

Highly Educated Foreign-Born Professionals: Separating Myth from Reality

America benefits from the contributions of highly educated, entrepreneurial professionals – regardless of where they were born. The brightest scientists, researchers, innovators and engineers in the world – whether American or foreign-born – will always be in demand and will always drive economic growth and job creation. Even though the proven benefits of high-skilled immigration are plenty, opponents raise allegations that do not reflect the realities of either the employment-based (EB) green card or H-1B visa systems. Below, we shatter the most common of these myths with the real facts.

Myth: Foreign professionals take jobs from U.S. workers.

Reality: The EB green card and H-1B visa programs are a source of job creation and help recruit and retain the best talent in America.

There is a long history of foreign professionals coming to this country and contributing to America's economic success. This drives job creation and helps keep America competitive. By helping to develop new products and services, conducting cutting-edge research, developing new medical treatments and enabling companies to expand their client base, foreign professionals create good-paying jobs for American workers.

25.3% of all engineering and technology companies established in the U.S. between 1995 and 2005 inclusive had at least one immigrant key founder. Together, this pool of immigrant-founded companies was responsible for generating more than \$52 billion in 2005 sales and creating just under 450,000 jobs as of 2005 (Vivek Wadhwa et.al., 2007).

The National Foundation for American Policy (NFAP) found after examining H-1B filings and year-by-year job totals for the technology companies in the S&P 500 that for every H-1B position requested, U.S. technology companies increase their employment by 5 workers (NFAP, 2008).

The EB green card and H-1B visa programs are helping to keep jobs in America. If companies cannot get the talent they need at home, they will have to look elsewhere.

Myth: Foreign-born students who earn advanced degrees from a U.S. university are automatically eligible to stay and work in America.

Reality: America is educating and training foreign nationals in its higher education institutions and then sending them to work for competitor nations.

About half of those graduating with U.S. master's or higher degrees in science, technology, engineering or mathematics (STEM) fields are foreign nationals. According to the American Association of Engineering Societies, for the 2008-2009 academic year, foreign nationals comprised 43.9 percent of the master's and 54.6 percent of the Ph.D.s awarded in engineering by U.S. universities.

However, arbitrary H-1B caps and massive EB green card backlogs mean that foreign-born advanced degree graduates too often take their U.S. diplomas and go to work for competitor nations. As President Obama underscored in his 2011 State of the Union Address, this status quo – where we educate and train the brightest minds from around the world at U.S. universities, only to send them abroad to compete against U.S. companies and workers – simply makes no sense.

Myth: Foreign-born professionals are a source of cheap labor.

Reality: The H-1B visa program contains strong provisions to ensure U.S. workers are protected. U.S. companies must meet strict criteria set by the U.S. Department of Labor, and pay multiple fees required by the U.S. Citizenship and Immigration Services and the U.S. Department of State.

Employers must pay H-1B professionals the higher of the actual or prevailing wage set by the Department of Labor or of what they pay other similarly situated U.S. workers. Foreign workers must receive the same benefits and working conditions as U.S. workers.

In addition to wage requirements, it is expensive just to hire an H-1B worker. Taking into account the recruitment and training fee (generally \$1500), the anti-fraud fee (\$500), the filing fee (\$320), the “premium processing” fee that is often necessary (\$1000) and the legal fees and costs, U.S. employers typically spend between \$4000 and \$7000 just to secure an initial H-1B approval. And that is on top of the recruitment, compliance and other administrative costs.

In 2010, researchers at the University of Maryland found that after controlling for their human capital attributes, foreign IT professionals ... earn a salary premium when compared with IT professionals with U.S. citizenship. Further, a 2011 GAO report when adjusted for age, H-1B professionals in key fields earn generally the same or more than their U.S. counterparts. In addition, the fact that employers endure significant uncertainty, time, and expense (government fees and legal costs) in hiring

skilled foreign nationals indicates that hiring the best candidate for the job, whether U.S.-born or foreign-born, is the primary consideration for employers (NFAP, 2011).

Myth: H-1B workers are “indentured servants” who are trapped by an employer.

Reality: H-1B professionals are sophisticated, know their market value and can apply to change employers, so they are not beholden to one employer.

H-1B professionals are able to change jobs as soon as another employer files a visa petition for them. (This portability provision does not affect the length of time that H-1B workers may remain in the United States.) Thus, if their original job is unsatisfactory, H-1B visa holders may change jobs in a similar manner to a U.S. worker. It is not unusual for H-1B professionals to switch employers several times during their stay.

Many H-1B workers are sponsored for permanent residence and only after an able, qualified and willing U.S. worker cannot be found for the position, further protecting U.S. workers.

Myth: Foreign professionals lower the wages and working conditions of U.S workers.

Reality: The H-1B program contains safeguards that protect U.S. workers’ wages and working conditions.

Employers must guarantee that the U.S. workers will not be adversely affected upon the hiring of an H-1B professional. The wages of U.S. workers are protected by requiring the employer to pay H-1B professionals at least the actual wage paid to U.S. workers in a similar position, or the prevailing wage for the position, whichever is higher. The H-1B visa program cannot be used when there is a strike or lockout at the worksite.

Employers also must notify their U.S. workforce when hiring an H-1B professional. This notification includes the occupation of the H-1B professional, as well as the salary range of the professional and information on how U.S. workers may file complaints with the government if they have concerns about the H-1B hire.

Employers who fail to comply with Department of Labor regulations may be subject to investigation, civil and administrative penalties, payment of back wages, and debarment from participating in key immigration programs. The H-1B program is not about cheap labor – it is about keeping America competitive with the best talent available. Fraud and willful misrepresentation should never be tolerated. Those who abuse our system should face an appropriate combination of civil and/or criminal penalties.

Myth: The H-1B cap is based on economic data and empirical research and protects U.S. jobs.

Reality: The H-1B cap bears no relation to demand for jobs by U.S. workers. Whether set at 65,000 or 195,000 visas annually, the cap has always been a politically expedient compromise not based on market need.

While the FY 2009 cap was exhausted within days in April 2008, the FY 2010 cap took nearly nine months to reach and the FY 2011 cap took nearly 10 – a reflection of the downturn in the economy.

The fact that demand has historically fluctuated and will likely continue to fluctuate with the ups and downs of our economy is proof that a market-based cap on the number of H-1B visas allotted per year – as Compete America has advocated for many years – is justified.

Myth: Nothing is being done to boost the U.S. workforce.

Reality: U.S. employers make substantial contributions to promote and support technical education and training for U.S. workers.

U.S. employers are required to pay a \$1500 fee with each H-1B petition filed that goes toward scholarships and training for U.S. workers. Since 1999, U.S. employers have paid well over \$2 billion in fees, funding more than 40,000 scholarships for U.S. students in math and science, and have supported science programs for 80,000 middle and high school students and training for more than 55,000 U.S. workers. In addition, many employers oversee their own U.S. worker training programs.

Myth: Foreign workers do not pay U.S. taxes.

Reality: Foreign workers residing in the United States pay the same taxes on worldwide income as U.S. workers. They also pay the same social security, unemployment and state taxes.