HISTORY OF DOL RULEMAKING ON THE PREVAILING WAGE PAID TO H-2B GUESTWORKERS

The H-2B Comprehensive Final Rules released by the Department for Labor (DOL) on Feb. 10, 2012 do not cover how the prevailing wage is calculated.

The history of the prevailing wage rulemaking process is the following:


Sep. 28, 2011: The DOL delayed the effective date of a new prevailing wage final rule for the H-2B program by 60 days, until Nov. 30, 2011.

Nov. 17, 2011: The Senate approved a conference report that combined a minibus spending bill and a continuing resolution extension to keep the government funded for almost another month. The measure passed 70-30, hours after it passed the House 298-121, and President Obama signed the bill on Nov. 18, including language that prevented implementation of the prevailing wage during fiscal year 2012 (through Sep. 30, 2012):

“None of the funds made available by this or any other Act for fiscal year 2012 may be used to implement, administer, or enforce, prior to January 1, 2012, the rule entitled ‘Wage Methodology for the Temporary Non-agricultural Employment H-2B Program’ published by the Department of Labor in the Federal Register on January 19, 2011 (76 Fed. Reg. 3452 et seq.).”

Dec. 30, 2011: DOL issued a federal register notice saying they would continue using the old method for calculating the prevailing wage.

For more information, please see the NGA’s H-2B Policy Resource page (guestworkeralliance.org/h2b-new-rules/) or contact NGA’s legal director: Jennifer Rosenbaum, jjrosenbaum@guestworkeralliance.org, (504) 309-5165