

The Minot Daily News

Minot, North Dakota

Friday, September 21, 2007

Businesses encouraged to use immigration to find employees

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With North Dakota finding itself short of workers, the Minot Area Chamber of Commerce and the Small Business Development Center sponsored a workforce recruiting workshop Wednesday at the Holiday Inn-Riverside.

Loan Huynh, an officer in the Immigration Department at Fredrikson & Byron P.A. in Minneapolis spoke to participants about learning how to use immigration to assist them in hiring skilled workers, keeping up with current immigration trends and laws, and demonstrating how a company must be in compliance with both labor and immigration laws.

“I hope to have a conversation with you and share in the knowledge of hiring foreign national workers,” Huynh said. “There are different options to bring workers into the United States lawfully.”

Huynh said immigration is a hot topic among employers across the United States, as they’re finding themselves short of workers. However, she is not advocating taking away jobs from U.S. citizens and specifically the residents of North Dakota.

“We are continuing to find employers have a need to hire foreign nationals,” Huynh said. “We don’t see taking away jobs from North Dakota as there is a worker shortage. Employers must hire within the law and have various options.”

Before going into the specific details about the hiring options available to employers, Huynh wanted to ensure that participants were familiar with the Department of Homeland Security, the entity responsible for Immigration, and the departments that fall underneath it. On Nov. 25, 2002, President Bush signed the Homeland Security Act of 2002, and on March 1, 2003, Immigration Naturalization Service was abolished, its function and units being incorporated into the new department. These departments include Secretary of Homeland Security, Undersecretary and Border Transportation Security, Customs and Border Protection, Immigration and Customs Enforcement, and United States Citizenship & Immigration Services and its offices.

“It’s nice to have familiarization when dealing with immigration departments,” Huynh said.

Huynh then touched on the basics of different nonimmigrant employment visas options. The positions for these visas are temporary with no intentions of foreign nationals receiving a green card. These nonimmigrant visas include H-1B, Specialty Occupation; TN, Status for Citizens of Mexico & Canada; J-1, Trainee Programs; O-1, Extraordinary Ability; L-1A/L-1B, Intra-company transferees; H-2B,

Nonagricultural workers; and B-1/B-2, Business visitors or tourists.

H-1B, Specialty Occupations, requires employer sponsorship, a bachelor's degree in a specific field related to the job the foreigner is applying for, and filing fees by the employer.

TN, Status for Citizens of Mexico & Canada, was established for the North American Free Trade Agreement with Canada and Mexico and requires sponsorship, is limited to one year, and allows for jobs specifically outlined in the NAFTA agreement.

J-1, Trainee Programs, requires sponsorship from an employer and is limited to 18 months.

O-1, Extraordinary Ability, requires sponsorship from an employer or agents, have an indefinite extension. This visa was traditionally associated with foreign athletes or dancers, but scientists, including bio-medical researchers, are falling under this category.

L-1A/L-1B, Intra-company transferees, allows those working at U.S.-established companies in another country to transfer to another branch established by the same company in the United States for a short period of time.

H-2B, Nonagricultural workers, is a one-time, season or peak-load need, and is subject to a cap of 66,000 and requires labor certification.

B-1/B-2, Business visitors or tourists, is short term only and the key is the salary must come from an entity abroad.

If employers do not follow the laws in hiring foreign nationals, Huynh told participants consequences can occur, including paperwork violations for improper I-9s, Employment Eligibility Verification forms, and hiring violations.

“Everybody needs to make sure they’re in compliance,” Huynh said.

Huynh has been an immigration lawyer since 1995 and practices exclusively in immigration and nationality law, focusing on employment and family-based immigration, worksite enforcement issues including employer sanctions and I-9 compliance and audits, nonimmigrant visas and naturalization. She has experience in assisting multinational corporations with their U.S. and global immigration needs and assisting employers with immigration-related worksite enforcement issues. Huynh is a frequent speaker and has written articles on various immigration issues.
