NAACP Legal Defense Fund Files FOIA Request with Department of Labor Regarding Tip Pooling Proposal

Following media reports that the U.S. Department of Labor (DOL) removed unfavorable internal analysis from its Notice of Proposed Rulemaking on Tip Regulations Under the Fair Labor Standards Act, the NAACP Legal Defense and Educational Fund, Inc. (LDF) today filed a Freedom of Information Act (FOIA) request seeking all public records related to the new rulemaking proposal.

In December, DOL filed a new tip pooling proposal that would allow employers to collect workers’ tips and reallocate them to non-tipped employees. The agency reportedly scrubbed its December proposal of analysis showing that the rule change would result in workers losing billions of dollars in tips, and ordered staff to change the methodology to create the impression of a smaller financial impact.

“The Trump Administration continues to demonstrate its contempt for low-income Americans, especially communities of color, through policy proposals that strip individuals of their rights and take money out of their pockets,” said Todd A. Cox, Policy Director at LDF. “The Department of Labor’s dangerous new proposal threatens to cost hard-working Americans billions of dollars in earned tips, and the agency’s attempt to shield the impact of the change from the public is astonishing. The proposal particularly impacts workers of color who are nearly 45 percent of the restaurant industry workforce and are employed significantly in other tipped professions. LDF is demanding transparency from DOL about their reported coverup, and we’ll continue to fight to increase fairness and equal opportunity in all facets of the economy.”

The FOIA request seeks:

- Any and all documents related to the proposed rulemaking;
- Any and all documents related to the economic analyses—whether completed, attempted, preliminary, or final—of the costs and benefits of the proposed rulemaking;
- Any and all documents related to DOL’s decision to not disclose the analysis estimating the impact of the proposed rulemaking on the earnings of workers; and
- Any and all documents related to the Department’s claim that it was unable to perform a quantitative analysis estimating the impact of the proposed rulemaking on the earnings of workers.

Read LDF’s FOIA request here.

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization and has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.