



R6 – PACIFIC NORTHWEST REGION H2B/LISC TALKING POINTS



MISSION/WORK:

- Contractor's employee jobs are performed under thinning, planting, hazard fuel reduction etc. contracts which agency wide are called Labor Intensive Service Contracts (LISC);
- Prior to American Recovery Reinvestment Act (ARRA) fund receipt, the Pacific Northwest Region established a web site based informational fact sheet for any established or new contractor seeking business opportunities.

BACKGROUND:

- Over the last two years FY 2010 and 2011, all LISC have been setup for Forest Service monitoring;
- All ARRA solicitations were issued and contract awarded with all worker safeguards and protections in the resulting contract (wages, personal protective equipment, housing, transportation, etc. as required by Department of Labor, OSHA and agency provisions);
- H2B and documented foreign workers were not precluded from employment under ARRA contracts;
- The Pacific Northwest Region established an action plan to build monitoring capacity and strengthen internal controls surrounding agency monitoring requirements;
- Inter-agency coordination with the Department of Labor increases federal efficacy in both monitoring and enforcement.

MONITORING/PRE-MONITORING

- Pacific Northwest established a reporting 800# for English and Spanish for awareness of contract infractions. In FY 2010 and 2011, no anonymous or self-identified reports occurred. Only one hang-up call, therefore, this line no longer exist
- Over 700 contractors were contacted in FY2010 by inter-agency leadership reminding all Pacific Northwest LISC contractors of the worker protections afforded to all contractor employees;
- For ARRA, contractors self-reported their employment of H2B guest workers, Migrant and Seasonal employee workers under any Forest Service contracts in FY 2009 and 2010;

OTHER AGENCIES ACTIVITIES

- United States Custom and Immigration (USCIS) is the approving agency for foreign nationals approved under H2B visa. Department of Labor (DOL) is the federal labor enforcement and investigative agency. DOL launched several labor investigations in

FY2011 to meet their mission requirements. DOL investigation occurred on ARRA and non-ARRA LISC contracts. Oregon/Washington Bureau of Labor and Industries are partners that are working to ensure all employees' protections are monitored and meet federal and state requirements.

FY2011 DOL investigated 8 contractors and the most notable finding was workers not being paid for their travel time to and from their work site for their lunch break. This involves walking to and from their worksite.

MAY 3, 2012 MEETING HIGHLIGHTS:

- In attendance were second generation partners as well as new participants for a total of 25.

The new participants include the following:

Enrique Santos, Alliance of Forest Workers and Harvesters (AFWH)
Fernando Guittierez, Oregon WorkSource Center, State of Oregon
Kathy Anderson, FS Legislative Affairs,
Leslye Miller, Washington State WorkSource Center, State of Washington
Martin Compos Davis, Oregon Human Development Corporation
Maureen T. Hyzer, Deputy Regional Forester, Forest Service
Nargess Shadbeh, Oregon Law Center
Tom Silver, Assistant District Director, US Department of Labor, Wage and Hour,
Portland, OR
Donna Hart, District Director, US Department of Labor, Wage and Hour, Seattle, WA

- Merkely's congressional letter dated December 1, 2011 requested the WorkSource Centers be notified of the CFLR project. The representatives from Washington and Oregon WorkSource were in attendance and received Collaborative Forest Landscape Restoration program (CFLR) information for Oregon. Both Leslye Miller and Fernando Guittierez will partner with the FS to insure that the contracting community is aware of H2B/LISC opportunities.
- Carl Wilmsen reported out about the trends in certification of contractors for H2B workers in the Pacific Northwest. This report resulted from a random snowball sampling which is based on individuals referring to other individuals as they are asked questions about specifics.

The following was noted:

-the number of H2B certifications for contractors to hire B2B workers to work in Oregon is lower than in Washington
-the number of certifications for contractors to hire H2B workers in more than one state (CA, OR and WA) is higher for Oregon than Washington and California.
See enclosure.

Sources used for this report:

Foreign Labor Certification Data Center: <http://www.fldatacenter.com/>
Bureau of Labor Statistics, quarterly Census Of Employment and Wages
<http://www.bls.gov/data/#employment>

- Enrique Santos reported that the (AFWH) Promotora program allows for guest workers and Hispanic persons to be reached where they are housed. The workers speak to the Promotora advocacy representatives as they are not seen as a threat. This advocacy group holds workshops and promotes workers keeping journals for how often and how many hours are actually being paid. Other issues which are reported include safety and poor working conditions.
- Donna Hart reported that there are issues for recruitment of US workers and the reporting because of the complex investigations. The main issue is employers have incomplete records of their workforces.
- Tom Silva from DOL presented a PowerPoint presentation about the various Acts they enforce. Some of these Acts includes:
 - Fair Labor Standard Act
 - Migrant and Seasonal Agricultural Worker Protection Act
 - Service Contract Act
 - Employment Eligibility Verification (E-Verify)
 - Safety and Health (OSHA)

The U.S. Department of Labor is stepping up to facilitate the next meeting which is likely to be held during the months of November/December, 2012 timeframe.

CONGRESSIONAL RESPONSES UP-DATES:

The week of June 25, 2012, Region 6 received a inquiry for information about Central Oregon's projects and performance locations. Based upon previous data, all awarded contracts and graphs now represent the appropriate fiscal year of work for locations.

See attachments.