



Issue Date: 22 January 2020

CASE NO.: 2019-TNE-00005

In the Matter of:

**ADMINISTRATOR, WAGE AND HOUR DIVISION,
UNITED STATES DEPARTMENT OF LABOR,**
Prosecuting Party

v.

**IMPACT GOUNDS MAINTENANCE &
DESIGN,**
Respondent.

DECISION AND ORDER APPROVING CONSENT FINDINGS

This matter arises under the Immigration & Nationality Act Of 1952 (“the INA”), P.L. 82-414, Stat. 163 codified as amended at 8 U.S.C. § 1101 *et seq.* Jurisdiction in this matter is vested in the U.S. Department of Labor Office of Administrative Law Judges by INA § 212(n)(2), 20 C.F.R. § § 655.2(b) and 29 C.F.R. Part 503. On September 18, 2018, the United States Department of Labor (“DOL”), Wage and Hour Division, issued a Determination Letter alleging violations of the H-2B provisions of the INA by the Respondent, resulting in civil money penalties (“CMPs”) in the amount of \$50,442.26. Following mediation, the parties agreed to settle the matter for \$20,000 in CMPs related to alleged violations during the 2014-2016 calendar years. On January 7, 2020, the parties submitted a letter with their proposed consent findings and a separate Settlement Agreement. (“Agreement.”), which are attached and hereby incorporated into this Decision and Order Approving Consent Findings. The Agreement is signed by both parties.

To summarize the terms the parties have agreed upon, the parties agree that the monetary provisions of these Consent Findings shall be deemed satisfied by Respondent upon the satisfaction of the following terms:

1. Respondent agrees to pay civil money penalties of \$20,000 related to the alleged violations of the H-2B provisions of the INA. Such consent shall not be regarded as an admission of liability or fault by any party, including Respondent. Payment

shall be made according to the process outlined in the Agreement.

Furthermore,

2. Respondent agrees to comply with the H-2B regulations, 20 C.F.R. § 655 Subpart A at 20 C.F.R. § 655.1 *et seq.*, including, but not limited to, complying with the requirements to pay the offered wage and to allow U.S. workers to apply for all available job classifications.
3. The parties agree that the order disposing of this proceeding in accordance with the Consent Proceedings shall have the same force and effect as an order made after a full hearing pursuant to Subpart A of 20 C.F.R. Part 655 in accordance with 29 C.F.R. 20 C.F.R. § 18.9(b)(1).
4. The entire record upon which this Order is based shall consist solely of the Determination Letter, Request for Hearing, previously filings with this Office, and the Consent Findings within this Order.
5. The parties waive any future procedural steps before an administrative law judge of the U.S. Department of Labor regarding this matter.
6. The parties waive any right to challenge or contest the validity of these Consent Findings entered into in accordance with the Agreement.
7. By the approval of the undersigned to the Agreement as encompassed by these Consent Findings, all violations alleged in the Determination Letter issued by the Prosecuting Party in the above-reference case are resolved.
8. Each party agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

Accordingly,

IT IS HEREBY ORDERED that the Consent Findings filed on January 7, 2020, as outlined above, and as further delineated in the Settlement Agreement, are **APPROVED**, and thereby become the final order of the Secretary and may be enforced pursuant to 29 C.F.R. §1982.113.

IT FURTHER ORDERED that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**.

JOHN P. SELLERS, III
ADMINISTRATIVE LAW JUDGE