June 9, 2015

Fort Bend County
Cheryl Krejci, CPPB
Senior Buyer
Purchasing Department

Re: Fort Bend County Bid 15 – 008 Term Contract for County Right-Of-Way Finish Cut Mowing

Dear Ms. Krejci,

BIO Landscape & Maintenance, Inc. would like to re-new this contract with a request of a 3% rate increase at this time due to the inclination of costs in health care (ACA), insurance, and our seasonal work force.

Current Pricing	Proposed 3% Increase Pricing
Rough Mowing of ROW's - $17.90/acre	$18.44/acre
Finish Cut Mow of ROW's - $42.00/acre	$43.26/acre

We have enjoyed working with Fort Bend County on this project and would like to continue to service the contract through September 30, 2016. We will put forth our best effort to grow and strengthen our relationship. Thank you for the opportunity.

Sincerely,

Bryan Hose
Certified Arborist TX-3534A
Director of Maintenance Operations
BIO Landscape & Maintenance, Inc.

Krejci, Cheryl

From: Hose, Bryan <bhose@biolandscape.com>
Sent: Friday, July 10, 2015 6:39 PM
To: Krejci, Cheryl
Cc: Sivils, Jim
Subject: RE: Increase request documentation needed for B15-008 & B15-040
Attachments: H-2B rules and comment submission - Bio - june 2015.pdf; Renewal Job# 15-008 ROW Mowing.docx; Renewal Job# 15-040 Freedom Park.docx

Cheryl,

Thanks for reaching out.. Attached is a supporting doc that I'd like to share with you that shows that the DOL has moved our seasonal H2B labor work force rates from $9.52 to $11.35. We are in the middle of a law suit with a number of other companies trying to fight this battle of increased cost in our labor as it effects our firm and our clients costs of doing business.

The 3% increase we are requesting is fair and reasonable for both parties considering the impact the DOL will have directly on our business. Hope this helps, but if you need more from me please don't hesitate to reach out again. Have a good weekend!

From: Krejci, Cheryl [mailto:Cheryl.Krejci@fortbendcountytx.gov]
Sent: Tuesday, July 07, 2015 10:03 PM
To: Hose, Bryan
Subject: Increase request documentation needed for B15-008 & B15-040
Importance: High

Please provide your increase documentation as stated in the attached contracts in Section 1.35..

Thank you,

Cheryl Krejci, **CPPB**
Senior Buyer
Fort Bend County Purchasing
301 Jackson Suite 201
Richmond TX 77469
281-341-3759 ☎
cheryl.krejci@fortbendcountytx.gov

June 29, 2015

Adele Gagliardi
Administrator, Office of Policy Development and Research
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Room N-5641
Washington, DC 20210

Re: RIN 1205-AB76, 1615 – AC06 Temporary Non-Agricultural Aliens in the United States, Interim Final Rule; written comments from Bio Landscape and Maintenance, Inc.

Dear Ms. Gagliardi:

On behalf of Bio Landscape and Maintenance, Inc. ("Bio") in Houston TX, I am submitting the following comments and requests for modifications to the recently promulgated Interim Final Regulations referenced above.

The rules released on April 29 2015for the H-2B program will result in significant damage to our customer relationships and retention, business reputation, local workforce, size of our business, and our profitability, as they will force our company to significantly raise prices to current and future customers in a market with alternatives not clearly considered by these new rules. There are far better ways for the Departments of Homeland Security and Labor to accomplish the objectives we all seek, including fairly protecting existing and job seeking US workers, than what has been put forth. While these evaluations should have been done BEFORE these new rules were made effective on April 29, we are urgently requesting that DHS and DOL review the issues noted below, and modify the proposed rules to address these issues and make the rules for the H-2B program work far more effectively for legal and compliant US Businesses.

In several hundred pages of rules, explanation, summary of prior inputs and supporting rationale for the new H-2B rules, the impact of 3 key and related issues for a southern landscape company has been ignored, and I suspect many other businesses across the country:

1. The very real presence of undocumented workers in the landscape industry (or other industries) is not addressed at all by DOL or DHS in the imposition of these new rules, yet **the new rules create significant new competitive disadvantages for legal/compliant companies** vs those that

employ a large and readily available undocumented worker population, making an already problematic situation even worse.

2. **The OES Mean Wage requirement misses very meaningful differences and creates a distorted/ inaccurate view** of how wages apply and appropriately work in an effective work environment. Put differently, there is a complete disconnect between how an effective landscape crew (or field team in other businesses) actually works versus the "OES mean wage". **The new April 29 rules make these problems vastly more pronounced going forward**, and
3. The simple Math of the **OES Mean Wage process will mean massive bi-annual wage inflation** going forward.

Not one of these three key issues was addressed in the publication of the recent new rules, and their impact has now become significantly more problematic with the new changes made on April 29, 2015 that eliminate DBA and SCA based prevailing wages and curtail private wage survey based prevailing wages, and add a corresponding employment requirement to this far more narrow and problematic definition of prevailing wages. We request that DOL and DHS clearly address these issues BEFORE these rules cause further damage.

As suggested by the guidance in the Federal Register, the numbers in the examples provided below are representative, but not our actuals, as these comments will be made public and we are protecting our company confidential information. They are very directionally accurate, and provide realistic examples. We would be happy to share actual data with you on a confidential basis.

Before going through these issues, some quick background: Bio was founded in 1982, serving targeted landscaping needs in Houston, TX. Our business priorities are Safety, Customer Retention, Profitability, Growth and building our Team, in that order. Those clear priorities have resulted in Bio becoming the largest landscape provider in Houston TX. We operate from four different branches across the metropolitan area, and currently employ several hundred full time year round personnel, as well as several hundred H-2B personnel. Bio began using the H-2B program in 1995, and the program has been a win for our local employees and our customers, as well as for the H-2B employees and the business. We further think it important to point out that we share many of the same objectives and are aligned on the same desired outcomes that we believe the Department of Labor and Department of Homeland Security seek:

- We operate a fully legal and compliant business – we only employ workers with proper documentation.
- We want an H-2B program that does not generate any harm to US workers. We are ALWAYS recruiting locally year-round for US workers Utilizing the H-2B program for the seasonal ramp up and ramp down enables more consistent employment opportunities for our local US personnel.
- We treat all of our employees fairly and as professionals, and our extraordinarily high level of H-2B workers who return year after year are a strong indication of the attractive working environment created at Bio. This year over 75% of our H-2B personnel previously worked with Bio.
- We follow the required processes.

- And we need to get to a consistent and effective program. This program has been shut down twice in the last 3 years (right in the middle of the spring ramp up in the landscape industry, and each of these led to schedule nightmares and infuriated customers). Changes in employment policies cause massive cost, management and planning impacts on businesses, and price impacts on our customers, and surprise changes in labor availability cause massive service, retention, planning, scheduling, and safety issues.

We are hopeful that the DOL and DHS still share an objective of making a WORKABLE and EFFECTIVE H-2B program available to legal and legitimate US employers. My understanding is this was H-2B program experience prior to 2008.

1. **The new rules create significant new competitive disadvantages for Legal/Compliant companies vs those that employ a large and readily available undocumented worker population, making an already problematic situation even worse.**

The stark reality in Houston, with its proximity to the border with Mexico, is that there is NO shortage of landscape labor in Houston, but there is an extreme shortage of legal and documented landscape labor. It is against the law to knowingly hire and employ persons without a documented legal right to be employed. Bio follows the law. However, many of Bio's competitors supplement their US workforce by utilizing these readily available undocumented laborers to fulfill their customer commitments. This is a more common than uncommon practice in Houston. An unscrupulous landscape company employing significantly lower cost undocumented workers will underbid a company like Bio which obeys the law if new laws add excessive cost and other burdens to compliant employers. There is no greater adverse effect to an employed U.S. worker than losing his or her job because the company he or she works for is underbid by a company which does not obey the law. This appears to be a major consideration for implementing the H-2B program, and DHS is chartered with both enforcing these laws and with administering the H-2B program, but neither DOL nor DHS seem to have addressed this consideration in the published support rationale for the new rules. This is a critical omission.

These undocumented laborers are not being paid "the OES mean" wage, or anything close to it. Companies that utilize them bypass the wage requirements of the H-2B program, and all the management, planning, bureaucracy, reporting, and requirements that go with it. Hence those companies can profit at bids that can't be matched by legally compliant companies. The vast majority of customers are not willing to pay a premium for companies employing a legal and compliant workforce vs those who do not. They want competitive prices from their landscaper, and the labor force that provides the service is the landscapers' responsibility. I've been told that by multiple customers, and that our recruiting issues are not their problem, and if we make it their problem, they'll find someone who won't.

While there are financial penalties and potential prison terms for systematic violations of knowingly hiring undocumented workers, in my two and a half years of leading our company I've not been informed about a single enforcement action against any landscape company in Houston, let alone one that resulted in any sort of message to the marketplace.

A cost and process effective H-2B program is the way that legal companies like Bio have sought a more level playing field on which to compete. I will not detail every recruiting method we utilize to attract and hire documented US workers as this letter will be published and public, but know that they are extensive, well beyond what is required by the H-2B program, and are ongoing nearly every day. We then staff up for the seasonal increase using H-2B personnel, then down for the winter with their departures. The vast majority of our H-2B personnel return year after year. This combination results in excellent combined productivity, less turnover, and no seasonal layoffs and ongoing growth opportunities for our US workers. Our workforce is 100% documented and compliant, and we are cost effective for our customers.

The IFR cites the basic principles of supply and demand in market economies, and that a market signal of a shortage labor would and should drive up both labor costs and service prices. In a fair market on a level playing field, we fully agree. But as noted, and completely unaddressed by DOL, we're not in a level playing field or fair market situation. There's an alternative for customers – lower cost landscapers who are achieving their lower costs by using undocumented labor.

The elimination of the 4 tiered skill based prevailing wage determination and private wage surveys that were in place in the 2013 season has already resulted in a ~20% increase in Bio's entry level wages from 2013 to 2015. The new rules proposed on April 29, 2015 for next season will raise wages for our company by another ~20% on top of that. Labor is by far our biggest cost. Implementing these new rules to the H-2B program which impose these additional increases in cost and process burdens on compliant companies without either major changes in compliant companies' ability to access the local undocumented workforce (something that would require a change in the law and is outside the scope of these regulations) or in enforcement resources and actions with well-publicized penalties for those who do so today will reward the companies that cheat today, and severely penalize and damage companies that follow the law. Hence the rules put forth on April 29 need to consider these impacts and ensure they are not creating further penalties for following the law. As proposed, however, there will be a high cost and bureaucratic set of wage levels and requirements for one set of companies, and low cost non-bureaucratic set for other companies. The legally compliant companies such as Bio are being forced to immediately raise prices, customers will switch their business to lower cost providers, and the employees and shareholders in the legally compliant companies will suffer. As we lose customers, we will be forced to downsize our business, including downsizing US domestic service worker and managerial and administrative positions.

While we would struggle to believe that federal agencies intend to give competitive advantages to companies that break the law and penalize companies that follow it, that is what this IFR does. It makes an already problematic situation materially worse. **We ask that DHS and DOL clearly specify how any new rules that further raise wage levels, costs and compliance burdens on compliant companies are aiding vs harming legal competition vs those that employ widely available undocumented labor BEFORE those new rules are made effective.**

2. **The "OES Mean Wage" misses very meaningful differences and creates a distorted/inaccurate view of how wages apply and appropriately work in an effective work environment, and the April 29 rules make these problems vastly more pronounced going forward.**

In 2013, and as summarized in the new IFR, the DOL determined there are "no significant skill based wage differences in the occupations that predominate H-2B" (of which landscape is the largest), and came up with the prevailing wage methodology of the "OES Mean". We'd observe that DOL cites no empirical evidence to support this assertion, and it's striking that DOL justifies a departure from the tiered wage system that has operated effectively since 1997 without any meaningful economic analysis. Completely ignored are the important differences in wages that are very appropriate and occur within a field team reflecting the differing duties, responsibilities and productivity on which these wages are based, and how exclusive reliance on the OES mean wage will cause major problems going forward.

A typical landscape crew is made up of 1-2 entry level personnel, 1-2 very experienced and knowledgeable personnel, and a crew leader. While for the vast majority of the day, they perform many of the same tasks (hence the no significant skill based differences) that in no way means there are not important differences between them and how they should be paid.

Start with the crew leader. That person has many years of experience, has their driver's license and drives the crew. He (she) therefore has not only completed driver safety training, but most of the other safety training provided on the myriad of equipment and activities in the business. They know the properties and the routes, and how to deal with weather or other site specific needs or situations. They lead the crew, ensure productivity and may have the opportunity for recognition or incentives in doing so. They are accountable and responsible for the vehicle and the equipment that the crew returns with each day, and must sign off on the time sheet, including hours and safety, of their crew each day. For most of the day, the crew leader will be mowing, weed eating and trimming, pruning, and cleaning up landscapes, but has some rather important additional duties and responsibilities. (Crew Leaders then report to Account Managers, who have customer communication, pricing, planning, scheduling, routing, forecasting, and other first line supervision duties as described in other job classifications).

Now take the crew members with 3, 5 or 7 years' experience. They may not be leading or fully responsible for the crew, but they know what they are doing. Having done it for years, they've proven their capabilities. They need less direct observation, supervision, and or training. They know the customers job site and specific needs, and hence are more productive as they don't need to learn it and find out what works and what doesn't. They help mentor the new hires, and assist with safety training and practices. Many have developed additional capabilities or certifications in irrigation or pesticide applications, etc.

Contrast that with a brand new hire, starting out on day 3 or 4 after their safety training and orientation. For most of the day, the new hire will be mowing, weed eating and trimming, pruning, and cleaning up landscapes, same as the crew leader and experienced personnel. But he or she is not as effective, not as valuable, and not as responsible as a crew leader or an experienced worker.

But these crew members, comprised of the leader, the experienced vets, and the new hires, all performing the same tasks for most of the day, are each 37-3011 landscaping and groundskeeping workers in the OES classification, and the rules put forth by the DOL say that a landscape laborer is a landscape laborer, and hence you have to set wages AT THE AVERAGE OF THESE and make it the minimum, with "corresponding employment" obligations. It's not logical or realistic to think that these three distinctly different classes of workers should receive the identical wage yet that is precisely the counter-intuitive result demanded by this regulation. How does that make any rational sense, let alone economic sense? And it's more than a bit insulting to our experienced personnel who we value and respect.

In every job most of us have ever entered into, there's an entry level wage, you get raises for experience, productivity and merit, and ultimately promotions, some of which are more major than others. It works, works well, and is fair. We didn't have a regulatory dictate that said even though you are different, pay and treat everyone the same. And if we weren't treated fairly, we'd go work elsewhere in a similar job. Our landscape crews are no different. They have plenty of other landscape and other employment opportunities in Houston.

Let's review some basic math (again, disguised numbers from Bio's true numbers today) to illustrate the problem with the OES Mean. This season, 2 entry level persons might be at $9 per hour. A 3 year and 5 year worker might each be at $10.25 and $10.75 respectively. And the crew leader might be at $12.00 per hour. The OES mean wage for that team is $10.20 per hour. Rightfully so, the crew leader makes a substantial premium over an unproven new hire. That is a typical crew setup across the industry in our market, so the example is relevant across the Houston landscape industry. DOL's OES mean rule now says if we want to use the H-2B program, instead of advertising for entry level personnel at $9 per hour, we have to advertise at $10.20. That's our new minimum wage, with additional new corresponding employment obligations. The new unproven members get a 13% increase. The experienced workers and crew leader see their differentiation diminished, and most likely are then seeking an increase to re-establish it (with a lot of fairness to that argument). Say no, and you now have a dysfunctional team and potential turnover of your experienced personnel, say yes, and you have ~13% wage inflation across your entire workforce. Cascade that example across the entire business or industry, and it's highly problematic.

Further recall that the current entry level wage is already ~20% higher than where it was 2 years ago because of the elimination of skill base prevailing wages from prior procedural errors by the DOL when those wage rules were implemented, and combine that with a big part of the industry that doesn't play by the same rules (eg, as noted above, they're hiring undocumenteds, and never gave them a 20% raise over the last 2 years that compliant companies have provided to their personnel) and one can blatantly see the problems being caused here. Yet not a single page of the several hundred pages of new rules, explanations and support addressed the impact from this issue either.

Prior to 2015, there were five possible bases for obtaining a prevailing wage determination from the DOL for H-2B participation. The first of these was a collectively bargained agreement, which we do not have in the landscape industry in our market. So there were four that were relevant to our company: the OES wage (at one time skill based, later the OES Mean), Davis Bacon Act (DBA) wages, McNamara

Service Contract Act (SCA) wages, and valid private wage surveys. With these other options available, the issues with the OES wage were far less problematic, as they likely would not become relevant to our company. But the rules proposed on April 29 eliminate DBA and SCA wages, and materially limit private wage surveys. Doing so exacerbates the problems with the OES methodology, and that should require further vetting. Given these problems, the bar for eliminating other valid options should be extremely high, especially as the prevailing wage is now coupled with a new "corresponding employment" requirement. Collectively, these changes pose a whole new set of expected circumstances and issues on wages from those that impacted businesses in prior seasons, and they require evaluation and addressing.

Hence, the DOL's explanation of why it will no longer allow DBA or SCA wages to be used for setting prevailing wages was shocking. These are government provided wage databases that DOL says "constituted sound and reliable evidence of a wage that would not adversely affect US workers similarly employed", but they will no longer be allowed because the Secretary has the discretionary authority to do so and it's too hard or takes too much time for certifying officers to confirm the correct DBA or SCA classifications. The fundamental purpose of this entire IFR is to establish the methodology by which H-2B employers can comply with their obligation to pay the prevailing wage. To deny employers the right to use wage rates that the Department of Labor has itself determined to be "prevailing" for the purposes of government contracts is absurd – ESPECIALLY given the <u>unaddressed</u> problems with the OES Mean Wage. While there may be some situations where differing occupational categories create complications, there will be many situations where the occupational classification used by the employer will present no such problems. Certainly at least are those situations where employers should be permitted to use SCA/DBA wage determinations. If a company files for a Davis Bacon Act Building Landscape and Irrigation Laborer year after year after year, how truly difficult for the DOL can that be? The ability of H-2B employers to use DOL-determined prevailing wage determinations is so patently legitimate that the Department should be finding ways to facilitate it, not creating flimsy rationales to prevent it.

Again – evaluate the simple math of a bidding situation TODAY. If a local company not utilizing H-2B decides to bid on a federal or federally funded project in Houston, at today's rates, it must pay its landscape laborers a minimum of $9.52 per hour if the project is a commercial project, and $9.01 if it's a residential type project. Those are the wages that will be set by the general contractor or project manager and are directly from the DBA wages on the DOL website. Those wage requirements only apply to that specific project. Now take a company that decided to utilize the H-2B program. That company would now have a requirement to pay all of its personnel a minimum of $11.35 per hour (the current OES mean wage) on this project and all projects all year. The new rules put in place on April 29 will now severely penalize companies that use the H-2B program, requiring a major increase in their largest cost, resulting in them either not being cost competitive or unprofitable at the prices that will be bid by lower cost companies. How does this make sense, and why is it right for one set of wages to be "prevailing" for one set of companies, but a materially higher wage to be "prevailing" for another, when the work and customer project are the same?

The Department's claim of administrative inconvenience is rather insulting to the business personnel who must invest extensive time, effort and resources in understanding and complying with all the

paperwork and steps necessary in the whole process of filing for, hiring and reporting on an H-2B employee, let alone trying to manage costs while servicing demanding customers in a competitive environment. And it is unfathomable given it could wipe out many companies capability to compete for federally funded projects. If our business communicated to our customers that we could provide them with a service outcome that would be far more cost effective for them, but we're not going to do so because we don't have to and don't want to because it's too inconvenient for us, that would not be well received by those customers, and they would go to another service provider. While these statements were equally poorly received by the law abiding tax payers at Bio, unfortunately we don't have a choice of another service provider here.

At a minimum, the DBA and SCA wage databases don't on the surface seem to have the built in problems of the OES Mean, are "sound and reliable", and hence should be left in as viable options. There are likely additional ways to set prevailing wages that account for the differences within field teams that are described above, with no indication from DOL that such possibilities were vetted or explored. Employers could be required to prove that their AVERAGE PAY rates or weighted average pay rates meet or exceed OES Averages, and that their recruiting and advertising for positions communicated these opportunities appropriately. That certainly would seem more consistent – averages with averages, vs the entry level is now the prior average. But the new unrealistic approach of one size fits all (everyone gets the average, which becomes the minimum) makes no sense, and causes serious problems with a team dynamic that is effective and commonplace in our free market society.

We ask that in addition to the flawed "OES mean" as a basis for determining the prevailing wage, all other valid and viable sources, including DBA, SCA, and wage surveys completed based on approved data sources, methodology, and independent authorization, be left in effect as valid options for determining the prevailing wage, or that DOL otherwise return to the 2008 rules, until the distortions and unrepresentative nature of the OES mean methodology (as well as the additional problem described in the 3rd point below) have been addressed. We especially ask this given the DOL's extremely weak supporting rationale for eliminating these alternatives.

3. The Simple Math of the OES Mean Wage process will mean massive bi-annual wage inflation going forward.

Here's a simple example of how the mean wage system will skew prevailing wage determinations going forward and result in excessive wage inflation. Continuing the example from above, our OES mean wage for that crew was $10.20 per hour. So if and when we raise the entry level wage from $9 per hour to $10.20 per hour, and out of fairness and necessity give corresponding raises to our experienced folks, the next time the data is refreshed, the OES Mean wage will be increase by somewhere in the range of another $1.20 - $1.36 per hour. (11%-13%). Who makes this stuff up and have they ever run a business and been responsible for balancing meeting customer demands with making payroll? This says if you sign up for the H-2B program, you have guaranteed major wage inflation, regardless of what might be going on economically or in the marketplace around you.

By definition, to use the H-2B program, a company must show that "unemployed persons capable of performing such service or labor cannot be found". So companies are only using the H-2B program if they've met this test. There are plenty of landscape laborers capable of working in Houston, but a very large portion are not legally eligible to do so, and our company cannot hire them, which both keeps the prices legal companies can charge lower than they otherwise would be, and provides less scrupulous companies with labor supply alternatives. We also stated that we are marketing and recruiting for documented new US hires every day. But we're not finding them at quantities that we need, and certainly not in a timeframe or quantity to meet the ramp up needs of the spring season in landscaping. So the only available option for legal and compliant companies to meet their customers' needs is the H-2B program.

So if every legitimate company uses H-2B, the wage levels of the legal companies become completely uneconomic, as the new rules, by definition, take the minimum (entry level) wage, and raise it to the industry average, and if the data is supposed to be not more than 2 years old, then by our elementary math, the next time the average is computed, it will be materially higher. We've now just signed up for endless wage inflation. Other than massive layoffs of the most experienced personnel in the industry, which is in one's best interests, there is nothing that will keep the updated "average" wage from ever increasing, compounding the problem year after.

Again – we support protecting US workers, treating everyone fairly, and ensuring no adverse impact on US workers. But HOW is this sound, let alone fair, policy, including to the businesses and their customers who have to pay for their services?

We therefore again ask that the DOL leave other valid alternatives (DBA, SCA, sound and approved wage surveys) in place for determining prevailing wages until this this basic math flaw in the "OES Mean Wage" methodology is fixed or otherwise addressed.

Conclusion:

Service worker wages are by far the highest cost of any landscape maintenance company, in most landscape companies, representing more than 1/3rd and in some cases more than 40% of all costs. The elimination of the skill based OES wage determinations have already raised wages over the last 2 years well above historic levels. If we were paying our US workers below the "market" wage rate, they'd all be leaving us and going to competitors who would all be happy to have them so they could both grow their businesses, and not have to deal with all these requirements in the H-2B program or take risks with undocumented workers. And our business would be shrinking. But somehow Bio both still has several hundred US workers, and is hiring more every week, and our business is growing. So we can't be under the market for wages. Yet these new rules from April 29 2015 will raise our required entry level wage by another 20% (on top of the previous increase), and we've walked thru above where and how that is not only problematic, but off base.

Additionally, many of Bio's contracts are multi-year, fixed price contracts. We are contractually precluded from going back to our customers to seek price increases to offset this massive cost increase

until the contract term is complete, and in the cases where we can, we are then "rebid" to the marketplace, where we are undercut by firms willing to take the risk of using lower cost (and more flexible) undocumented workers. A cost and process effective H-2B program is best way that legal companies like Bio have found to compete on a more level playing field vs companies utilizing undocumented workers. It has been fair to everyone, US workers, the H-2B participants, customers, and the company.

Implementation of the new rules that were introduced on April 29, which ignore the very material realities of our business as described above, will massively raise our costs, force us to significantly raise prices to customers, damage our relationship and reputation with those customers, drive them to seek lower cost options, and result in the downsizing of our company, including our employees.

The above details major issues with the OES Mean methodology of determining prevailing wages – at least in our market and industry. Those problems are far less acute when other methodologies, including DBA, SCA and wage surveys, are valid and available. The OES mean problems would not be as relevant as we'd use the alternatives, nor would they have as big an impact on the industry, as others would as well. But eliminating those previously valid alternatives exacerbates the impact of the OES mean wage problems.

We therefore urgently request that DOL and DHS specifically address these 3 issues which were ignored in the published explanation and support of the April 29, 2015 new rules, and modify those rules to address the negative outcomes they will cause. At a minimum, that should mean reinstating DBA and SCA wages as valid alternatives for prevailing wage determinations, as well as sound and well vetted private wage surveys that accurately reflect the market in which compliant firms compete. This must be done before the April 29 rules cause even more damage, as we are already being forced to bid for renewals of some of our current multi-year contracts assuming these massive increases in our costs, and we will not be competitive in these bids, so we can already see the reduction in our business rapidly approaching. While these issues should have been addressed BEFORE these rules were put in place, they urgently need to be addressed now. On behalf of the employees of Bio and other legitimate landscape companies in the Houston market, we look forward to timely and clear responses, explanations, and hopefully changes, on something so critically important, from federal agencies that represent all of us. Please don't hesitate to contact us if we can be of help or assistance as you follow up in addressing these issues.

Sincerely,

Tim Portland
President, Bio Landscape & Maintenance