



IMMIGRATION REFORM

SMACNA Position: Immigration reform must perfect an employee eligibility verification system and must provide for aggressive and effective enforcement against employers who violate the law; must use Davis-Bacon as a wage floor for construction to ensure guest workers, temporary workers or those gaining earned legal status are paid at a competitive rate; and must address homeland security issues such as enhanced border security and full enforcement of immigration law. Under no circumstances, in any reform proposal, should a construction contractor be held responsible for the hiring practices of his subcontractors, his materials suppliers or any other entity.

Background: Last Congress, the Senate and House could agree only on a border security bill (PL 109-367). They were unable to agree on broader immigration overhaul. The most contentious issue then and now is what to do about an estimated 11 to 13 million illegal immigrants already in the U.S. Most recently the Senate was not able to agree on a comprehensive immigration bill.

The government currently has a voluntary electronic verification program called Basic Pilot which allows employers to access a data base of green card and employment authorization document photos. Enhanced photo identification tools have been added to help address concerns regarding identity fraud. If the program is to be mandatory, the Basic Pilot must be fairly enforced, easy to use, accurate and reliable.

Earlier in 2007, in the Minimum Wage/Small Business Tax Breaks bill (H.R. 2), the Senate approved 94-0 an amendment by Senator Sessions (R-AL) that would debar companies for 12 years if they have government contracts and have illegal aliens on the payroll. Penalties would be waived for companies using the Basic Pilot Program. Companies that do not currently have government contracts but hire illegal aliens would be barred from government contracts for 10 years. This is opposed by many in the business community as too harsh and without legal recourse. This was not included in the Senate bill debated this year.

Last year, during debate on the immigration reform bill, the Senate adopted an amendment by Senator Obama (D-IL) that would have established Davis-Bacon wage rates as the prevailing wage for guest workers in construction--that was not included in the Senate bill this year. The purpose was to ensure that employers who use guest workers in an area covered by a collective bargaining agreement would have to use the Davis-Bacon as the prevailing wage. If collective bargaining agreements or Service Contract Agreements did not apply, the Department of Labor would have to calculate a prevailing wage.

Last year, during House debate on immigration reform an amendment by Rep. Westmoreland (R-3-GA) to remove liability for contractors who unknowingly use subcontractors or sub-subcontractors that employ illegal immigrants was adopted. Some language on this was included but improvements were needed.

Status: *The Senate has been unable to get the 60 votes required for cloture to end debate so a vote could be held on Comprehensive Immigration Reform and Majority Leader Reid has pulled the bill from the Senate floor for now. It is unclear if the House will take the immigration issue to the floor. There are roughly 65 bills introduced in the House regarding various aspects of immigration. H.R. 1645 (Reps. Gutierrez, D-4-IL & Jeff Flake, R-6-AZ) is the primary comprehensive reform bill. There are approximately 25 immigration bills in the Senate.*



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Key Points:

- As long as employers are offering jobs to illegal workers, the flow of illegal immigrants into the U.S. will continue. |
- Hiring of illegal's is unfair to U.S. workers who want jobs at a living wage and with protections U.S. laws afford and creates an underclass of workers. It is also unfair to lawful employers who willingly compete with other lawful employers but cannot remain competitive against employers using illegal workers. |
- Basic Pilot is being updated and improved and there are waivers from penalties for employers who use the Basic Pilot system. | The H-2B visa system for construction needs to be streamlined. The definition of "temporary need" should be consistently applied to avoid delays and abuse. | Aggressive and effective efforts to control the border along with unfailing enforcement & sanctions for employers that use illegal immigrants are essential to stem a new influx from occurring after enactment of new immigration reform.
- Contractors should not be held accountable for the unlawful hiring practices of their subcontractors or material suppliers.

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