

AeA Policy Brief – High-Skilled Visa Reform (H-1Bs)

Summary

- The annual cap for H-1B visas has significantly fluctuated over the years. It fell from 195,000 in 2003 to 65,000 in 2004, when employers hit the visa limit less than halfway through the government's fiscal year.
- For FY 2005, the cap was reached on the very first day of the fiscal year. For FY06, the cap was also met by the very first day of the fiscal year.
- This is the seventh time since 1997 that the cap has been reached before the end of the fiscal year.

Background

- The H-1B is a nonimmigrant classification used by a foreign national who will be employed temporarily in a specialty occupation. A specialty occupation requires theoretical and practical application of a body of specialized knowledge along with at least a bachelor's degree or its equivalent.
- Those opposing any further increases — temporary or permanent — assert that there is no compelling evidence of a labor shortage in these professional areas that cannot be met by newly graduating students and by retraining the existing U.S. work force. They argue that the education of U.S. students and training of U.S. workers should be prioritized. Opponents also maintain that salaries and compensation would be rising if there is a labor shortage and if employers wanted to attract qualified U.S. workers.
- AeA fully supports increasing the yearly cap on H-1Bs, as 65,000 is clearly too low, in addition to instituting a market-based approach whereby additional numbers may be added after a year when the cap is exhausted. High-tech company executives continually assert that the necessary workforce cannot be found adequately enough within the U.S. workforce. Additionally, there are not enough American-born students in the math, science, technology and engineering fields; a significant percentage of graduate and PhD students in these fields are foreign-born. For these reasons, AeA fully supports increasing the annual H-1B cap.

Impact on AeA Members

- Low H-1B caps create an inability to hire highly educated professionals for specialty jobs, undercuts the competitiveness of U.S. firms, and impedes growth.
- Ability to hire the best and brightest workforce, especially graduates with advanced degrees from American colleges and universities, is constricted unless Congress provides relief from the cap.
- The high-tech community relies heavily on this talent pool because of the shortage of high-skilled workers in the U.S. (unemployment for electrical engineers is 1.5%).
- This negatively impacts not only the high-tech sector, but also medical facilities and educational institutions around the country, as they are all unable to hire these much needed workers.
- If the best talent in the world finds it too difficult to get into our country, they will turn to our overseas competitors, creating a true threat to our economic and national security.

Important Facts

- In 2004, Rep. Lamar Smith (R-TX) sponsored a bill that was signed into law on Dec. 8, 2004 and exempts up to 20,000 foreign nationals holding a master's or higher degree from the cap on H-1B visas, effectively increasing the cap by 20,000.
- Our competitors around the world have woken up to this demand for high-skilled workers and are actively competing for them. For example, Japan, with half the population of the U.S., issued 268,000 high-skilled visas in 2003.

Outlook

- The House of Representatives, at the end of 2005, passed a rather broad immigration bill which focused on border security and does not take on the H-1B visa issue.
- In 2006, Judiciary Committee Chairman Arlen Specter (R-PA) and Senate Majority Leader Bill Frist each introduced immigration bills that contain favorable and nearly identical H-1B provisions. Specifically, the provision would change the annual H-1B cap from 65,000 to 115,000. Also, should the cap be reached in a given year, an additional 20% more H-1Bs would be added to the next year.
- *Given the uncertainty that any immigration bill will pass the Congress in '06, particularly because of the controversy over a "guest-worker program", an alternative bill that would focus entirely on the high-skilled immigration issues of importance to the high-tech sector will be introduced by Senator John Cornyn (R-TX). The "SKIL" bill will contain very similar H-1B provisions as those found in Chairman Specter and Majority Leader Frist's broader immigration bills. AeA strongly supports the provisions found in the SKIL Bill. (The introduction of this bill will take place shortly after the end of the Easter Congressional Recess)*
- AeA does not believe that an immigration bill will pass the Congress before October, 2006. However, something could be achieved during a lame-duck session of Congress.

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