The Building and Construction Trades Department's
Statement of Principles on Comprehensive Immigration Reform

U.S. immigration policy is broken. The number of people illegally in the U.S. is estimated to exceed 11.5 million, and that number is growing rapidly. This fact underscores the contention that there is something seriously wrong with our current immigration policy. There is very little relationship between the needs of the economy and the composition of the workforce immigrating into the United States. Therefore, U.S. immigration policy needs to be overhauled and realistically realigned with future economic and workforce needs. In addition, we urge Congress to adopt changes in immigration policy which: address the immediate concerns about homeland security; provide aggressive and effective enforcement against employers that violate prohibitions against hiring unauthorized immigrants; reject the creation of a new temporary worker program for the building and construction industry, which has been treated differently by Congress on numerous occasions on account of its unique labor and employment characteristics; and create a path to legalization for those here illegally yet who meet traditional U.S. standards. Accordingly, the Building and Construction Trades Department, AFL-CIO, urges Congress to adopt comprehensive immigration reform legislation that includes the following principles:

I. Homeland Security

A primary Constitutional responsibility of the Federal government is to provide for the security of the American people, territory, and sovereignty within our borders in order to make the United States homeland safe. Accordingly, we support legislation intended to deny entry of all unauthorized immigrants into the United States. In order to achieve this goal, it is necessary to secure the borders of the United States to the maximum extent possible without compromising constitutionally guaranteed personal and civil liberties. Achievement of this goal is critical not only as a means of reducing the United States' vulnerability to terrorism, but also as a means of preserving the economic conditions of its citizens and legal residents. Mass unregulated illegal migration into the United States creates unfair wage competition, which is detrimental to the best interests of U.S. citizens and legal residents, on the one hand, and those here illegally, on the other. For this reason, implementation of strong and effective border security measures with appropriate funding will help combat the threat of terrorism as well as the threat to the labor standards of U.S. workers caused by the presence of an unprecedented number of people in the U.S. illegally.

II. Verification System and Effective Employer Sanctions

Enforcement of border security must be accompanied by fair and effective enforcement of our existing immigration laws within our borders in addition to fair and equal enforcement of federal and state labor and employment laws. Therefore, we support authorization and funding for additional work-site enforcement agents of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security. In addition, we support raising fines and adding new penalties and sanctions for violation of immigration law requirements applicable to employers, including the knowing employment of unauthorized immigrant workers. However, additional enforcement agents, increased fines and other penalties alone will not correct the current failure of the enforcement system.

A mandatory electronic work-eligibility verification system is needed, which can effectively detect the use of fraudulent documents and significantly reduce the employment of unauthorized immigrants. Additionally, Congress should create a presumption that the employer knowingly violated the law where employment is continued after the employer receives notice that the employee is not authorized to work. We are not unmindful of legitimate concerns that a mandatory electronic work-eligibility verification system may cause unfair discrimination against some authorized immigrant workers and U.S. workers, which may lead to unjustified termination of employment due to errors by the system. Without safeguards, such a system could also lead to abridgement of constitutional rights of privacy. Therefore, we urge that adoption of a mandatory electronic work-eligibility verification system be accompanied by strong and effective procedures designed to protect these personal and civil rights.

Nonetheless, creation of a mandatory electronic work-eligibility verification system is the linchpin of comprehensive immigration reform. Because of its central role, we urge Congress not to make effective any of the other provisions in a comprehensive immigration reform bill (except for those related to homeland security and employer sanctions) until and unless the General Accountability Office or some other independent agency certifies to the Congress that the mandatory electronic work-eligibility verification system has achieved at least a 99 percent rate of accuracy in its final notices that employees are eligible for employment.

III. A New Temporary Worker Program Is Unnecessary for the Building and Construction Industry

We are generally skeptical about creating a new temporary worker program because of the long history of their abuse and the attendant exploitation of temporary workers and erosion of U.S. workers' economic standards. A new temporary worker program would be particularly harmful to the long-term interests of the building and construction industry, because of its negative effect on bona fide apprenticeship and training programs. A new temporary worker program will permit employers to meet labor shortages by importing temporary non-immigrant labor instead of investing in recruitment and training of new U.S. workers.

This is particularly true in the building and construction industry where employment is characterized by its intermittent, temporary, transitory nature. Generally, building and construction contractors hire a work force on a project basis. Thus, workers in the building and construction industry are accustomed to traveling from areas where work is not plentiful to fill short-term labor shortages created by cyclical expansion and contraction of local construction activity. Union-sponsored hiring halls in the U.S. and Canada were developed to deal with the intermittent, temporary, transitory nature of the industry, including labor shortages. The hiring hall is simply an arrangement by which a local union registers applicants for employment and then refers them, on request, in some predetermined order, to employers with which the union has a labor agreement. The hiring hall is unique, but not exclusive, to the building and construction industry. Congress has recognized the unique character of the hiring hall and other employment-related characteristics of the building and construction industry on several occasions. For example, Section 8(f) of the National Labor Relations Act permits building and construction employers to enter into labor agreements with unions without first establishing the union's majority status, which in other industries is required. Moreover, the unique relationship

between the hiring hall and applicants for employment in the building and construction industry enables employers to rely on the unions to vouch for the skill and training of the applicants referred by the unions and the applicants to rely on the union to provide assurance that the employers will honor their labor standards.

Similarly, this unique relationship enables unions and employers to jointly sponsor apprenticeship and training programs designed to train and replenish the workforce. Consequently, the long-term workforce needs of our industry as a whole have been satisfied historically through a commitment to jointly sponsored training of a skilled workforce. Reliance on temporary foreign workers to fill labor shortages in the building and construction industry will inevitably discourage continued investment in apprenticeship and training. Accordingly, a new temporary worker program is unnecessary and potentially harmful to the building and construction industry.

Instead, the H-2B visa system, which is currently available to fill employers' temporary needs resulting from either one-time, seasonal, peak load, or intermittent labor shortages that do not last more than one year, is uniquely appropriate as a means of filling genuine short-term shortages of qualified U.S. workers in the building and construction industry that the hiring hall system can not otherwise meet.

Nonetheless, the H-2B visa system should be improved to accommodate short-term labor needs in the building and construction industry by authorizing joint labor-management organizations and building trades unions, in addition to employers, to sponsor temporary admission of trained skilled workers from abroad, who are represented by the same organizations, pursuant to an accelerated process. The unique relationship between employers, unions and applicants for employment in the building and construction industry described above enables joint labor-management organizations and unions to provide the assurances to the Secretary of Labor required under the H-2B certification process that admission of temporary non-immigrant workers are not displacing U.S. workers capable of performing such services or labor, and whose employment will not adversely affect the prevailing wages and working conditions of similarly employed U.S. workers. These changes would provide greater assurances that admission of foreign workers to perform labor and services in the building and construction industry do not have the effect of undermining the labor standards of U.S. workers and the commitment to train future generations of skilled well-trained workers.

IV. Earned Legal Status

The United States is a nation of immigrants founded on the shared ideals and rights of democracy, freedom of speech, religious tolerance and equal opportunity. Moreover, we recognize the vast majority of the estimated 11.5 million people in the U.S. illegally work hard. But, we understand that many employers are eager to have access to a large pool of labor forced to work for substandard wages, creating an underground economy, without basic protections afforded to U.S. workers, for which employers are often able to avoid payroll taxes, thereby depriving federal, state, and local governments of additional revenue. This is an intolerable situation. Even so, expulsion of all people who are in the U.S. illegally is unrealistic for several

reasons, not the least of which is the staggering cost associated with such an effort and the slim likelihood that it would succeed.

Accordingly, it is in the best interest of the nation and its workers that those who are here illegally are accounted for in the economy. It is not sufficient for comprehensive immigration reform to simply propose that people who are here illegally should be granted legal status without defining a path pursuant to which it may be earned. Waving a wand of legalization, as some advocate, would only increase pressure at our borders by encouraging future unlawful immigration. Rather than resolving the problem, it will exacerbate it.

Therefore, we support creation of a path to earned legal status for foreign born people who are in the U.S. illegally and their spouses and dependent children who, since they arrived in this country, have been law abiding, tax-paying, hard working, productive participants in the U.S. economy. We do not intend this approach to be a reward for breaking the law, and so those people who are in the U.S. illegally wishing to adjust their status should be required to pay a fair and appropriate penalty and take a place at the back of the line behind all other applicants for legal status who have been patiently waiting their turn to legally enter the U.S. In the meantime, people who are in the U.S. illegally who qualify for eligibility to adjust their status will be able to continue working in this country, pay taxes and adjust to life in the U.S. with the full protection of U.S. laws, including the National Labor Relations Act and Title VII of the Civil Rights Act of 1964, but not be eligible to receive federal entitlements.