarly research and studies support the conclusion that foreign talent makes a significant contribution to business and economic growth through innovation and entrepreneurship. Research shows that immigrants start and own businesses at significantly higher levels than native born citizens, creating long-term economic and job growth. Immigration enriches the health and vibrancy of our society as a whole through the influx of new talent, culture, and ideas.

In a 2023 survey, [C-Suite Outlook 2023: On the Edge \(January 2023\)](#), conducted by The Conference Board, chief executive officers (CEOs) responded that their top internal focus is attracting and retaining talent. The survey included 670 CEOs across the globe. CEOs noted the tight labor markets and skills mismatches along with strict immigration and migration policies being key factors.

Immigration policies need to be designed to support businesses, increase labor productivity, encourage innovation, and generally expand and improve the global economy. Policies should be responsive to business needs to recruit, employ and retain skilled foreign workers. Immigration policies that promote goodwill and reciprocal immigration policies for foreign business and citizens traveling and working abroad. Immigration practices should include border security that protects national security without needlessly burdening authorized immigration and international business travel. Finally, practices should include user-friendly and cost-effective processes and systems to facilitate immigration and border entry.

Occupations to Consider Adding to Schedule A¹

WERC recommends that two specific occupations be added to Schedule A. From the time implemented following the proposal by DOL in 1976 until 1990, previous L-1A intracompany transferees with specialized knowledge were included in Schedule A. DOL removed L-1A from the list following the establishment by Congress of the EB-1C category for multinational executives and managers being transferred to the U.S. from a related qualifying foreign entity. The Department should add intracompany transferees to Schedule A as L-1B as they have specialized knowledge of the operations of the company.

¹ U.S. Immigration Development to Watch: The DOL's Request for Information on Expanding Schedule A Exemption, WERC Public Policy Update, February 12, 2024: Ashlee Drake Berry, Mayreni Heredia, and Angelo Paparelli

Second, owners of startup companies should be added to Schedule A. While it is feasible, it is extremely difficult for entrepreneurs to qualify for employment-based green cards when the company he or she started is the sponsor of the labor certification. Adding these positions would meet the intent of Schedule A and help well-established and new companies more easily bring key personnel to the United States.

Formalizing Schedule A Updating Process

As stated in the RFI, the Schedule A listings have not been expanded since 2004. During the last 20 years, the U.S. workforce alone has not been able to meet demand to fill positions within several occupations with the advances in technology and business practices. Establishing a process and methodology in which DOL will update Schedule A listings will benefit both workers and businesses. We recommend that the Department outline in a proposed rule how often or what determinations the Department will use to update Schedule A.

We also recommend¹ that the DOL establish a process by which to expedite a prevailing wage determination. The current process for determining a prevailing wage necessary to qualify for listing under Schedule A can take six months. A corresponding delay occurs under the immigration visa quota system which is backlogged before triggering the “priority date” under Schedule A. DOL should therefore incorporate into a proposed rule on Schedule A the same expedited process for securing the certification of a prevailing wage that currently exists for the H-1B visa category.

Conclusion

WERC encourages the Department to include L-1B Intracompany transferees and owners in startup companies as part of Schedule A occupations and continue the process to develop a methodology for a reoccurring update of Schedule A. We look forward to providing comments on a proposed rule on the matter.

Thank you for your consideration and please let us know if you have questions or require additional information from us. I can be reached by email at mjackson@worldwideerc.org or phone at 703-842-3411.

Sincerely,



Michael T. Jackson

Vice President of Member Engagement and Public Policy