

Response to Questions for the Record from Katie Mahoney, Executive Director, Health Policy  
U.S. Chamber of Commerce

July 25, 2013

**Questions from The Honorable Michael C. Burgess:**

1. Do employers have an incentive to stop employing U.S. citizens and instead employ (sic) Registered Provisional Immigrants to avoid paying a penalty?

Employers fill jobs by finding candidates who meet the requirements to perform in an open job for the business. In consulting with the U.S. Chamber of Commerce's Immigration Policy experts, I understand that the employment eligibility confirmation process only is permitted after hiring (once the employer has offered and an employee has accepted a position). We know of no lawful means, except after hiring, for an employer to confirm as an employment practice whether job applicants hold a particular immigration status. Therefore, not only is it impermissible for an employer to ask for job applicants' immigration status prior to already selecting a candidate to fill a job, it is counter-intuitive to normal business operations to select workers based on an immigration status instead of skill set.

The question also presumes a fair amount of certainty regarding how the "free rider" (employer mandate) penalties will work once implemented. However, until the IRS issues future guidance or regulations as to both the information reporting requirements and the associated penalties (the so called "free rider" penalties), it is difficult to assess how business practices may change based on the intersection between the implementation of these health care law requirements and possible immigration reform provisions.

Significantly, the phrasing of this question ignores the fact that economic analysis shows that the undocumented, working in lesser-skilled jobs, complement instead of compete with native-born workers. Economists looking at today's labor force find disproportionately higher numbers of foreign born workers who are the least educated (no high school degree) and most educated (doctorate) and find that most-native born workers are not directly competing with immigrants for jobs.<sup>1</sup> Even when native-born workers and immigrants work in the same occupation or industry or the exact same business, researchers find these differences lead to task specialization.<sup>2</sup> Thus, immigrants and native-born workers complement each other far more often than they compete.<sup>3</sup>

2. How would the increased hiring of RPIs in place of U.S. citizens affect the U.S. job market?

Again in consulting with our immigration policy experts here, the U.S. Chamber of Commerce does not believe there will be hiring of RPIs to replace U.S. citizens.

Moreover, if Congress ultimately passes legislation providing an earned lawful status for workers who are currently undocumented, it is expected that, in addition to increases in federal income taxes paid, there will be a general expansion of employment for native-born workers. A

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<sup>1</sup> Pia Orrenius and Madeline Zavodny, *From Brawn To Brain: How Immigration Works for America*, 2010 Annual Report (Dallas, TX: Federal Reserve Bank of Dallas, 2010).

<sup>2</sup> Giovanni Peri, "The Effects of Immigrants on U.S. Employment and Productivity," FRBSF Economic Letter 2010-26 (San Francisco, CA: Federal Reserve Bank of San Francisco, August 30, 2010).

<sup>3</sup> Michael Greenstone and Adam Looney, *Ten Economic Facts About Immigration* (Washington, D.C.: The Hamilton Project, Brookings Institution, September 2010).

recent study by an economic forecasting firm, Regional Economic Modeling Inc., examined the impact of the U.S. job market if those individuals living here illegally were to gain legal status and concluded there would be a net gain in overall jobs and an increase in gross domestic product over both the short and long-term.<sup>4</sup>

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<sup>4</sup> Frederick R. Treyz, Ph.D., Corey Stottlemyer, and Rod Motamedi, “Key Components of Immigration Reform: An Analysis of the Economic Effects of Creating a Pathway to Legal Status, Expanding High-Skilled Visas, & Reforming Lesser-Skilled Visas,” (Washington, D.C.: REMI, July 17, 2013).