United States Senate
WASHINGTON, DC 20510

April 9, 2015

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Jeh C. Johnson
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

The Honorable Thomas E. Perez
Secretary
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Re: Displacement of U.S. Workers by H-1B Visa Holders

Dear Attorney General Holder and Secretaries Johnson and Perez:

We are concerned about recent information that has come to light regarding the abuse of the H-1B visa program by Southern California Edison (SCE) and other employers to replace large numbers of American workers. We urge you to investigate this matter.

A number of U.S. employers, including some large, well-known, publicly-traded corporations, have reportedly laid off thousands of American workers and replaced them with H-1B visa holders. To add insult to injury, many of the replaced American employees report that they have been forced to train the foreign workers who are taking their jobs. This troubling practice seems to be particularly concentrated in the information technology (IT) sector, which is not surprising given that sixty five percent of H-1B petitions approved in FY 2014 were for workers in computer-related occupations. Though such reports of H-1B-driven layoffs have been circulating for years, their frequency seems to have increased dramatically in the past year alone.

In many cases it appears that the H-1B workers are not employees of the U.S. company laying off American workers, but instead are contractors employed by foreign-owned IT consulting companies. This increasingly popular business practice by U.S. companies and foreign-owned IT outsourcing firms raises several questions. For example, have the U.S. companies that have laid off American workers and replaced them with H-1B workers and/or the IT consulting contractors the companies retained engaged in prohibited citizenship status discrimination against U.S. citizens? Did the Labor Condition Applications certified by the Department of Labor's Employment and Training Administration and the petitions approved by U.S.

Citizenship and Immigration Services for each H-1B visa holder who replaced a U.S. worker at these companies accurately reflect the scope and location of their work? Did such labor condition applications or visa petitions show any evidence of misrepresentation or fraud by the employer-petitioners? Did the employer-petitioners maintain a true employer-employee relationship with the H-1B workers after they were placed at the U.S. client company? While media reports indicate that the H-1B visa program is the principal visa program at issue in the layoffs, were other visa programs, such as the L-1B or the B-1, also used to displace American workers at U.S. companies?

We respectfully request that you investigate the unacceptable replacement of American workers by H-1B workers to ascertain whether SCE or any other U.S. companies that have engaged in this practice, or the IT consulting companies supplying those companies with H-1B workers, have violated the law. Additionally, please notify us of any obstacles in existing law to conducting such an investigation.

Thank you for your prompt attention to this matter.

Sincerely,

RICHARD J. DURBIN
United States Senator

JEFF SESSIONS
United States Senator

RICHARD BLUMENTHAL
United States Senator

CHARLES E. GRASSLEY
United States Senator

SHERROD BROWN
United States Senator

DAVID VITTER
United States Senator

CLAIRE MCCASKILL
United States Senator

BILL CASSIDY
United States Senator

BERNARD SANDERS
United States Senator

JAMES M. INHOFE
United States Senator

cc: Leon Rodriguez, Director, U.S. Citizenship and Immigration Services
Alberto Ruisanchez, Deputy Special Counsel, Office of Special Counsel for Immigration-Related Unfair Employment Practices, U.S. Department of Justice
Dr. David Weil, Administrator, Wage and Hour Division, U.S. Department of Labor
Portia Wu, Assistant Secretary of Employment and Training Administration, U.S. Department of Labor