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**Researching the Relationship Between the Department of Labor
Reduction in Funding and the Volume of Unprocessed Foreign
Labor Certification Applications in California**

Ruben Romero

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Researching the relationship between the Department of Labor reduction in
funding and the volume of unprocessed Foreign Labor
Certification applications in California

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Table of Contents

II.	Introduction.....	3
III.	Literature Review.....	6
	Background.....	10
	Foreign Labor Certification Office Overview.....	13
	Stakeholders.....	18
IV.	Methodology.....	21
V.	Findings.....	25
	Funding Information.....	24
	Foreign Labor Certification Office Database.....	24
	Staff Levels.....	29
	Interview Results.....	30
	Questionnaire Summary.....	33
VI.	Conclusion and Areas For Further Research	36
	References.....	47
	Appendixes	
	Appendix A (Sources for References Cited).....	50
	Appendix B (Foreign Labor Certification Office Questionnaire).....	53

Introduction

The Foreign Labor Certification (FLC) program is currently experiencing an enormous backlog in pending applications for permanent employment of alien immigrants. This backlog is largely the result of the DOL gradual reduction in State's funding over the past several years. The problem was magnified with the passage of the amendments enacted in December 2000 to section 245(i) of the Immigration and Nationality Act (INA) (Department of Labor 2004). The amendments allowed aliens who entered the United States without inspection or who fall within certain statutory categories to adjust their status to that of a lawful permanent resident if a labor certification application was filed on their behalf with a State Workforce Agency (SWA) on or before April 30, 2001. It is estimated that approximately 236,000 applications were filed to meet the deadline of April 30, 2001, at a time when less than 100,000 applications were filed in an entire year. At the start of April 2003, over 280,000 permanent labor certification applications were in the SWA processing queues throughout the nation, with another 30,000 applications in the various DOL Employment Training Agency (ETA) Regional Office queues (Department of Labor 2004).

To address the backlog, ETA funded a study to identify strategic options and estimate costs. The ETA study recommended establishing centralized processing centers to achieve the economies of scale inherent in processing large numbers of applications in one location and in consolidating the functions currently performed separately by the SWAs and the ETA Regional Offices.

Building upon this recommendation, ETA initiated a pilot program testing the feasibility of centralized processing, which indicated that substantial time and economic savings could be achieved. However, industry stakeholders have noted that study was not realistic, because unless there is a change to the current immigration law the process will remain the same (Department of Labor 2004).

For example, the two new processing centers would process cases under the current Department of Labor Regulations. Employers who desire to employ immigrant aliens permanently in the United States file an application for alien employment certification with the SWA serving the area of intended employment. The SWA is responsible for various processing steps, including date stamping the application, calculating the appropriate prevailing wage, and placing the job opening into the state's employment recruitment system. The current process for obtaining a labor certification requires employers to actively recruit U.S. workers in good faith for a period of at least 30 days for the job openings for which aliens are sought. The employer's job requirements must conform to the regulatory standards. Job applicants either are referred directly to the employer or their resumes are sent to the employer (Department of Labor 2004).

The employer has 45 days to report to the SWA the lawful job-related reasons for not hiring any referred U.S. worker. If the employer hires a U.S. worker for the job opening, the process stops at that point, unless the employer has more than one

opening, in which case the application may continue to be processed. If, however, the SWA believes that able, willing, and qualified U.S. workers are not available to take the job, the application, together with the documentation of the recruitment results and prevailing wage information, is sent to the appropriate DOL ETA Regional Office. At the Regional Office the application is reviewed and a determination made as to whether to issue the labor certification based upon the employer's compliance with program regulations. If DOL determines that there is no able, willing, qualified, and available U.S. worker, and that the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers, DOL so certifies to the Citizen and Immigration Service (CIS) and the U.S. Department of State by issuing a permanent labor certification (Department of Labor 2004).

The California SWA (also known as FLCO) operates under the above stated immigration law. However, one noted difference is that the Certifying Officer will be housed at the processing center along with the SWA. Currently, the western states, along with Guam, forwarded their completed applications to the region six certifying officer in San Francisco. It is possible that under the new system the DOL could attain some savings in mailing cost, however, there does not appear to be a relationship with reducing the volume of unprocessed cases (backlog) any faster. The application will still have to be assessed and under the current law the employer has to be given due process if any deficiencies are noted on the application. This is accomplished by sending out a 45-day letter to the

employer to clarify, justify, amend or delete any deficiencies (Department of Labor 2004).

The continued reduction in funding over the past several years by the DOL has contributed to California's increase volume of unprocessed cases (backlog). This was compounded by the 236,000 applications that were filed as a result of the passage of the amendments enacted in December 2000 to section 245(i) of the INA. This paper proposes to investigate the hypothesis that The DOL's reduction in funding to the PLC program has contributed to California's increased in volume of cases not processed (backlog) at the California FLCO.

Literature Review

The majority of literature and research regarding the increase in the number of unprocessed FLC applications is recent, however, it calls for additional exploration because of the limited data available. However, there are a few themes that are reflected throughout the majority of the available research on the reduction in funding by the DOL and the number of unprocessed applications in California. First, most studies and articles point to a national crisis from the number of companies that can not hire highly skilled foreign workers to remain competitive in today's global economy. Second, the research noted that by the mid-1990s, the DOL noticed severe backlogs at the SWAs and rising costs to support the program. The DOL funds all SWA labor certification related activities through grants. As of the end of 2004 there was a backlog of more than 300,000

applications, and employers waited up to six years for a certification (Department of Labor 2004).

The DOL literature review noted that the Department was exploring avenues to reduce the national backlog. The DOL was drafting proposed language to make an amendment to the current immigration law. The amendment would allow the National Certifying Officer (Chief, Division of Foreign Labor Certification, Washington DC) would have the discretion to direct SWAs and ETA Regional Offices to transfer pending labor certification applications to future centralized processing centers for completion of processing. The centralized processing centers would perform the required functions of the SWAs and ETA Regional Certifying Officers, consolidating steps now performed separately by the SWAs and the ETA Regional Offices to achieve efficiencies and economies of scale (Department of Labor 2004).

The current Administration supports this proposal in order to assist employers who, despite their best efforts, cannot find willing Americans to meet their needs. The 2006 Budget supports a new Temporary Worker Program and significant reforms to the current immigration system. As part of this initiative, DOL will develop a quick and simple way for employers to search for American workers, building on America's Job Bank, DOL's Internet-based labor exchange system. The Administration is also improving the process for employers to permanently hire foreign workers when U.S. workers are not available. Employers wishing to

hire foreign workers on a permanent basis must receive from DOL a certification that qualified U.S. workers are not available for the job being offered to the foreign worker and that such hiring would not hurt the wages and working conditions of similarly employed U.S. workers. To implement the new proposal and purge the backlog remaining from the old program, the Administration is proposing a cost-based employer fee for new permanent program applications (including applications re-filed by those waiting in the old program's queue) (Department of Labor 2004).

The Sacramento Bee recently reported that immigrants who came to the United States in this decade are more educated than those who arrived in the late 1990s. In addition, these new immigrants are more college-educated: 34.3 percent had a bachelor's degree or higher, compared with 32.5 percent between 1995 and 2000 (Sacramento Bee, April 11, 2005). Employers such as the Intel Corp have lobbied for more H-1B visas with advanced degrees to meet the highly skilled demand that many high tech companies are lacking. H-1B visas allow skilled foreign nationals to work in the United States for up to six years. Many go on to obtain lawful permanent residence through the FLC program. The dilemma most high tech organizations are facing because of the large volume of unprocessed FLC applications in the nation is that they cannot convert the H-1B visa of the skilled foreign nationals to a permanent labor visa within the required six years. As a result, many highly skilled workers who have been trained, acclimated to their work environment, and met the employer need has to return

to their country and wait until their FLC application has been certified by the DOL. Microsoft Corp Chairman Bill Gates and other leading technology executives have pressed Congress aggressively to let them hire more foreign employees. Technology executives have argued that they are unable to find qualified American workers. They note a shortage in the labor pool for qualified engineers, scientist, architects, and doctors. (Sacramento Bee, April 28, 2005).

Another article in the Sacramento Bee dated April 14, 2005, noted that the Federal government was debating a bill called AgJobs, which would provide temporary work permits and the prospect of eventual U.S. citizenship for an estimated 300,000 illegal immigrants now doing farm work in the United States. This puts an additional burden on the limited resources of the California SWA. The SWA has to make choices such as does the organization process the current number of unprocessed applications in their queue or ignore the backlog and processed the new temporary work permits (Sacramento Bee, April 14, 2005)

In implementing any changes to the FLC program security concerns must also be addressed. The FLC program has been subject to fraud and abuse. Substantial monetary payments have been made in some instances an attempt to influence the outcome of the certification process. Several cases have been prosecuted. Program abuse can occur at the application point, hence the need to verify the legitimacy or standing of the employer submitting the application, or during application processing. New processes as part of their technical functions should

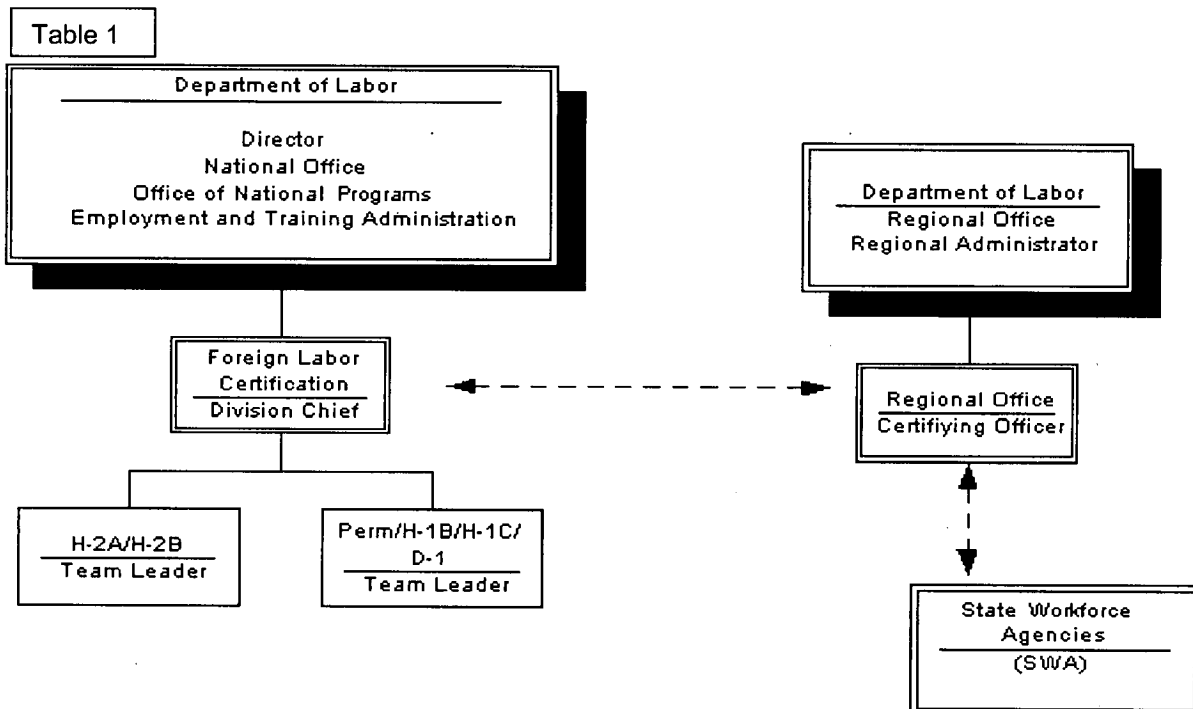
include steps in for monitoring, detecting, and minimizing program abuse and ensuring quality control over work products (Department of Labor 2004).

Background

The law that authorized the FLC program is cited in the Code of Federal Regulations (CFR), Title 20-Employees Benefits Chapter V--Employment and Training Administration, Department of Labor Part 656 Labor Certification Process for Permanent Employment of Aliens in the United States. This statute notes that certain aliens may not obtain a visa for entrance into the United States in order to engage in permanent employment unless the Secretary of Labor has first certified to the Secretary of State and to the Attorney General that: 1.) There are not sufficient United States workers, who are able, willing, qualified and available at the time of application for a visa and admission into the United States and at the place where the alien is to perform the work. 2.) The employment of the alien will not adversely affect the wages and working conditions of United States workers similarly employed. (Code of Federal Regulations, Title 20-Employees Benefits).

The U. S. Department of Labor, Employment & Training Administration oversees the Division of Foreign Labor Certification (DFLC), which is responsible for numerous programs including the Foreign Labor Certification program. The DFCL is responsible for the administration of the FLC program, providing policy guidance to the certifying officers located at the regional offices. Two branches

are responsible for the administration of specific foreign labor certification programs: one branch is responsible for the H-2A and H-2B temporary programs, while the other branch is responsible for the Permanent, H-1B, H-1C and D-1 programs. The regional offices interface with the national office to ensure program compliance with federal regulations. The State Workforce Agencies (SWAs) report to the regional offices. The SWAs are responsible for screening FLC forms and providing prevailing wage data to employers. The certifying officer at the regional offices makes the decisions regarding the approval of foreign labor certifications. The DOL regional office receives policy guidance from the national office but they are completely responsible for the approval/denial of foreign labor certifications (Table 1) (Department of Labor 2005).



The California Employment Development Department (EDD) contracts with the DOL Employment and Training Agency (ETA) to complete the preliminary

processing on permanent labor certification applications submitted by California employers. The labor certification application is a step in the process of obtaining permanent resident status in the United States through employment based immigration. The California Foreign Labor Certification Office (FLCO) is the organization tasked by EDD with the administration of the FLC program. The EDD receives funding through a grant to complete the preliminary processing of the applications and conduct the test of the labor market. The test follows a series of steps and associated timelines prescribed by DOL. According to the Labor Certification Grant – Nonagricultural (FFY) 2000 Report, the specific EDD processing activities include the following (Employment Development Department Grant Report FFY 2000):

- Review the application to ensure all required fields are completed, identify any deficiencies, and inform employer.
- Assign a prevailing wage based on the job description.
- Compare the prevailing wage to the wage offered and inform employer if the salary must be increased.
- Review job requirements to ensure that they are normal to the occupation. If requirements are not normal to the occupation, inform employer that restrictive requirements must be removed or justified.
- Ensure the foreign worker has furnished employment history for the past 3 years. If history has not been furnished, the employer is requested to have the alien supply the required information.

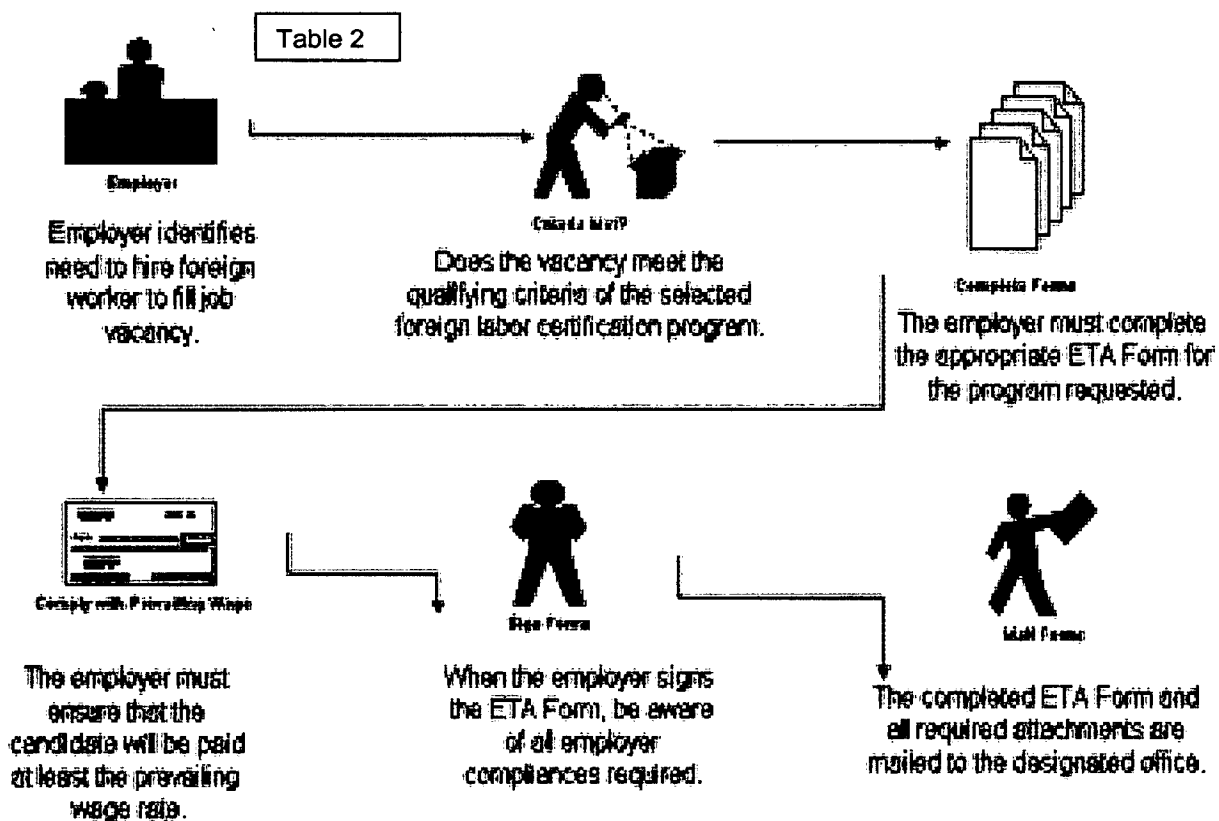
- Instruct the employer and attorney to advertise in a local newspaper.
- Place the job opening in Caljobs.
- Receive and review resumes from applicants, and forward to employer those that appear qualified.
- Instruct the employer to forward results of the recruitment efforts
- Forward the case to DOL for decision.

FLC Overview

The mission of the California SWA is to allow employers to hire foreign workers, temporarily or permanently, when: 1.) There are not sufficient U.S. workers who are able, willing, qualified, and available to perform the job. 2.) And the employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers that are similarly employed. These conditions must be met before a foreign worker is brought to the U.S. on an employment-based visa. Although each foreign labor certification program is unique, there are similar requirements that the employer must complete prior to the issuance of a labor certification. In general, the employer will be required to complete these basic steps to obtain a labor certification (Table 2) (Department of Labor 2005):

- The employer must ensure that the position meets the qualifying criteria for the requested program.

- The employer must complete the ETA form designated for the requested program. This may include the form and any supporting documentation (e.g., job description, resume of the applicant, etc.).
- The employer must ensure that the wage offered equals or exceeds the prevailing wage for the occupation in the area of intended employment.
- The employer must ensure that the compliance issues effected upon receipt of a foreign labor certification are completely understood.
- The completed ETA form is submitted to the designated Department of Labor office for the requested program (e.g., SWA, regional office or the national office).
- The employer is notified of the determination of the Department of Labor.



Employers who submit Labor Certification applications hope to receive a Labor certification from the DOL. The approved Labor Certification is then filed with a visa petition with the Citizenship and Immigration Services (CIS) (formerly INS). If approved by the CIS, the alien is granted a visa, applies for a change in status and is granted permanent resident status in the United States. Prior to DOL issuing a Labor certification, a test of the labor market is required to assure that the admission of aliens to work in this country on a permanent basis will not adversely affect the job opportunities, wages, and working conditions of U.S. workers (Employment Development Department Grant Report FFY 2000).

Literature on the EDD Labor Certification Grant – Nonagricultural Federal Fiscal Years (FFY) for 2000 – 2004 was reviewed. The FFY year runs from October 1st to September 30th. The California State Fiscal Year (SFY) runs from July 1st to June 30th. The literature reviewed appeared to be raising the red flag that the volume of unprocessed applications would continue to increase if the issue of funding was not addressed immediately. According to data noted in the Labor Certification Grant: Nonagricultural for FFY 2000, “funding for the program has been declining since 1993 and state allocations for this program at the national level were cut by fifty percent between 1996 and 1997. This resulted in a reduction in California’s allocation for the nonagricultural portion of the FLC grant from approximately \$6 million in FFY 1996 to approximately \$4 million in FFY 1999. Of this amount FLCO received \$2.9 million to support approximately 47 fulltime staff (Employment Development Department Grant Report FFY 2000).

The EDD Grant Report noted that DOL would propose that the FLC program be returned to the Federal government. DOL noted that the high cost of administering the program and the continued backlog as the reason for their proposal. The report noted that states would stop receiving applications in April 2001, and that states were to process all remaining cases in the office by September 2001. To accommodate DOL's proposal, FLCO made plans to release all non-permanent full time staff on September 30, 2000. In addition, the new funding proposed would only support 29 of the 47 positions. The remaining 18-fulltime staff would need to be redirected to other offices with in the Department. Management to staff echoed this action by noting in this report that they would encourage staff to seek other career opportunities in preparation for the program closeout. This Grant report also notes that FLCO had proposed the following plan to liquidate the office backlog and reduce the number of unprocessed cases with the additional funding (Employment Development Department Grant Report FFY 2000):

- Demonstrate activity by the FLCO to employers through the issuance of assessment letter for cases received during the 1998 and 1999 calendar year and FFY 2000.
- Complete processing requirements to cases currently awaiting recruitment /final document, thereby reducing the number of status inquiries and complaints regarding processing time, and increasing customer service.

- Reduce the overall number of cases by canceling or withdrawing where the employer fails to respond timely
- Process RIR applications in an expedited manner to ensure compliance with General Administrative Letter No. 1-97.
- Meet the Goals of the DOL to significantly reduce FLCO inventory by September 30, 2000.

Literature on the FLC program stakeholders was also review for this research project. The most influential stakeholder group is the American Immigration Lawyers Association (AILA). AILA is a voluntary bar association of more than 8,600 attorneys and law professors practicing and teaching in the field of immigration and nationality law. AILA's mission includes the advancement of the law pertaining to immigration and naturalization and the facilitation of justice in the field. AILA's members are well acquainted with the labor certification process, having significant experience representing and educating employers who have need of essential international personnel and the employees who meet those needs. The members of their association represent large and small businesses, academic institutions, research facilities and governmental entities that employ foreign nationals as well as U.S. workers (American Immigration Lawyers Association 2004).

Stakeholders

AILA literature notes that the Labor Certification process has always had it complexities, and the practice has become even more complicated in recent years as they must now understand the legal framework connecting not only the DOL regulations and the Technical Assistance Guide, but also various General Administration Letters and Training and Employment Guidance Letters, and decisions of the Board of Alien Labor Certification Appeals. AILA has reservations of the impact that the new backlog reduction centers will have on the reduction of the nations 300,000 applications. According to AILA their organization has raised the following concerns (American Immigration Lawyers Association 2004):

- How will employers and their representatives know whether their application was selected for centralized processing and when the application was transferred to a centralized processing center?
- Who will provide employers and their representatives the notification of an application's transfer from a SWA or regional office to a centralized processing center? Will it be provided by the transferring office at the time of the transfer or by the centralized processing center immediately on receipt of the application for processing?
- What kind of staffing will the facility have? We know there will be some combination of a USDOL regional office presence with the contractor's staff. How many individuals will be staffing the facility? What will their functions be?

Will they work in teams, product lines, etc? Will certain groups handle only RIR applications? Will others handle only advertising?

- How will staff members be assigned cases? Will they have specific case production goals per day, week, and month? Will there be telephonic access by customers to staff members who are working on particular cases? Will there be access to supervisory personnel by customers when issues arise?
- The most pressing unanswered questions include how staff training will be accomplished, who will be doing the training, who will be developing training materials, and how long a training program is contemplated to last.

In addition, AILA also notes that much of the backlog is attributable to filings of applications for labor certification generated by the imposition of a sunset date on Section 245(i) of the INA, which caused a significant increase in filings on or near April 30, 2001. The "bubble" of the estimated 236,000 applications filed on or near April 30, 2001, as they are processed to certification, will create a substantial number of workers, in particular skilled and unskilled workers, who will be moving through the next stages of permanent residence processing. As these workers become eligible to file adjustment of status applications concurrently with their immigrant visa petitions, their introduction to the CIS rosters will seriously strain visa number availability in the employment-based categories and, at the same time, add an enormous workload to CIS's already overburdened system (American Immigration Lawyers Association 2004).

Immigration Attorneys for professional athletes have been influential in avoiding the SWA backlogs by having the foreign athletes FLC application redirected to the national office in Washington D.C. FLC Technical Assistant Guide notes the Administrator can direct certain types of application or specific occupations be handled in the National Office because of unique circumstances or special problems involved in determinations on these applications. When such applications are initially filed with a local office of the State employment service, they should be date stamped and reviewed for completeness. The local office should send the complete application, its prevailing wage findings, and any other appropriate information to the certifying officer through its State office. The regional certifying officer refers the applications to the National Office as soon as they are received, together with all accompanying documents, and any comments (FLC Technical Assistance Guide 2004).

All of the studies recommended the need for reducing the number of unprocessed FLC applications. Some of the studies noted that DOL has been reducing the amount of funding to the SWA for the FLC program since the early 1990s. However, the EDD Grant Reports noted that between 2000 and 2002 DOL reduced the SWA funding by approximately 50% and did not provide any additional funding to assist the SWA with the large number of cases received as a result of the April 2001 Life Act. Most of the literature review describes this period as the breaking point for SWAs across the country, including California. (Employment Development Department Grant Report FFY 2002).

Methodology

This study proposes to investigate the effectiveness of the FLC program by conducting research relevant to the following hypothesis: the reduction in funding by the Department of Labor (DOL) to the California Foreign Labor Certification Office (FLCO) has contributed to the increased in volume of unprocessed cases (or backlog). The independent variable is DOL reduction in funding, while the dependent variable is the increase in volume of unprocessed applications in California. Recent studies have suggested that the increase in unprocessed applications is largely the result of various factors such as the April 2001 Life Act. However, other studies have noted that the DOL had been reducing the SWA funding for a number of years before the April 2001 Life Act. This study intends to examine if there was a relationship between the increase number of unprocessed FLC applications and the reduction in funding by DOL. This study will examine the following research questions:

- Did the reduction in Federal funding contribute to the increased in volume of the number of unprocessed labor applications in California?
- Did the Life Act of 2001 influence the number of unprocessed labor applications in California?
- How significant was the California Budget crisis of 2002 - 2004 in influencing the number of unprocessed labor applications in California?
- What other factors influenced the increased in volume of the number of unprocessed labor applications in California?

This research project proposes to evaluate this hypothesis by interviewing members of the California FLCO organizations such as the Chief of FLCO, Deborah Cusimano. She has negotiated the FLCO budget concerns with DOL and the Fiscal section of the EDD over the years and has first hand knowledge of the fiscal impact the reduction in funding has had on the organizations volume of cases not processed (or backlog). For purposes of this study, the SWA and FLCO are interchange terms. DOL refers to all states that administer the foreign labor certification as SWAs. The California EDD and other California agencies refer to the SWA as FLCO. For this research proposal Deborah Cusimano has shared grant proposals and other data related to the fiscal decisions made over the past several years. The fiscal data was reviewed, analyzed and compared to prior year funding. FFY 2001 through 2004 were chosen because the organization experienced the largest reduction in funding October of 2001 and experienced the largest volume of labor certification received in April of 2001. For the purpose of this study, certain elements of the FLCO Grant Proposals were analyzed. Those elements were: 1.) The beginning and ending federal funding, 2.) The backlog beginning and ending balances, and 3.) The number of cases received for FFY 2001 through 2004.

The FLCO Database was examined in order to extract and analyze data that assisted with measuring the organization's number of unprocessed labor certifications (case backlog) and performance measures (outcomes). The FLCO

database became fully operational in FFY 1999. The new system has enabled the FLCO to increase processing efficiencies, resulting in the ability to process cases in a shorter amount of time while increasing quality. The system also provides improved management information to enable the FLCO management to track accomplishments, and adjust planning strategies as necessary (Employment Development Department Grant Report FFY 2000).

Four years of data was reviewed and analyzed (FFY 2001 - 2004). The outcome criteria that was extracted and analyzed are those elements that removed a case from the queue or the backlog. For example, a case is considered processed if the case is cancelled, withdrawn, forward to DOL for a prevailing wage determination, forward to DOL after complying with FLCO guided recruitment, forwarded to DOL as a limited review, and forward to DOL for pattern or without pattern. The database also accounted for the new cases that were inputted into the system for the four-year period being examined in this research project. For purposes of this study, assessment letters will not be used as a criteria for cases processed due to the fact the some cases generate more than one letter and could skew the number of cases actually being processed. Only the output measures listed above will be analyzed, measured, and evaluated. In addition, there are two case processing methods. Under the regular method, FLCO staff supervises recruitment. The other procedure is called Reduction in Recruitment (RIR). FLCO is organized around these two case processing methods. This report will review the RIR process at the FLCO to demonstrate how a case is

imputed in the system and the cycle involved before it reaches the output stage. The RIR process was selected because it is the condense version of the other process and in theory is the most expedient method of processing a labor certification where the employer conducts their own recruitment six months prior to submitting the application. (Foreign Labor Certification Technical Guide 2004)

For purposes of this study, the California SWA number of unprocessed applications will be used to define the backlog for this research project. As of January 2005, the California SWA had a backlog of 58,169 cases waiting to be processed. Of these cases, 48,149 are regular permanent cases and 10,020 are Reduction in Recruitment (RIR) cases. FLCO is currently processing regular cases that were submitted in April 2001 and RIR cases that were submitted in August 2002. (FLCO Database 2004). Lastly, the research data retrieved from the grant funding proposals, the interview conducted with the chief of FLCO and customers, and the performance data extracted from the FLCO database were analyzed to determine the relationship between the reduction in funding by DOL and the increase in volume of unprocessed cases (backlog) at FLCO.

The author of this proposal has been a government official for over 20 years and has been associated with the FLCO organization for approximately seven years. As the current manager of the Reduction and Recruitment (RIR) process he has vast amount of experience with the various FLCO processes. The author has

participated in numerous high level meetings with stakeholders, DOL, and, immigration attorneys regarding the Foreign Labor Certification Program.

Findings

The methodology for the research project began with a review of relevant literature. The underlying hypothesis of this project assumed that the reduction in funding by DOL contributed to the increase in unprocessed FLC applications in California. To determine the validity of this hypothesis, the methodology included both primary and secondary research components. The primary qualitative research approach included person-to-person interview with state officials and a survey questionnaire of FLCO staff and stakeholders. The secondary research included a review and analysis of the FLCO-related EDD Grant proposals and the FLCO input and output database for FFY 2001 – 2004. Analyzing the data was instrumental to benchmark the level of federal funding and number of unprocessed applications in the queue. From the benchmark analysis, program criteria were selected for primary research testing. An electronic questionnaire was developed and distributed to FLCO staff and stakeholders to convey through a series of multiple choice questions what they felt were the contributing factors to the number of unprocessed applications in California, and what they felt might assist in reducing the number of applications. The answers were quantified and then analyzed to determine if in fact the respondents felt the reduction in funding contributed to the number of unprocessed applications in California. To finish the research, an interview with the FLCO Chief was conducted to created the

framework for which the sequential order of data analysis was to be pursued and analyzed.

Funding Information

California receives the largest share of the nations FLC funding. The grant supports FLC activities at FLCO, Prevailing Wage Office, Investigations, and Fiscal Payment Division. The funding data analyzed from the EDD Labor Certification Grant Nonagricultural Report for Federal Fiscal Year (FFY) 2000 revealed that the FLC program was funded \$8,231,067. The FFY year runs from October 1st to September 30th. The California State Fiscal Year (SFY) runs from July 1st to June 30th. This level of funding supported 77.9 Personnel Years (PYs). One PY equals one staff position. Further analysis revealed that funding for the program had been declining since 1993 and state allocations for this program at the national level were cut by fifty percent between 1996 and 1997. Further analysis noted that DOL was reducing the FLC funding in anticipation that DOL would be proposing that the FLC program would be returned to the federal level and become a self-attestation program due to the high cost of the program. They noted that states would stop receiving applications in April 2001, and states were to process all remaining cases in their prospective offices by September 2001 (Employment Development Department Grant Report 2000).

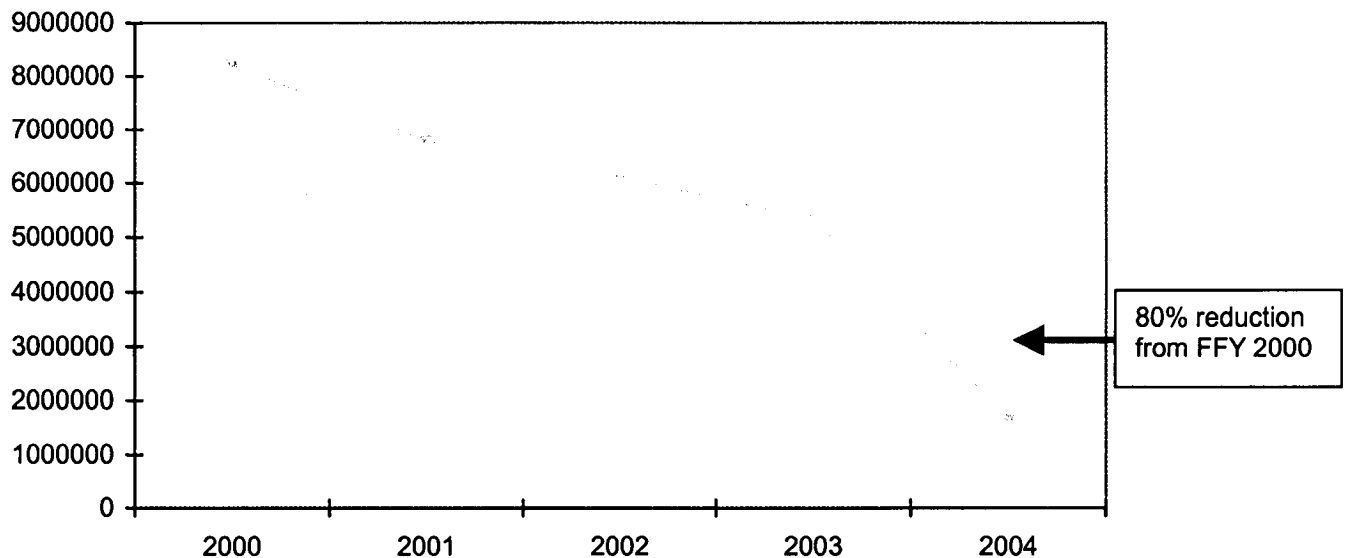
Data analyzed from the EDD FLC Grant Nonagricultural Report for FFY 2001 noted that the FLC program was funded \$6,803,256. This reflected a 17 percent reduction in funding from the prior year. As a result, FLCO reduce staffing levels by 22 percent to accommodate 61 PYs. Data analyzed from the Labor Certification Grant Nonagricultural Report for FFY 2002 revealed that FLC program was funded \$6,091,171. This reflects a 26 percent reduction in funding from FFY 2000 and a reduction in funding by 11 percent from the prior year. This historical data provided by D. Cusimano, FLCO Chief, noted that in FFY 2002 the organization requested an increase in funding to deal with the approximately 50,000 new applications received in April 2001. She noted that this was 43 times the number of applications the office normally receive in a typical month and equivalent to about three years' worth of work. In addition, she noted that DOL was informed that the office anticipated receiving an additional 26,500 new labor certification applications in FFY 2002 and would carry-in approximately 60,000 applications received but not processed from FFY 2001 (EDD Labor Grant Report for FFY 2001).

Data analyzed from the FLC Grant Nonagricultural Report for FFY 2003 revealed that the FLC program was funded \$5,304,537. This reflects a 36 percent reduction in funding from FFY 2000 and a reduction in funding by 13 percent from the prior year and a 24 percent reduction in the last two years. An analysis of FFY 2003 Grant Report noted that for the first time the FLC program was

overspent. The program expended \$5,953,279 or \$648,742 above the allocated funding amount. The overage expenditure resulted in FLCO reducing expenditure to stay within the estimated grant amount for FFY 2003. The level of

productivity was impacted by these expenditure adjustments, which contributed to the increase in unprocessed applications. Data analyzed from the FLC Grant Nonagricultural Report for FFY 2004 revealed that FLC program was funded at the \$1,653,980 level. This reflects an 80 percent reduction in funding from FFY 2000 and a reduction in funding by 69 percent from the prior year. Table 3.0 illustrates the reduction in funding to the FLC program in California on an annual basis (EDD Labor Grant Report for FFY 2003).

Table 3.0 DOL Funding Reduction

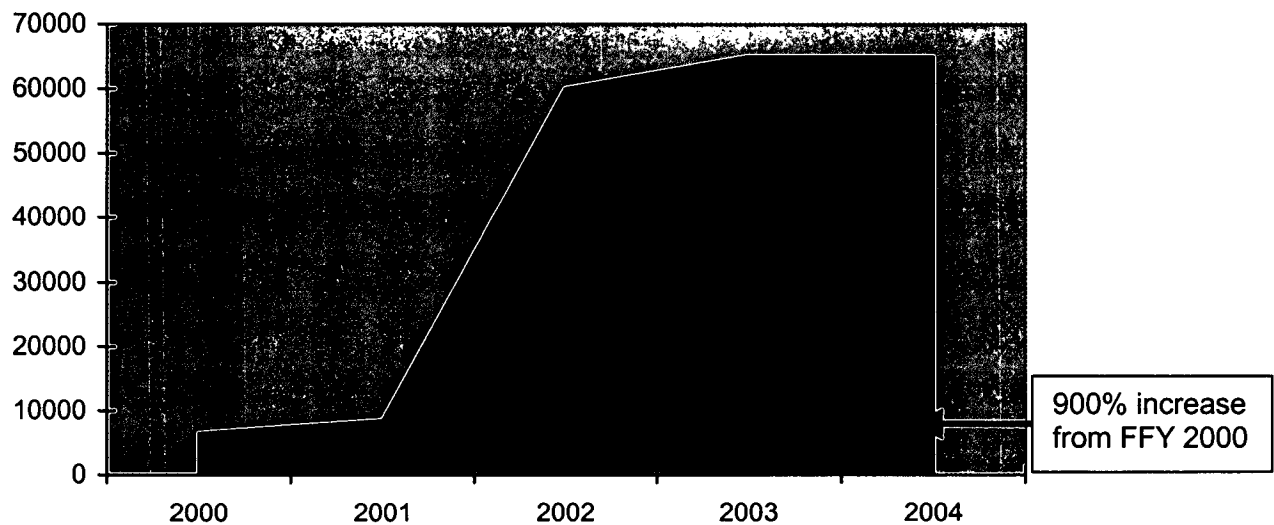


FLCO Database

In FFY 1999 the new automated FLCO database became fully operational. The new system enabled the FLCO to increase processing efficiencies, resulting in the ability to process in a shorter amount of time while increasing quality. The new system also provides improved management information to enable the FLCO to track output measures in order to plan strategies as necessary. For example, data retrieved from the FLCO database noted that the FLCO anticipated receiving 17,000 FLC applications in FFY 2000 and that the FLCO had approximately 6,500 unprocessed cases in the off queue (FLCO database 2005). In FFY 2001 the FLCO anticipated receiving 8,500 new FLC applications. The FLCO database noted that there were approximately 6,500 unprocessed applications in the queue. In FFY 2002 the FLCO database noted that there were approximately 60,000 unprocessed applications in the queue. For FFY 2003 the FLCO anticipated 25,000 new applications and would carry in 65,000 applications. EDD noted in this report that because of the insufficient funding to hire additional staff during FFY 2002, the backlog increased by 5,000 cases and probably would continue to increase. In FFY 2004 the FLCO experience the largest reduction in funding in comparison to prior years. Analysis of the FLC Grant – Nonagricultural FFY 2004 report noted that the FLCO had estimated that they would receipt approximately 14,756 new labor certification applications in FFY 2004 and would carry in approximately 60,000 applications received but not processed. The report noted that due to the overall grant funding reduction, reductions to the FLCO staffing levels was necessary in order to support the

other labor certification functions. Table 4.0 illustrates the number of unprocessed applications (FLCO database 2005).

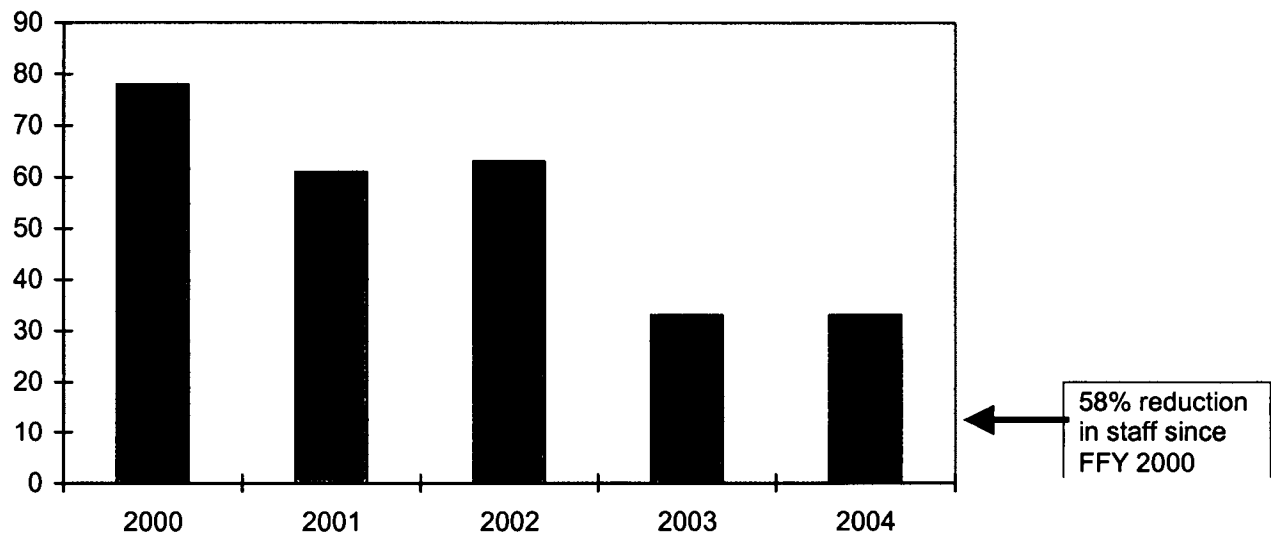
Table 4.0 Number of Unprocessed Applications



Performance data retrieved and analyzed from the FLCO database noted that the organization processed approximately 19,701 cases in FFY 2002. A comparative analysis of applications not processed in relationship to the applications the organization estimated it would receive for the same period in FFY 2003 demonstrated that at the remaining funding level the organization would continue to add to the amount of unprocessed applications received but not processed in FFYs 2001 and 2002. This would increase the backlog of unprocessed applications substantially by the end of FFY 2004 (FLCO database 2005).

Staffing Levels

The FLCO chief noted that currently the California FCLO had a backlog of 60,000 cases waiting to be processed. Of these cases, 49,980 are regular permanent cases and 10,020 are Reduction in Recruitment (RIR) cases. The FLCO is processing regular cases that were submitted in April 2001 and RIR cases that were submitted in August 2002. In addition, between July and September 2003, the DOL remand approximately 10,000 cases back to FLCO for regular processing. These cases were originally submitted and processed by FLCO as RIR cases. DOL has denied them for RIR processing due to the availability of American workers in high tech occupations. They must now be processed as regular cases. With the additional remands, the FLCO inventory will take over five years to liquidate. This estimate does not include the 1500-2000 new cases that are submitted each month nor does it consider the reduction in staffing that has occurred over the past few months and will continue due to budget constraints (D. Cusimano 2004). In January 2003, to offset the projected over expenditure, 23 temporary positions reduced their hours by one day per week and all overtime was discontinued. The cut backs made in March 2003 accounted for the decline in production and inventory reduction in June 2003. Further reductions made after March 2003 resulted in further decline in productivity over the next several months (D. Cusimano 2004). Table 5.0 reflects the staffing reductions.

Table 5.0 Staff Levels

Interview

Additional literature and information provided by Deborah Cusimano, Chief FLCO, regarding the Fiscal impact and challenges faced by the organization as a result of the reduction in funding noted that FLCO received over 50,000 applications during the month of April Of 2001. The literature noted that the number of applications received during this month was approximately 43 times the number of applications received in a typical month and represented about three years worth of work. This occurred at a time when the DOL had reduced the FLCO level of funding and the office did not have the level of staff to handle the new increased workload (D. Cusimano 2004).

Additional literature and information was provide by the interview of Deborah Cusimano, Chief FLCO, regarding the fiscal impact and challenges faced by the organization as a result of the reduction in funding. Cusimano noted that the

nation has not been able to recover from the backlog created by the LIFE Act in 2001 because the program has not had sufficient funding to hire the required number of staff. Based on five-year analysis of workload and production in California, the average number of regular cases per person per month is 36. So one person could process 432 cases per year. The national backlog is estimated at 315,000 cases. It would take approximately 729 case processing staff to clear the number of unprocessed applications in one year. California has the largest Foreign Labor Certification Office in the country. Since 2001, staffing has been reduced considerably and most SWAs are staffed with two or three people. This trend would make it highly unlikely that the number of unprocessed applications will be reduced or eliminated at the current staffing levels (D. Cusimano 2004).

In addition to the lack of staffing, the program operates very inefficiently. There is a lack of coordination between the DOL and the SWAs, which results in delays. Also, the remand policy (cases returned for deficiencies by DOL) often requires processing one case multiple times. This creates delays that cause additional workload. The DOL lack of attention to program policy and standardized procedures cause inefficiencies that create further delays in case processing. This combined with a lack of adequate funding make the backlog insurmountable. The 10,000 high tech remands that DOL sent back to the FLCO and later recalled created a tremendous amount of workload that required at least 3 full time staff to turn away from production and focus on logging cases in and out of our system. The remands also increased phone calls and

administrative workload including the need to respond to numerous Freedom of Information Act requests for copies of case files. This waste of resources in addition to the state hiring freeze and the staffing reductions that resulted from the Job Service budget cuts slowed our production considerably in 2003/2004. Cusimano (2004) noted that the FLCO possibly could have eliminated the number of unprocessed applications with sufficient funding. However, to liquidate the backlog of 62,000 cases in a one year period would require a staffing level of 144 Specialists or \$11,352,960 (1 EPR costs the department \$78,840 per year). At least 7 managers would be required to supervise a staff that large (1 EPM costs the department \$105,966 per year). The first line managers, an Operations Manager (\$115,308) and an Office Manager (\$130,272) would add another \$987,552 for a total of \$12,340,512 in staffing costs alone. The FLCO highest level of funding was in 2000 when the program received approximately \$8,000,000. This reflects only 65 percent of the total funding required for the FLCO to reduce the number of unprocessed applications. Cusimano (2004) noted that the backlog reduction centers would only be successful if they have enough people to do the work. Without a change in federal regulation or DOL policies that govern the processing of these cases, the estimated backlog of 315,000 cases will require approximately 729 Specialists to process in one year. This equates to about \$57,474,350 in staffing costs alone. Management and overhead costs would increase this number. She doubts that the backlog centers would be funded at levels that even come close to this amount (D. Cusimano 2004).

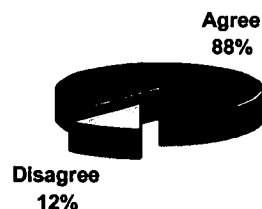
Questionnaire Summary

The comprehensive analysis of the questionnaire results noted that 88 percent of the respondents agreed that the reduction in funding by DOL contributed to the increase in the number of unprocessed applications. 92 percent of the respondents agreed that FLCO could have reduced the number of unprocessed applications. 72 percent of the respondents reported that the DOL plan for reduction centers would not be able to reduce the number of unprocessed applications without the appropriate funding. The following are summarized statistics of the results of information reported by the twenty-five participants who responded to the FLC survey from a sample of forty questionnaires sent.

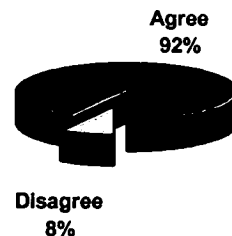
Aggregate summary of Responses

Questions	Agree	Disagree	No Opinion
1. Do you feel the reduction in funding by DOL contributed to California's backlog of unprocessed FLC applications?	88%	12%	0%
2. Do you feel FLCO could have reduced the backlog with the appropriate DOL funding?	92%	08%	0%
3. Do you feel other factors contributed to the FLCO backlog?	12%	88%	08%
3. Will the backlog Reduction Centers be able to eliminate the backlog?	20%	72%	08%

**Reduction in funding by DOL
contributed to the increase in volume
of unprocessed applications**



**FLCO could have reduced the number
of unprocessed applications with
appropriate funding**



Twenty percent of the respondents indicated that it was possible by future backlog reduction centers to reduce the number of unprocessed applications with adequate funding. An inference could be made by this statistics that if an organization has adequate funding the number of unprocessed applications can be reduced. 96 percent of the respondents to question number four indicated that the number of applications received during the amnesty act of April 2001 contributed to the number of unprocessed applications.

Conclusions and Area for Further Research

The analysis of data retrieved from the EDD Grant Funding Reports, the interview with the chief of FLCO, the performance data extracted from the FLCO database, and the questionnaire responses demonstrates that the reduction in funding by DOL contributed to the increase in volume of unprocessed cases in California. The analysis was conducted to accomplish two primary purposes: First, to demonstrate the relationship between the DOL reduction in funding and the increase in number of unprocessed applications. Secondly, to demonstrate how restoring funding to the 2000 level would assist in substantially reducing the number of unprocessed applications.

In FFY 2000, FLCO was budgeted for approximately 8 million dollars. Three years later the FLCO budget was reduced by 66 percent to less than three million dollars. The reduction in staff impacted the organizations production levels significantly. During this same period of time, the number of unprocessed

applications increased by approximately 900 percent. Further data analysis from the EDD grant report revealed that the FLCO never recovered from the amnesty applications file during April 2001. The reduction in funding and the increase in volume of unprocessed applications were magnified with the passage of the amendments enacted in December 2000 to section 245(i) of the Immigration and Nationality Act (INA). This amendment allowed aliens who entered the United States without inspection or who fall within certain statutory categories to adjust their status to that of a lawful permanent resident if a labor certification application was filed on their behalf with a SWA on or before April 30, 2001. It is estimated that approximately 236,000 applications were filed to meet the deadline of April 30, 2001, at a time when less than 100,000 applications were filed in an entire year. At the start of April 2003, over 280,000 permanent labor certification applications were in the SWA processing queues throughout the nation, with another 30,000 applications in the various DOL Employment Training Agency (ETA) Regional Office queues. The California FLCO received over 50,000 applications during the month of April, which was approximately 43 times the number of applications, received in a typical month. This increase represented about three years worth of work, and occurred at a time when the DOL had reduced the organizations funding by approximately 50% (EDD Grant Report 2004).

Areas for Further Research

Based on the data analysis conducted in this research project the following areas are recommended for further study:

1. Streamline the regular case processing

The regulations at Section 656.21(d) specify that the local office is to ensure that the Application for Alien Employment Certification form is complete. If it is not, Section 656.21(d) states that the local office shall return it to the employer and shall advise the employer to re-file it when it is completed. The FLC Technical Assistance Guide (TAG) specifies that if the application is returned for completion and re-filed within 45 days with the requested information, the original priority date remain. If it is not returned within 45 days or if it is not properly completed upon its return, the priority date is the date the application is re-filed (FLC Technical Guide 2004).

This provision could be effectively used to clear the regular case queue of applications that are no longer active and/or to improve the quality of applications that are still pending. Specifically, this research project proposes the following actions:

- Review all regular permanent cases for completeness.
- Identify cases with one or more of the following errors:
 - No job description (if the job description is attached the case would not be returned)
 - No wage

- No education/experience requirements
- No employer signature
- No employer address
- No employer phone number
- Cancel these cases and return them to the employer with a letter that says if they return a completed application within 45 days we will reinstate the case with its original priority date.
- Reinstate cases returned within 45 days with the original priority date.
- Reinstate cases returned after the 45-day period with a new priority date (the date they are resubmitted).

Pros:

- Would enable us to meet our goal for 2004;
- Would reduce case processing time by reducing the need for multiple assessment notices;
- Would protect the 245(I) status of aliens with applications filed on or before April 30, 2001;
- Would not have a negative impact on employers who want there active case to continue because they would get their case reinstated with its original priority date when they return the completed application within 45 days.

Cons:

- Employers/attorneys may think it is unfair to cancel a case that was initially accepted when it was filed;
- Could create additional workload if phone calls increase due to confusion or if most of the cases are returned with completed items and have to be reinstated.

2. File Applications Online

Consider having employers file the 10,020 RIR unprocessed FLC applications online. The RIR process allows an employer to file a reduction in recruitment request for any occupation if the employer can show that an adequate test of the labor market has occurred at prevailing wages and working conditions through sources normal to the occupation and industry within the previous six months. Upon receipt of an application with a written request for reduction in recruitment, staff must review the application for completeness, determine the prevailing wage and identify any deficiencies that would have affected the recruitment. If deficiencies are noted, staff may request additional information from the applicant to address them. Staff may also advise the applicant that it is unlikely that the Certification Officer will approve their request for reduction in recruitment and suggest that the employer recruit through the regular process. However, we are required to transmit all requests for reduction in recruitment to the Certifying Officer at the Department of Labor for a formal determination, regardless of whether or not we think the request will be approved. Almost all RIR cases are

forwarded to DOL without any issues or deficiencies (FLC Technical Guide 2004).

Allowing an employer to file an application online would definitely assist in backlog reduction efforts. Moulder (2001) has noted that E-government is an essential component of local government's economic development. Moulder explains that E-government and e-commerce initiatives are not limited to attracting new businesses: She notes that businesses would benefit enormously by e-government. Moulder (2001) explains that perhaps no group favors this change to e-government more than businesses that need to complete applications for permits, and licenses and must complete other transactions that typically involve waiting in line and losing hours that could be spent on the job.

Pro:

- Would expedite the RIR process and free staff to process permanent applications

Con:

- Additional funding will be needed to set up electronic process necessary to file applications online.
- Disseminating and educating employers could be lengthy.
- Errors and omission will increase thereby duplicating the work being done on a single application.

3. Implement Performance Standards

Consider implementing performance measures. Unit Managers should check their unit's output weekly to ensure staff are performing at an overall office or unit average level. Incorporating performance measures would ensure accountability within our organization and assist in the transformation of the current culture into a high performance government organization. In some areas of the FLCO organization performance measures are in place and the production is very high. However, in other sections of the organization there are no performance measures in place and the production is very low. Osborne and Plastrik (2000) explain performance measurements answer the question of is the government performing well or poorly by creating information about the results produced by departments or agencies, programs, work teams, and even individual employee. He explains that if you do not have performance measures, you cannot manage for it, reward it, contract for it, or even identify the bottom lines for which public organizations will be held accountable. In short, if you cannot measure performance, you cannot tie incentives to it (Osborne and Plastrik, 2000).

In addition, Osborne and Plastrik (2000) explain that implementing performance measures will not be easy. It typically takes about three years to develop an adequate set of performance measures. The first time around, most agencies find themselves measuring inputs and processes, not outputs and outcomes. They often go through several iterations – nudged along by a neutral body that has authority to approve measures – before they get the focus squarely on

results. If FLCO considers policy to implement performance measures time consideration is crucial. With the current backlog any further delays will only contribute to the number of unprocessed FLC applications.

Pro:

- Would ensure accountability and highlight areas of the organization that are performing at expected levels.

Con:

- Can expect the Union to file a grievance
- Human Resource and executive management will be involved
- Morale and culture could turn nonproductive

4. Privatize The Foreign Labor Certification (FLC) Program

Return the FLC program to DOL and suggested that DOL privatize the program.

The analysis of the FLCO production data revealed that the regular case processing section currently processes 200 cases a month or 2400 a year.

Statistically that translates to the 48000 regular permanent case backlog being reduced in 20 years (48000/2400). Employers, Attorneys, and Agents have all echoed their frustrations at the amount of time it takes the FLCO office to process cases by having their legislators and stakeholders lobbied the DOL to privatize the FLCO program. Osborne & Plastrik (2000) note that another reason for contracting is because it saves money. Private companies tend to have fewer layers of management, they adopt cost-saving technologies more rapidly, and

they use their personnel more flexibility. This helps make them more efficient than most public bureaucracies. In addition, he explains that contracting saves money for the following three reasons:

- The private contractor is free of government rules and civil service requirements, which allows great flexibility in employment practices
- The private contractor generally pays lower wages.
- The private contractor pays substantially lower fringe benefits especially retirement benefits. He points out that labor costs account for 50% of state and local spending bureaucracies.

Pro:

- All backlog issues would be erased.
- Stakeholders would have to redirect their concerns to the private contractor and the Federal government.

Con:

- Existing Staff would need to be redirected.
- Loss of existing Federal dollars for the FLC program
- Can expected the Union to file a grievance
- DOL might not take program back

Recommendation

Analysis of funding historical data notes that Federal funding will continue to decrease. As the Federal government tackles the trillion of dollars in budget deficits and the cost of war, all programs in all likelihood will experience funding reductions. In addition, the State of California continues to struggle with it's own budget deficits and there is talk that there will be possibly more reduction in future government spending. Condrey (1998) notes that programs should be analyzed for its cost-benefit analysis and cost effectiveness. It is a means of tapping the economic efficiency of a program, that is, the extent to which social benefits outweigh the social costs. All cost and benefits associated with a particular program or activity are identified and expressed in terms of monetary units. Cost-benefit analysis often examines the cost associated with differing alternatives. It can provide detail information on the costs and benefits associated with various alternatives. Cost effectiveness differs from cost-benefit analysis in that that it focuses on the efficiency of a particular program or activity in terms of outcomes or outputs (Condrey, 1998).

Future qualitative research should be explored with industry stakeholders in order to determine the most viable option. O'Sullivan, E., Rasssel, G.R., and Berner M. (2003) explain that qualitative research involves detailed, verbal descriptions of characteristics and settings. Qualitative studies describe specific features of each individual, organization, jurisdiction, or program. Qualitative studies are often conducted by researchers who are participants or who are

close observers of the phenomenon studies. Such researchers use their experiences and insights to design a study and to interpret the findings. However, returning the FLC program to the Federal Government and recommending that the program be privatized should be seriously considered. It is unreasonable to expect an employer to remain competitive and stay in business in today's global economy if they cannot expeditiously hire foreign workers, temporarily or permanently, when there are not sufficient U.S. workers who are able, willing, qualified, and available to perform the jobs. This alternative would also assist in reducing the number of jobs that would otherwise be outsource and keep tax dollars within United States. Prevailing wage concerns can be lessen by having the private contractor and DOL validate the foreign workers wage by using DOL's online wage database called Occupational Wage Library (OWL). This is the same database that FLCO uses to verify wages. This cross validation would ensure that the employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers that are similarly employed (FLC Technical Assistance Guide, 2004).

References

Associated Press (2005 April 28). Gates Says Visa Cap Must Go. *The Sacramento Bee*, Business p. D2.

Bazar, E., (2005, April 12). Conflicting Visa News has Local Firms Worried. *The Sacramento Bee*, p. A7.

Condrey, S. E., (1998). *Handbook of Human Resource Management in Government*. San Francisco, CA: Jossey-Bass Publisher.

Deborah Cusimano, Foreign Labor Certification Office (2004) Chief Operating Officer. Sacramento, CA. Interview:

Doyle, M., (2005 April 14). Immigration Pops Up in Senate War-Funds Debate *The Sacramento Bee*, p. A10.

Employment Development Department. (2000). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author.

Employment Development Department. (2001). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author.

Employment Development Department. (2002). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author.

Employment Development Department. (2003). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author.

Employment Development Department. (2004). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author.

Employment Development Department. Foreign Labor Certification Office (FLCO) Database, Available December 7, 2004 from FLCO Sacramento, CA.

Employment Development Department (n.d.). *Foreign Labor Certification Overview*. Retrieve April 3, 2005 from <http://www.edd.ca.gov/edddescp.htm>

Foreign Labor Certification Office (2004). *Technical Assistance Guide* Sacramento CA: Author

Moulder D. (September, 2001). *E-government...If you build it they will come?* Public Management; Washington D.C.

Osborne, D., & Plastrik, P. (2000). *The Reinventor's Fieldbook*. San Francisco, CA: Jossey-Bass, A Wiley Company.

O'Sullivan, E., Rasssel, G.R., and Berner M. (2003). *Research Methods*. San Francisco, CA: Addison Wesley Longman, Inc.

The Professional Organization of Immigration Attorneys. *American Immigration Lawyers Association*. Retrieve April 10, 2005 from <http://www.aila.org/contentViewer.aspx?bc=39>

U.S. Department of Labor Employment & Training Administration (2004a). *Foreign Labor Certification Mission Statement*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/mission.asp>

U.S. Department of Labor Employment & Training Administration (2004b). *Foreign Labor Certification Foreign Labor Certification How Do I questions*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/howdoi.asp>

U.S. Department of Labor Employment & Training Administration (2004c). *About Foreign Labor Certification Program*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/about.asp>

U.S. Department of Labor Employment & Training Administration (2004d). *Foreign Labor Certification Policies and Regulations*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/reg.asp>

U.S. Department of Labor Employment & Training Administration (2004e). *Foreign Labor Certification Organization*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/org.asp>

U.S. Government Printing Office via GPO Access (2004), Code of Federal Regulations *Title 20, CITE 20CFR656*. Retrieved April 3, 2005 from <http://www.access.gpo.gov/index.html>

U.S. Government Printing Office (n.d.). Federal Register: Department of Labor: *Certification for the Permanent Employment of Aliens in the United States Backlog Reduction* (Federal Register / Vol. 69, No. 139). Retrieved April 3, 2005. <http://www.gpoaccess.gov/fr/index.html>.

Appendix A

Sources Information of References Cited

Associated Press (2005 April 28). Gates Says Visa Cap Must Go. *The Sacramento Bee*, **Business section p. D2.**

Bazar, E., (2005, April 12). Conflicting Visa News has Local Firms Worried. *The Sacramento Bee*, **Main section p. A7.**

Condrey, S. E., (1998). *Handbook of Human Resource Management in Government*. San Francisco, CA: Jossey-Bass Publisher p.428. **Personal Collection (EMPA 307 textbook)**

Deborah Cusimano, Foreign Labor Certification Office (2004) Chief Operating Officer. Sacramento, CA. **Interviewed November 2004.**

Doyle, M., (2005 April 14). Immigration Pops Up in Senate War-Funds Debate *The Sacramento Bee*. **Main section p. A10.**

Employment Development Department. (2000). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author. **Foreign Labor Certification Office – EDD Records.**

Employment Development Department. (2001). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author. **Foreign Labor Certification Office – EDD Records.**

Employment Development Department. (2002). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author. **Foreign Labor Certification Office – EDD Records.**

Employment Development Department. (2003). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author. **Foreign Labor Certification Office – EDD Records.**

Employment Development Department. (2004). *Foreign Labor Certification Proposed Funding: Labor Certification Grant – Nonagricultural Report*. Sacramento, CA: Author. **Foreign Labor Certification Office – EDD Records.**

Employment Development Department. Foreign Labor Certification Office (FLCO) Database, Available December 7, 2004 from FLCO Sacramento, CA.

Employment Development Department (n.d.). *Foreign Labor Certification Overview*. Retrieve April 3, 2005 from <http://www.edd.ca.gov/edddescp.htm>

Employment Development Department, Foreign Labor Certification Office (2004). *Technical Assistance Guide* Sacramento CA: Author. **Foreign Labor Certification Office – EDD Records.**

Moulder D. (September, 2001). *E-government...If you build it they will come?* Public Management; Washington D.C. **Public Management document dated September 2001.**

Osborne, D., & Plastrik, P. (2000). *The Reinventor's Fieldbook*. San Francisco, CA: Jossey-Bass, A Wiley Company. **Personal collection (EMPA 303 textbook)**

O'Sullivan, E., Rasssel, G.R., and Berner M. (2003). *Research Methods*. San Francisco, CA: Addison Wesley Longman, Inc. **Personal collection (EMPA 301 textbook)**

The Professional Organization of Immigration Attorneys. (n.d.) *American Immigration Lawyers Association*. Retrieve April 10, 2005 from <http://www.aila.org/contentViewer.aspx?bc=39>

U.S. Department of Labor Employment & Training Administration (2004a). *Foreign Labor Certification Mission Statement*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/mission.asp>

U.S. Department of Labor Employment & Training Administration (2004b). *Foreign Labor Certification Foreign Labor Certification How Do I questions*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/howdoi.asp>

U.S. Department of Labor Employment & Training Administration (2004c). *About Foreign Labor Certification Program*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/about.asp>

U.S. Department of Labor Employment & Training Administration (2004d). *Foreign Labor Certification Policies and Regulations*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/reg.asp>

U.S. Department of Labor Employment & Training Administration (2004e). *Foreign Labor Certification Organization*. Retrieved April 3, 2005, from <http://www.ows.doleta.gov/foreign/org.asp>

U.S. Government Printing Office via GPO Access (n.d.), Code of Federal Regulations *Title 20, CITE 20CFR656*. Retrieved April 3, 2005 from <http://www.access.gpo.gov/index.html>

U.S. Government Printing Office (n.d.). Federal Register: Department of Labor: *Certification for the Permanent Employment of Aliens in the United States Backlog Reduction* (Federal Register / Vol. 69, No. 139). Retrieved April 3, 2005 from <http://www.gpoaccess.gov/fr/index.html>.

Appendix B

Foreign Labor Certification Program Questionnaire

This interview is being conducted for the purposes of an academic research project, which is being conducted by or on behalf of a graduate student at Golden Gate University. Your participation in this survey is completely voluntary and confidential. The questionnaire pertains to the Foreign Labor Certification (FLC) program. For each of the four questions listed below circle the answer that best describe your belief. Please add any additional comments that you feel contributed to the increase in the number of unprocessed FLC applications.

1. Do you feel the reduction in funding by DOL contributed to the increase in unprocessed FLC applications in California?

Strongly Agree Agree No Opinion Disagree Strongly Disagree

2. Do you feel FLCO could have reduced the number of unprocessed applications with the appropriate DOL funding?

Strongly Agree Agree No Opinion Disagree Strongly Disagree

3. Do you feel other factors contributed to the FLCO backlog?

Strongly Agree Agree No Opinion Disagree Strongly Disagree

4. Will the backlog Reduction Centers be able to eliminate the number of unprocessed applications?

Strongly Agree Agree No Opinion Disagree Strongly Disagree

Add comment:

Thank you for completing this questionnaire. Your opinion is important.