

“Section 286(s)—H-1B Nonimmigrant Petitioner Account (As Amended)

(1) In General.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘H-1B Nonimmigrant Petitioner Account.’

Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under 8 U.S.C. 1184 (c)(9)(section 214(c)(9)).

(2) Use of Fees for Job Training.—55 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998.”

“SEC. 111. Demonstration Programs and Projects To Provide Technical Skills Training for Workers.

Section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105-277; 112 Stat. 2681-653) is amended to read as follows:

(c) Demonstration Programs and Projects To Provide Technical Skills Training for Workers.—

(1) In General.—

(A) Funding.—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(B) Training Provided.—Training funded by a program or project described in subparagraph (A) shall be for persons who are currently employed and who wish to obtain and upgrade skills as well as for persons who are unemployed. Such training is not limited to skills levels commensurate with a four-year undergraduate degree, but should include the preparation of workers for a broad range of positions along a career ladder. Consideration shall be given to the use of grant funds to demonstrate a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business or with a labor-management training program or project. The need for the training shall be justified through reliable regional, state, or local data.

(2) Grants.—

(A) Eligibility.—To carry out the programs and projects described in paragraph (1)(A), the Secretary of Labor shall, in consultation with the Secretary of Commerce, subject to the availability of funds in the H-1B Nonimmigrant Petitioner Account, award—

(i) 75 percent of the grants to a local workforce investment board established under section 116(b) or section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832) or consortia of such boards in a region. Each workforce investment board or consortia of boards receiving grant funds shall represent a local or regional public-private partnership consisting of at least—

(I) one workforce investment board;

(II) one community-based organization or higher education institution or labor union; and

(III) one business or business-related nonprofit organization such as a trade association: Provided, That the activities of such local or regional public-private partnership described in this subsection shall be conducted in coordination with the activities of the relevant local workforce investment board or boards established under the Workforce Investment Act of 1998 (29 U.S.C. 2832); and

(ii) 25 percent of the grants under the Secretary of Labor's authority to award grants for demonstration projects or programs under section 171 of the Workforce Investment Act (29 U.S.C. 2916) to partnerships that shall consist of at least 2 businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under clause (i), due to barriers in meeting those partnership eligibility criteria, on a national, multi state, regional, or rural area (such as rural telework programs) basis.

(B) Designation of Responsible Fiscal Agents.—Each partnership formed under subparagraph (A) shall designate a responsible fiscal agent to receive and disburse grant funds under this subsection.

(C) Partnership Considerations.—Consideration in the awarding of grants shall be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

(D) Allocation of Grants.—In making grants under this paragraph, the Secretary shall make every effort to fairly distribute grants across rural and urban areas, and across the different geographic regions of the United States. The total amount of grants awarded to carry out programs and projects described in paragraph (1)(A) shall be allocated as follows:

(i) At least 80 percent of the grants shall be awarded to programs and projects that train employed and unemployed workers in skills in high technology, information technology, and biotechnology, including skills needed for software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services.

(ii) No more than 20 percent of the grants shall be available to programs and projects that train employed and unemployed workers for skills related to any single specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act.

(3) Start-Up Funds.—

(A) In General.—Except as provided in subparagraph (B), not more than 5 percent of any single grant, or not to exceed \$75,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

(B) Exception.—In the case of partnerships consisting primarily of small businesses, not more than 10 percent of any single grant, or \$150,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

(C) Duration of Start-Up Period.—For purposes of this subsection, a start-up period consists of a period of not more than 2 months after the grant period begins, at which time training shall immediately begin and no further Federal funds may be used for start-up purposes.

(4) Training Outcomes.—

(A) Consideration for Certain Programs and Projects.—Consideration in the awarding of grants shall be given to applicants that provide a specific, measurable commitment upon successful completion of a training course, to—

(i) hire or effectuate the hiring of unemployed trainees (where applicable);

(ii) increase the wages or salary of incumbent workers (where applicable); and

(iii) provide skill certifications to trainees or link the training to industry-accepted occupational skill standards, certificates, or licensing requirements.

(B) Requirements for Grant Applications.—Applications for grants shall—(i) articulate the level of skills that workers will be trained for and the manner by which attainment of those skills will be measured; (ii) include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness; and (iii) in the case of an application for a grant under subsection (c)(2)(A)(ii), explain what barriers prevent the strategy from being implemented through a grant made under subsection (c)(2)(A)(i).

(5) Matching Funds.—Each application for a grant to carry out a program or project described in paragraph (1)(A) shall state the manner by which the partnership will provide non-Federal matching resources (cash, or in-kind contributions, or both) equal to at least 50 percent of the total grant amount awarded under paragraph (2)(A)(i), and at least 100 percent of the total grant amount awarded under paragraph (2)(A)(ii). At least one-half of the non-Federal matching funds shall be from the business or businesses or business-related nonprofit organizations involved. Consideration in the award of grants shall be given to applicants that provide a specific commitment or commitments of resources from other public or private sources, or both, so as to demonstrate the long-term sustainability of the training program or project after the grant expires.

(6) Administrative Costs.—An entity that receives a grant to carry out a program or project described in paragraph (1)(A) may not use more than 10 percent of the amount of the grant to pay for administrative costs associated with the program or project.

(2) INA

The Immigration and Nationality Act (INA)(section 101(a)(15) (H)(i)(b))(8 U.S.C. 1101 (a)(15)(H)(i)(B)) defines the H-1B alien as one “who is coming temporarily to the United States to perform services in a specialty occupation * * * or as a fashion model * * *”