

Attracting the Best and Brightest to the United States Reforming High-Skilled Visa Policy

Overview: Skilled Foreign Nationals in the United States

- ❖ 1 OF EVERY 4 SCIENTISTS AND ENGINEERS IN THE UNITED STATES IS FOREIGN BORN.
- ❖ HALF OF DOCTORAL COMPUTER SCIENCE AND MATH DEGREES AND 60 PERCENT OF DOCTORAL ENGINEERING DEGREES AWARDED IN THE UNITED STATES GO TO FOREIGN NATIONALS.
- ❖ OVER 40 PERCENT OF MASTER'S DEGREES IN ENGINEERING, COMPUTER SCIENCE, AND MATH AWARDED IN THE UNITED STATES GO TO FOREIGN NATIONALS.
- ❖ NEARLY HALF OF ALL NOBEL PRIZES AWARDED TO RESEARCHERS IN THE UNITED STATES BETWEEN 1901 AND 1991 WERE WON BY FOREIGN-BORN INDIVIDUALS OR THEIR CHILDREN.
- ❖ THESE INDIVIDUALS ARE AMONG THE WORLD'S BEST AND BRIGHTEST; AMERICA'S TECHNOLOGICAL PREMINENCE IS AT LEAST IN PART BASED ON THEIR CONTRIBUTIONS TO OUR ECONOMY; THEY CONDUCT CUTTING EDGE RESEARCH, LAUNCH INNOVATIVE COMPANIES, AND CREATE MILLIONS OF HIGH-PAYING JOBS.

High-Skilled Immigration – Definitions

EB (EMPLOYMENT-BASED) GREEN CARD – Temporary visas are often the first step in the longer-term process of gaining permanent residency – the so-called green card. The EB category allows foreign nationals to obtain permanent residency based on possessing specialized employment skills.

H-1B – A visa classification for foreign nationals to be employed in a specialty occupation for a maximum of six years with exceptions. The candidate must hold a bachelor's degree or its equivalent knowledge, both theoretical and applied.

L-1 – A visa classification for individuals transferring internally from a foreign office to a U.S. office of the same company on a temporary basis. Candidates must be managers/executives or have specialized knowledge.

F-4 – Currently under legislative consideration, this student visa would go to doctoral candidates in science, technology, engineering, or math and would be convertible to permanent resident status upon gaining employment after graduation.

Analysis

Throughout our history, the United States has benefited from attracting many of the most talented minds on the planet. As a nation of immigrants, the United States found a winning formula; these emigres pursued opportunities they could not find elsewhere and **we as a country gained their entrepreneurship, intellect, hard work and skills, and the thousands of jobs they created in the United States.**

Though much recent public debate has focused on unskilled, illegal immigration, an entirely different but essential category is often neglected: high-skilled, legal immigration.

Specific visa classifications have been created to attract the world's best and brightest to the United States. The most common are the H-1B and L-1, temporary visas that allow highly skilled foreign nationals to work in the United States for up to seven years. Employers who apply for an H-1B visa must not harm the working conditions of the current workforce, and they must pay the visa holder the prevailing or actual wage for that position (whichever is higher).

But is the system meeting the needs of an economy that is fueled by skills and innovation at a time when other countries are aggressively competing for the same talent?

The caps on H-1Bs are met sooner and sooner every year. **The 2007 cap was reached four months before the start of the fiscal year.** L-1 holders are forced to leave the country because their green card application is not approved by the time the visa expires. Foreign graduates of American universities cannot obtain visas or green cards to stay in the country, despite having multiple employment offers. And many in the pipeline to come here simply choose to seek opportunities in countries where they feel more wanted.

They are confounded by the bureaucracy. The waits are too long and the regulations too inflexible. Foreign nationals of any single country can receive no more than seven percent of available green cards in a specific year. In effect this discriminates against individuals from populous nations that possess huge talent pools, like China and India.

What Highly-Skilled Foreign Nationals Give the United States

If the best talent in the world cannot get into the United States, we face a true threat to our economic and national security. America's dirty little secret is that for decades high-skilled immigrants have been a critical safety valve for maintaining our technological preeminence. It is in our national self-interest to recognize their enormous contributions.

One of every four scientists and engineers in the United States is foreign-born. They fill our graduate schools and research labs. Half of doctoral computer science and math degrees and 60 percent of doctoral engineering degrees awarded in the United States go to foreign nationals. Because they often pay full tuition, their financial support makes many graduate programs economically viable.

Many foreign graduates choose to stay – if they are allowed. They conduct the basic and applied scientific research that has so often formed the knowledge base for spinning off innovative products, companies, and industries.

The United States even benefits from those foreign nationals who do return home after graduation. These individuals become the political and business elites in their countries. Returning home with an American education, they retain positive impressions of the United States that foster strong friendships and linkages for a lifetime. In a tumultuous world, we cannot afford to lose these ties.

By deterring those who want to stay, we lose their intellectual abilities and innovations. We force our companies to follow them abroad. We lose the new companies, wealth, and thousands of high-paying jobs they would have created. By kicking out tomorrow's Albert Einstein, Andy Grove, or Sergey Brin, we help competing nations enhance their talented labor pools by chipping away at our own.

HIGH-SKILLED IMMIGRATION CREATES JOBS

(Select foreign-born industry leaders who co-founded U.S. companies)

Name/Country	Company	Employees	Revenue
Andy Grove Hungary	Intel	99,900	\$38.8 b
Vinod Kholsa India	Sun Microsystems	35,000	\$11.1 b
Jerry Yang Taiwan	Yahoo!	9,800	\$5.3 b
Pierre Omidyar France	eBay	8,900	\$4.6 b
Sergey Brin Russia	Google	5,700	\$6.1 b
Subrah Iyar India	WebEx Communications	1,800	\$308 m

Source: Hoovers

"We are now in a global competition for high-tech talent, and that talent knows no national boundaries."

William Brody, President
Johns Hopkins University

Answering the Critics of High-Skilled Immigration

MYTH 1: FOREIGN NATIONALS STEAL AMERICAN JOBS.

In 2005, the unemployment rate for all engineering professions was 2.3 percent. For electrical engineers it was 1.5 percent. High-tech companies are increasingly seeking skilled labor to feed a growing industry and cannot find it. Visit the website of many American technology companies and you will find thousands of unfilled, U.S.-based positions. Foreign nationals are critical for filling this void.

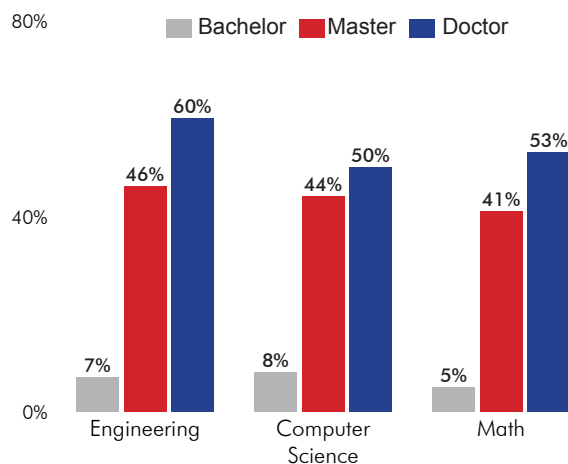
Not only do these individuals not take American jobs, they create them. Foreign-born immigrants are among this country's most prolific job creators. Co-founders from Intel, Sun Microsystems, Yahoo!, eBay, Google, WebEx, and hundreds of lesser known companies are foreign-born. Highly skilled, highly educated people create innovation. And innovation creates jobs.

MYTH 2: FOREIGN NATIONALS ARE PAID LESS THAN AMERICAN WORKERS.

Critics falsely contend that employers use the H-1B and L-1 programs to exploit cheap labor. They believe foreign nationals, desperate to remain in the United States, will accept lower than the market wage for their position. But the reality is that foreign visa holders are acutely aware of what they are worth and demand a competitive wage.

A 2005 report by the Center for Immigration Studies (CIS) concluded that H-1B computer programmers were paid less than their U.S. counterparts. The CIS researchers relied on what companies reported as the "prevailing wage" for those

Percent of U.S. Degrees Awarded to Foreign Nationals 2004



Source: U.S. National Science Foundation

positions, instead of the actual wage paid. A 2006 report by the National Foundation for American Policy (NFAP) uncovered this methodological flaw and found that the actual wages paid to the programmers were 22 percent higher than the prevailing wage. NFAP also found that CIS vastly underestimated H-1B wages because it failed to control for age and work experience, as H-1B professionals tend to be younger than their American counterparts.

Further research conducted by the Center for Labor Market Studies at Northeastern University found that foreign-born and American-born professionals earned virtually identical salaries in math and science fields.

The tech industry supports punitive measures against the small number of firms who have been found to exploit the system. The vast majority of companies play by the rules, pay market wages, and do not wish to see the integrity of the program called into question by a minority of infractors.

MYTH 3: H-1Bs MUST STAY WITH THE EMPLOYER WHO SPONSORED THEIR VISA AND ARE THEREFORE LITTLE MORE THAN INDENTURED SERVANTS.

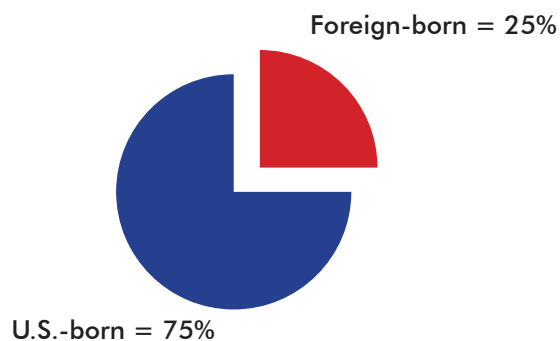
Visa holders do not have to stay with the employer that sponsored them. They are free to seek employment elsewhere, provided their H-1B status has not expired.

As the NFAP study concluded, "Contrary to the myth that H-1B holders are 'indentured servants,' professionals on such visas understand their market value and show great mobility in the U.S. labor market." In surveying U.S. employers and immigration lawyers, NFAP found that H-1B workers change companies frequently, a conclusion supported by the Department of Homeland Security.

MYTH 4: VISA HOLDERS DO NOT PAY INCOME OR SOCIAL SECURITY TAXES.

This myth is not raised as frequently as the others, but it exists. It is simply, and quite provably, false. Foreign visa holders are subject to the same taxes as U.S. citizens and permanent residents. Not only do they pay into the system, but because many are only here temporarily, they will never collect social security benefits. They are paying for benefits that only Americans will receive.

Composition of U.S. Science & Engineering Workforce By Birthplace, 2003



Source: U.S. National Science Foundation

THE REAL LIFE STORY OF SIVA SINGARAM

Siva Singaram is an Assistant Vice President at a widely recognized U.S. financial services firm. He came to the United States in March 2001 on an employer-sponsored H-1B visa. Siva holds a bachelors degree from the Indian Institute of Technology in Madras and a masters from the Indian Institute of Management in Calcutta, two of the country's most prestigious academic institutions.

In March 2004, Siva began the process to obtain a green card. Two and a half years later that process is stuck in the Philadelphia Backlog Processing Center. In the meantime, Siva must apply annually to renew his H1-B. He expects the green card process to take another four years.

Siva cannot make long-term plans while his residency status is in limbo. He and his wife (who also has a masters degree) have just had a child. They would like to buy a house, but because their time here may not extend beyond a year, Siva wonders if India might be the more attractive country to invest in his family's future.

In India, Siva could start his own Internet marketing company, something he cannot do here until his residency has been finalized. His business plan has gained the backing of two investors. It calls for growing the company to 25 employees in two years and 80 employees in five years. Where those jobs are created is also in limbo.

Siva's experiences led him to join several colleagues in founding Immigration Voice, an advocacy group that works to raise awareness of how broken the current system is and how urgently it must be reformed. (www.immigrationvoice.org)

Where Should Public Policy Go From Here?

In the debate on competitiveness, many skeptics of high-skilled immigration argue that instead of encouraging more foreign nationals to come to the United States we should groom more Americans for these high-skilled careers.

The fact is that public policy should do both. These are not mutually exclusive paths to enhancing our competitiveness. They are complementary. The U.S. Bureau of Labor Statistics estimates the demand for science and engineering graduates will grow 24 percent between 2004 and 2014.

Meanwhile, investment in educating the next generation of American-born science and technology workers is lagging. And addressing it is a long-term project. Skilled foreign nationals are needed now to fill a swelling number of highly technical and specialized positions.

Attracting this talent into the country facilitates companies' ability to maintain and expand operations in the United States. It brings the best and the brightest to us instead of forcing us to go to them. This is critical for ensuring a vibrant, competitive high-tech industry on our shores that will create high-paying jobs in the years to come.

Without the best and brightest international talent, the United States could never have developed the Manhattan Project or won the Space Race; we never could have created industry after innovative industry that is the source of so much of our wealth and prosperity.

To retain our economic, technological, and military superiority, the United States needs to compete aggressively for the world's best talent. America has been fortunate over the last sixty years; bright and innovative people had few alternative destinations for realizing their creativity. Now, countries around the world are cribbing from our playbook. They are investing in science and technology and attracting the talent that previously would have come to the United States.

Just when the competition for the brightest minds in the world has reached a fever pitch, the United States has raised the barriers and bureaucratic red tape to their admission.

"As we secure America from terrorists, we do not want to risk losing the next Enrico Fermi or Albert Einstein . . . We would be a far poorer nation in many, many ways."

**Tom Ridge, Former Secretary
Department of Homeland Security**

The AeA Competitiveness Series

AeA's *Competitiveness Series* covers the most timely and relevant issues to the high-tech industry and to U.S. competitiveness in a global economy. We combine rigorous data with careful analysis to provide industry leaders and policymakers the information they need to assess the issue.

Previous reports include:

- ❖ *Free Trade Peru / Free Trade Colombia* – Mar 2006
- ❖ *RFID: Security, Privacy, and Good Public Policy* – Feb 2006
- ❖ *RFID 101: Benefits of the Next Big Little Thing* – Dec 2005
- ❖ *Like It or Not, China and the U.S. Are Intricately Linked* – Nov 2005
- ❖ *Mid-year Tech Employment Update* – Sep 2005
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As Congress debates this issue, it should focus on policies that balance understandable security concerns with equally critical competitiveness concerns. Specifically, AeA and the high-tech industry believe the following reforms will enhance the skills of the American workforce and drive innovation and job creation:

- 1) Enact a market-based approach to the number of H-1B visas granted, with an annual floor of 115,000;
- 2) Allow exemptions from employment-based caps on workers needed for their knowledge or contributions to innovation in fields like science, technology, engineering, and math;
- 3) Offer a direct path to permanent residency for advanced degree graduates of U.S. universities;
- 4) Ease visa requirements for prospective foreign students seeking to pursue advanced degrees in the United States; and
- 5) Allow L-1 visa holders waiting for employment-based green cards to extend their visas on a year-to-year basis until green card processing is complete.

If highly skilled foreign nationals want to study at American universities, conduct research in American labs, work in American companies, or start their own companies in America, we should do everything we can to make that happen. The United States has benefited and will continue to benefit tremendously.

About AeA

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We do this in partnership with our small, medium, and large member companies by lobbying governments at the state, federal, and international levels, providing access to capital and business opportunities, and offering select business services and networking programs.

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