

## **H-1B Visa Facts At-a-Glance**

**A visa program for professionals in specialty occupations was created in 1952 to provide American employers with access to highly educated foreign professionals who have unique knowledge in specialized areas. This program is now known as the H-1B visa.**

- H-1B “specialty occupations” require at least a U.S. bachelor's degree or equivalent education and work experience. Many H-1B holders obtain their higher education degrees in the United States.
- H-1B visa professionals include healthcare professionals, teachers, scientists, researchers, engineers and many others who provide direct services to Americans and who create jobs by developing new products and opening new markets for U.S. goods.
- While the H-1B program was designed for temporary workers, it is usually the only avenue available for foreign professionals seeking permanent residency in the United States through the “employment-based green card” program. Due to administrative backlogs and demand, the waits for an EB green card can often exceed five or more years.

**The H-1B visa program is subject to a statutory cap, which should be based on market realities.**

- The H-1B visa cap is 65,000. An additional 20,000 H-1B visas are available to graduates of U.S. universities with master's or Ph.D. degrees.
- While the FY 2009 cap was exhausted during the filing period that began on April 1, 2008, the FY 2010 cap has yet to be reached<sup>1</sup> – 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. The past several years of applications far exceeding the quota available means there is pent-up demand for H-1Bs.
- Despite the economic downturn and layoffs that have impacted many sectors of the U.S. economy, the brightest scientists and engineers in the world – whether American or foreign-born – will always be in demand.

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<sup>1</sup> As of May 15, 2009.

**The H-1B visa remains an important tool for hiring foreign nationals who receive their advanced degrees from U.S. universities.**

- In many critical disciplines, particularly in math, science and engineering, 50 percent or more of the post-graduate degrees at U.S. universities are awarded to foreign nationals. For example, in 2007, foreign nationals comprised half of the master's and 70 percent of the Ph.D.s in electrical engineering from U.S. universities.
- A significant number of H-1B visas sought by Compete America member companies are for foreign nationals who received advanced degrees from U.S. universities and who, in most cases, are already working for companies. There is currently no other direct path from student to green card, and students then face multi-year waits for permanent residence due to backlogs in the green card system. The H-1B visa allows these graduates to apply their knowledge toward the growth of new jobs and industries in the United States.
- It is completely counterproductive to educate foreign-born scientists and engineers, train them in our companies and then release them to competitor nations at a time when America needs to lay the groundwork for economic growth.

**U.S. companies use H-1Bs to hire professionals only when necessary, for very specific purposes.**

- H-1B professionals constitute a low percentage of the U.S. workforce. During the economic boom of 2001, when H-1B usage was at its height, these temporary professionals still accounted for only about **one-tenth of one percent** of U.S. non-farm employment.
- Recent studies indicate that the United States' advantage in retaining the best talent seems to be shifting, in part due to the liberalized immigration policies of many European countries, Australia, Canada, China, India, New Zealand and the United Kingdom, which allow those countries to effectively attract and retain global talent.

**To hire H-1B professionals, U.S. companies must meet strict criteria set by the U.S. Department of Labor to protect American workers. Employers applying to hire an H-1B visa holder must:**

- Provide wage protection, paying the higher of the actual or the prevailing wage. The same benefits must also be provided.
- Pay an education and training fee of \$1500 (\$750 for employers with less than 25 full-time employees). This fee is used to provide scholarships and to train U.S. workers. Since 1999, U.S. employers have paid more than \$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.<sup>2</sup>

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<sup>2</sup> National Foundation for American Policy, "U.S. Businesses Contribute Over \$91 Billion a Year in Taxes to Fund Public Education; Company-Paid H-1B Scholarship and Training Fees Approach \$2 Billion Since 1999," May 2007.

- Pay a \$500 anti-fraud fee to fund the programs to prevent and detect H-1B visa fraud.
- Notify its U.S. workforce of the hire and give them access to information about the wage and workforce protections.
- Provide workforce protections, guaranteeing the same working conditions and not hiring replacement workers during strikes.
- Employers failing to comply with these provisions are subject to monetary penalties of up to \$35,000 and may be barred from hiring other foreign workers.