

February 14, 2024

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Administrator  
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Employment and Training Administration  
Department of Labor  
200 Constitution Avenue NW, N-5311  
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**RE: Labor Certification for Permanent Employment of Foreign Workers in the United States**

The American Society for Biochemistry and Molecular Biology is an international nonprofit scientific and educational organization that represents more than 10,000 students, researchers, educators and industry professionals. The ASBMB strongly advocates for strengthening the science, technology, engineering and mathematics (STEM) workforce, supporting sustainable funding for the American research enterprise, ensuring diversity, equity and inclusion in STEM, and addressing emerging issues in the scientific enterprise.

The Department of Labor published a [request for information](#) on Dec. 21, 2023, seeking public comment on revising the Schedule A occupations of the permanent labor certification process to include STEM occupations and data sources to determine labor shortages.

The ASBMB is pleased to provide feedback for the following questions:

**Question 1:** Besides the OEWS, ACS and CPS, what other appropriate sources of data are available that can be used to determine or forecast potential labor shortages for STEM occupations by occupation and geographic area?

***Recommendation 1.1: The DOL should include the National Science Foundation's National Center for Science and Engineering Statistics Surveys to gain further insight into the employee STEM workforce.***

NSF's [National Center for Science and Engineering Statistics](#) is one of 13 principal federal statistical agencies that is committed to providing objective and transparent data related to the STEM enterprise in the United States with relevance to practitioners, researchers, policymakers, and the public.

The ASBMB urges the DOL to include the surveys in the NCSES focused on the [science and engineering workforce](#). These surveys provide information on potential employees who have or will be entering the workforce and data on such things as field of study, level of highest degree, occupation, and foreign-born scholars/workers. The NCSES also has data on the [U.S. STEM education and labor force](#) with a focus on STEM workers by state (Figure 9) and foreign-born workers by highest degree level and major occupation (Figure 11).

Foreign talent, both students and workers, are essential for the U.S. STEM enterprise. U.S. domestic talent alone does not fulfill the needs of the STEM workforce, and meeting those needs is essential for

continued U.S. leadership in discovery and innovation. In the Survey of Earned Doctorates by the NSF, 34% of all doctorate recipients (19,633 recipients) were temporary visa holders in 2022 ([Table 1-7](#)). As of 2019, foreign-born talent made up [23.1% of all STEM workers](#) in the U.S.

***Recommendation 1.2: The DOL should collaborate with NCSES survey managers.***

The DOL could benefit from collaborating with NCSES survey managers to 1) gain additional information about the survey methodologies and 2) expand the survey to include questions that can provide further insight into labor shortages for STEM in the U.S.

***Recommendation 1.3: The DOL should reach out to major industry employers for input on their experiences with STEM labor shortages.***

By collaborating with major industry employers, the DOL can gain insight on the employers' experiences with labor shortages in specific [STEM domains](#) within the [OEWS occupations list](#). For example, if biotechnology and manufacturing employers are finding it difficult to fill entry-level positions, the DOL can further evaluate this domain and determine approaches for Schedule A priorities.

**Question 4:** Should the STEM occupations potentially added to Schedule A be limited to those OEWS occupations used in most of the recent BLS publications, or should the STEM occupations be expanded to include additional occupations that cover STW occupations?

***Recommendation 2: The BLS's OEWS occupation list should be added to Schedule A***

The ASBMB commends the DOL's efforts to add the BLS's OEWS occupation list to Schedule A. The OEWS occupation list is inclusive of the various [STEM occupations and fields of study](#) listed in NCSES surveys. By expanding Schedule A to include OEWS occupations for STEM, U.S. employers will have different avenues to encourage foreign talent to stay in the U.S. and contribute to the research enterprise. It is essential to continue investing in talented foreign-born professionals to sustain the research enterprise given the shortfall in domestic talent.

***Recommendation 3: The DOL should update the definition for group II in Schedule A to provide quantifiable measures/skillsets that match industry needs for employers***

Currently [Schedule A](#) is restrictive, with Group II occupations consisting of "immigrants of exceptional ability in the sciences or arts" and requiring the employer to submit documentation that fulfills two of the seven categories: 1) internationally recognized prizes/awards for excellence in the field, 2) membership in international associations that require outstanding achievement of their members, 3) published materials in professional publications, 4) evidence of participation on panel as a judge, 5) evidence of original scientific or scholarly research contributions of major significance in the field, 6) evidence of authorship of published scientific or scholarly articles in the field, or 7) evidence of the display of the beneficiary's work in the field.

The Schedule A formatting is focused on markers of exceptional ability in traditional academic settings. However, the labor shortages for entry-level STEM positions within industry would be difficult to fulfill using these criteria. The ASBMB urges the DOL to incorporate markers for different STEM domains that focus on skillsets that match the industry needs for research/development in the U.S. The DOL should thoroughly engage with the STEM community to collect data on skillsets needed by each field of study to be considered qualified.



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Other countries are proactively establishing [national policies and marketing strategies](#) to attract and retain degreed foreign talent. This revision in Schedule A could help create opportunities to retain STEM talent and for the U.S. bioeconomy to thrive.

On behalf of the ASBMB's more than 10,000 scientists and researchers, thank you for your attention to this matter. Additional questions can be directed to the Director of Public Affairs, Sarina Neote, at [publicaffairs@asbmb.org](mailto:publicaffairs@asbmb.org).