



H-1B Visa Reform

EXECUTIVE SUMMARY

The Obama campaign called for “comprehensive immigration reform that improves our visa programs to attract some of the world's most talented people to America.” In past years, the annual cap of 85,000 H-1B visas – including 20,000 slots for foreigners holding master's degrees or higher training from American universities – was met within days of the application period opening. In 2008, USCIS kept the filing period open for the first five business days in April, and received a total of more than 163,000 petitions, including 31,200 against the advanced degree quota. There exists a positive relationship between the presence of foreign workers and increased job opportunities for Americans. And results indicate that both international graduate students and skilled immigrants have a significant and positive impact on innovative activities in the US as proxied by future patent applications as well as on future patents awarded to university and non-university institutions. Thus, an increase in the H-1B visas quota for holders of advanced degrees could lead to a significant increase in employment opportunities for Americans as well as a boost to innovation-driven long-run economic growth.

PROPOSAL

Support relief from H-1B caps for foreigners holding master's degrees or higher training from American universities in Science, Technology, Engineering and Mathematics (STEM).

BENEFITS

1. **HUGE BOOST TO INNOVATION AND LONG-RUN ECONOMIC GROWTH.** A World Bank Research Policy Working Paper (Chellaraj, Maskus and Mattoo, 2005) that looked at total patent applications, patents awarded to U.S. universities, and patents awarded to other U.S. entities (each scaled by the domestic labor force) estimated that both international graduate students and

skilled immigrants have a significant and positive impact on future patent applications. Using 2008 figures, **every 10% increase in the H-1B visa quota for holders of PhDs from American universities in science and engineering could lead to an increase in patents (and thus, growth) that is greater than the 2008 combined total number of patents granted in the semiconductor manufacturing and drug compositions and biotechnology industries.**

- For this World Bank study, in the main specification a system of three equations is estimated, where dependent variables are total patent applications, patents awarded to U.S. universities, and patents awarded to other U.S. entities, each scaled by the domestic labor force. “[A] ten-percent rise in the number of scientists and engineers in the labor force (SK) [PhD's employed in science and engineering as a percentage of labor force], holding fixed the labor force, would increase later patent applications by 10,534 (7.5 percent of sample mean), university grants by 68 (6.4 percent) and other-institution grants by 5,660 (6.4 percent).” (World Bank, 2005) Holding constant the total relative presence of graduate students in U.S. universities, “a ten-percent rise in the ratio FORTGR [foreign graduate students] would expand later patent grants by 6,560 (or around 7.3 percent of mean total grants), suggesting a marginal productivity of 0.62 grants. These are large figures in the context of U.S. patent flows.” (World Bank, 2005)

2. INCREASE IN EMPLOYMENT OPPORTUNITIES FOR AMERICANS AND EXPANDED SIZE OF OVERALL JOB MARKET IN THE US. The non-partisan National Foundation for American Policy (NFAP) used a regression model that controls for both general market conditions and firm size and found that that **for every H-1B position requested, U.S. technology companies increase their employment by 5 workers.** Furthermore, the report (NFAP, March, 2008) also found that employers that reduced employment reduced it less if they had filed for H-1Bs visas. The data indicates that, for every H-1B position requested on a labor condition application, **total employment is estimated to be 2 workers more than it otherwise would have been.**

- “A year-by-year examination of H-1B filings and employment growth at the technology companies in the S&P 500 shows H-1B use is associated with increased hiring at tech companies... the data show that for every H-1B position requested, U.S. technology companies increase their employment by 5 workers... There are empirical reasons to believe these findings demonstrate new opportunities being created for U.S. workers by the availability of foreign high-skilled labor, rather than a substitution.” (National Foundation for American Policy, 2008)

3. PREVENTING THE LOSS OF JOBS TO OTHER COUNTRIES, ESPECIALLY IN THE TECHNOLOGY SECTOR. The NFAP surveyed 120 companies and found that sixty-five percent of technology companies responding to the survey said **in response to the lack of H-1B visas they had hired more people (or outsourced work) outside the United States, pushing work to other countries.** “This is significant in that even if those companies responding to the survey are heavier users of H-1B visas it means that these are the companies most likely to hire outside the United States in response to an insufficient supply of skilled visas for foreign nationals.” (National Foundation for American Policy, 2008) As Ralph Hellman, senior vice president of government relations for the Information Technology Industry Council said, “[p]rotectionism, cutting research and development, and sending all the smart people home isn't the smartest way to keep America's leading edge.”

- Laszlo Bock, Vice-President for People Operations at Google (about 8 percent of Google's U.S.-based employees are working on H-1B temporary visas from over 80 different countries) pointed out in his testimony at the House Judiciary Immigration Subcommittee that Google does not hire foreign nationals instead of Americans but *in addition* to them. “We believe that it is in the best interests of the United States to welcome into our workforce talented individuals who happen to have been born elsewhere, rather than send them back to their countries of origin,” said Bock. “But this doesn't mean we don't recruit here in the U.S., or that American workers are being left behind. To the contrary, we are creating jobs here in the U.S. every day.”

- "We don't want to make the system so burdensome that, once we've educated them here, the best and brightest are told to go home," said Ralph Hellman. "They will go back to India or China and work for the competitors of America's leading technology companies." (LA Times, April 09)

RELATED FACTS

1. In the 1990s -- when the visa program was created for engineers, doctors, programmers and scientists -- the number of visas available for educated professional immigrants was capped at 195,000 per year. (Pittsburgh Post-Gazette, April 13, 2008)
2. The cap for H-1B is 65,000 (plus 20,000 advanced degree H-1B visas) from FY2009. (The fiscal year runs from October 1st to September 30th the following year.)
3. "In the year 2007, the filing window available was just two days, and USCIS [Citizenship and Immigration Services] received 123,480 petitions, resulting in the use of the so-called H-1B lottery to pick enough petitions to meet the quota cap. The master's quota cap was reached much later. In 2008, USCIS kept the filing period open for the first five business days in April, and received a total of more than 163,000 petitions, including 31,200 against the advanced degree quota. Again the lottery was resorted to, this time for both regular quota and advanced degree quota petitions." (Nair, 2009)
4. On May 25, 2006 the U.S. Senate passed immigration bill 2611 which contained several increases in the number of H-1B visas, including raising the base quota from 65,000 to 115,000 and **raising from 20,000 to unlimited the number of visas for those with U.S. graduate degrees** among others. However, as the House refused to consider the measure, it died in conference and no H-1B increase was approved.
5. The 1990 Immigration Act signified the first comprehensive reform of legal immigration in a quarter century. "The 1990 Act also addressed U.S. policy

toward high-skill temporary workers, setting for the first time an annual cap of 65,000 non-immigrants entering the U.S. under H-1B specialty occupation visas (Congressional Quarterly, Inc., 1991). The Act limited H-1B workers to a maximum six-year stay and specified that H-1B workers hold at least a bachelor's degree or its equivalent in their specialty field. The Act also required employers to pay H-1B workers the prevailing wage. Unlike the cap on employment-based permanent immigration, the H-1B quota applied only to workers, not to their family members (Congressional Quarterly, Inc., 1991). In addition, the 1990 Act created three other new visa categories for skilled temporary workers--the H-1A visa for nurses and O and P visas for prominent scientists, educators, artists, athletes and entertainers (Papademetriou and Yale-Loehr, 1996, pp. 82, 93-99)." (Usdansky and Espanshade, 2000)

6. In September 1997, for the first time, the annual 65,000 ceiling for H-1B workers was reached, halting H-1B admissions for the remainder of the fiscal year and providing the computer industry with new evidence of unmet demand for high-tech workers (Mittelstadt, 1998).
7. The Innovation Employment Act was introduced on March 13th, 2008 by Rep. Gabrielle Giffords (D-AZ) and calls for doubling the H-1B visas to 130,000 per year. The following day Rep. Lamar Smith (R-TX) proposed a bill called the Strengthening United States Technology and Innovation Now, or SUSTAIN, Act that would triple the number of H-1Bs to 195,000.
8. On Feb. 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 ("stimulus bill"), Public Law 111-5. Section 1661 of the ARRA incorporates the Employ American Workers Act ("EAWA") by Senators Sanders (I-Vt.) and Grassley (R-Iowa) to limit certain banks and other financial institutions from hiring H-1B workers unless they had offered positions to equally- or better-qualified US workers, and to prevent banks from hiring H-1B workers in occupations in which they had laid off US workers.