

H-1B Visa and EB Green Card Stories: America's Losses Are Our Foreign Competitors' Gains *Personal Accounts of the Crisis*

The following stories illustrate the impact that H-1B visa shortages and EB green card backlogs have on highly educated foreign-born professionals, U.S. employers and our collective ability as a nation to compete in the global marketplace. Each story details how the unrealistic caps in both programs impede U.S. employers' ability to recruit and retain much-needed foreign talent and the difficulties that are in turn imposed on these sought-after employees. Eventually, many of these professionals will have no choice but to leave the United States and take their valuable skill sets with them, which hurts U.S. competitiveness, our economy and workforce.

Possible Avian Flu Remedy in China, Not the United States

Employer: Biological Mimetics, Inc.

Location: Frederick, MD

Employee/Position: Jinxue Long (China)/Avian flu biotechnologist

Project(s): Mr. Long is a skilled researcher who has expertise in manipulating strains of avian flu. He was contacted by the firm to help their team of researchers develop an avian flu vaccine.

Issue: Though Mr. Long is highly skilled and qualified for the position, and spent years conducting related research at the Laboratory of Animal Infectious Disease Ministry of Agriculture at Yangzhou University in the Jiangsu Province in China, it is unlikely that he will be able to join the firm to conduct this important research. The reason he will be inaccessible to the firm is because, as in years past, the H-1B cap was exhausted before the fiscal year even began. Mr. Long will be unable to pursue an H-1B visa for over a year's time.

Consequences: He says that if he does not get a visa, he will "find a job in a university or institute in China, but will not have the conditions to continue [his] work with influenza, for few institutes . . . [are] allowed to research influenza in China."

Source: Frederick News-Post, June 5, 2006

Competitor Nations Advance in Software Design Over the United States

Employer: Mentor Graphics Corporation

Location: Wilsonville, OR

Employee/Position: Unnamed/Software designers (2)

Project(s): Mentor Graphics Corporation is a mid-sized company specializing in software and hardware systems developed for electronics designers.

Issue: The company lost one highly qualified job candidate from outside the United States because of the unavailability of H-1B visas. Mentor Graphics also stands to lose a current, highly skilled employee who is also seeking an H-1B visa, as his student visa will expire soon.

Consequences: The company will have to forego hiring and retaining two highly skilled software workers, losing them and their valuable skills to foreign competition.

Source: The Oregonian, June 9, 2006

Medical Research Gain for Australia, Not the United States

Employer: Thomas Jefferson University

Location: Philadelphia, PA

Employee/Position: Dilip Bearely (India)/Medical researcher

Project(s): Mr. Bearely is a chief resident at Thomas Jefferson University interested in conducting research on hepatitis C.

Issue: Mr. Bearely has received an offer from an Australian institution to do research on hepatitis C, which he cannot complete here because he has no green card. He has been told that his pay will be comparable to what he would receive in the United States but that he will not have to work through any of the “visa hassles.”

Consequences: Mr. Bearely says that if the green card backlog is not addressed soon, he will head to Australia.

Source: Philadelphia Inquirer, April 8, 2006

India Benefits from Software Expertise, United States Does Not

Employer: A software development firm

Location: Austin, TX

Employee/Position: Nilesh Khare (India)/Engineer

Project(s): Nilesh Khare works for an Austin, Texas-based software development firm and came to the United States from India with his family six years ago on an employer-sponsored H-1B visa.

Issue: In 2002, Mr. Khare applied for an employment-based green card and is awaiting a response, nearly four years later. Mr. Khare’s wife, Ashwini, is a highly educated environmental engineer, but because her husband does not have a green card, she cannot work as an H-1B dependent.

Consequences: The Khares say that if Nilesh does not receive a green card soon, they will look to employment opportunities in India or another country with a more efficient and inclusive visa system where his wife may seek employment.

Source: Austin American-Statesman, May 8, 2006

Europe Gains in Software Development, United States Does Not

Employer: MusicStrands Inc.

Location: Corvallis, OR

Employee/Position: Unnamed/Software engineers (2)

Project(s): The small business develops software designed to monitor and track the listening and viewing habits of consumers who use portable devices, including iPods, MP3 players and other technologies.

Issue: In an industry with very few experts, the company cannot afford to lose some of the best employees in the business to foreign competition.

Consequences: However, because of the H-1B visa shortage, MusicStrands nearly lost two highly coveted technology engineers to their European competition.

Source: The Oregonian, June 9, 2006

Scientific Research Gain for India, Not the United States

Employer: Cooperative Institute for Research in the Atmosphere (CIRA)

Location: Fort Collins, CO

Employee/Position: Dr. Manajit Sengupta (India)/Atmospheric researcher

Project(s): At the institute, Dr. Sengupta and a team of researchers are developing a weather satellite that will allow meteorologists and other scientists to monitor natural disasters and related events through satellite imagery in real time. The technology is coined the Geostationary Operational Environment Satellite (GOES-R) and is scheduled to launch in 2012. Dr. Sengupta also works under contract with the U.S. Department of Defense on research aimed at finding ways to predict cloud formation. This capability could potentially help the military plan and execute missions over distant battlefields, which are generally aborted when there are overcast skies.

Issue: Though Dr. Sengupta is instrumental to the research being conducted to develop and enhance GOES-R and is central to the Defense project, he is currently in the United States on a temporary visa.

Consequences: As Dr. Sengupta has little hope of transitioning from his nonimmigrant (temporary) status to a green card due to years of backlogs, it will be difficult for U.S. employers to retain him here in America, especially if he chooses to return to his native India or another nation stepping up its efforts to attract such talent.

Source: Wall Street Journal, June 27, 2006

Philippines Gains Civil Engineer, Who Worked in the United States

Employer: A real estate development firm

Location: Irvine, CA

Employee/Position: Unnamed (Philippines)/Civil engineer; Real estate surveyor

Project(s): A 41-year-old Filipino man who left the southern Philippines for California in 1998 to take a job as a civil engineer now faces the prospects of having to return to his homeland after spending roughly eight years here in the United States. Armed with two college degrees from a Philippine university, he has been a highly educated asset to different California-based companies for the past eight years. He currently works as a surveyor for an Irvine, California real estate development firm.

Issue: Though he is here on an H-1B visa, if his green card case does not complete processing soon, after being stuck in the backlog for many years, he likely will choose to leave his current job and seek employment abroad in the Philippines when his visa expires this August.

Consequences: While H-1B visa extensions do not count against the H-1B cap, it is costly and time consuming to continue to extend an H-1B visa waiting for an EB green card to complete its processing; not to mention it is difficult for this employee to ever be promoted to another position in the company while he waits for a green card.

Source: Orange County Register, May 6, 2006

India Gains in Technology, Not the United States

Employer: Cyber Fuse Technologies

Location: Bucks County, PA

Employee/Position: Nozer Damania (India)/Technologist

Project(s): The firm hired Mr. Damania in 2003, and at that time, the company started the process to secure an employer-based green card. Currently, he is still waiting to enter the final phase of the process, and the federal government this month began considering applications from Indian applicants who cleared the initial phases of the process in 2001.

Issue: As a highly skilled software developer, Mr. Damania has the option to leave the United States and his current employer to seek employment outside the states. His wife, Meenaish, who is an MBA-educated banker, resorts to volunteering at the New Jersey Department of Environmental Protection because she cannot seek employment until her husband receives a green card.

Consequences: If Mr. Damania does not receive a green card soon, he will be better off to leave the United States and take the couple's skills to another country.

Source: Philadelphia Inquirer, April 8, 2006

Software Technology Advances for India, Not the United States

Employer: Florida State University

Location: Tallahassee, FL

Employee/Position: Aman Kapoor (India)/Software technician

Project(s): Mr. Kapoor, an Oracle software technician at Florida State University, came to the United States a few years ago on a high-tech worker H-1B visa.

Issue: He applied for a green card more than two years ago, and his application is still pending. Though he remains hopeful that he will be able to keep his job and secure a green card, recently one of Mr. Kapoor's childhood friends from India chose to leave the United States, no longer being able to wait for the backlogged green card system to grant him resident status.

Consequences: Mr. Kapoor may also choose to leave the United States and put his skills to use in his native India or another country where such talent is welcome.

Source: Roll Call, March 2, 2006

India Makes Advances in Electrical Engineering, The United States' Loss

Employer: A power generation equipment company

Location: Minneapolis, MN

Employee/Position: Vivek Malapati (India)/Electrical engineer; product manager

Project(s): Various projects

Issue: Vivek Malapati, a native of India, is a highly educated product manager at a Minneapolis power equipment company. Mr. Malapati is twice graduated from the University of Utah, with a bachelor's degree in electrical engineering and a master's in business. He is currently here in the United States on an OPT visa while his employer attempts to secure an H-1B visa.

Consequences: Unfortunately, as there are no H-1B visas available in 2007, Mr. Malapati may choose to relocate to another country where he can secure residency in a timely manner.

Source: Salt Lake Tribune, July 22, 2006

Philippines Retains Its Skilled Math and Science Teachers Over Choice to Go to the United States

Employer: Globe Unified School District

Location: Globe, AZ

Employee/Position: New math and science teachers

Project(s): Currently, the district has more than 70 open positions for administrators and classroom instructors and, among the openings, are vacancies for roughly a dozen math and science teachers. As the gap widens between the number of U.S. and foreign students graduating with degrees in science, technology, engineering and math, Globe Superintendent of Schools Dr. Timothy Trent announced that he and another member of the school board would head to the Philippines in May for math and science teacher recruitment. District administrators are hopeful that the school system will be able to secure H-1B or J-1 visas to bring teachers from the Philippines here to the United States

Issue: Though Dr. Trent explained that the Philippines was chosen because other state school systems have recruited high-quality instructors from the country, their efforts will likely be hampered because of the current H-1B cap exhaustion.

Consequences: As the H-1B visa cap has already been reached for FY 2007, it will be difficult to bring the Filipino instructors to the country to work in Globe, AZ schools in the coming year.

Source: Arizona Silver Belt, May 3, 2006

United Kingdom Gains Engineering Talent, United States Does Not

Employer: Shaw Group

Location: Sacramento, CA

Employee/Position: Raghu Ballal (India)/Civil engineer

Project(s): Various projects

Issue: Raghu Ballal, who was born in India, is a civil engineer with a master's degree in electrical engineering from Lamar University in Texas. Mr. Ballal has worked for the past six years in Sacramento, California, on an H-1B visa sought by his current employer, the Shaw Group. Over the past few years, Mr. Ballal has led and been a part of numerous environmental engineering projects, including landfill design. He is currently seeking a master's of business administration degree and had hoped to attend the University of California at Berkley or Los Angeles. However, if Mr. Ballal pursued a degree at one of these universities, once he received the degree, he would be unable to accept a promotion at the Shaw Group or change jobs because of the limitations of the current green card system.

Consequences: Mr. Ballal is planning to leave the United States for the United Kingdom, where he will study at Oxford University and make valuable contributions there in field of civil engineering. He says, "If I go to the United Kingdom now, I would be a U.K. citizen before I even became a green card holder in the United States."

Source: Sacramento Bee, August 3, 2006

Korea Gains U.S.-Educated Biological-MicroElectro Mechanical Researcher, United States Loses That Talent

Employer: Massachusetts Institute of Technology

Location: Cambridge, MA

Employee/Position: Dr. H (Korea)/Professor and researcher

Project(s): Dr. H entered the United States as a graduate student in applied physics and was awarded a Ph.D. by Cornell University. He subsequently worked at the Lawrence Livermore National Laboratory in California while on an H-1B visa. In 2002, Dr. H was offered and accepted a position to be a tenure-track Assistant Professor in Electrical Engineering and Computer Science, specifically in the field of Biological-MicroElectro Mechanical Systems at the Massachusetts Institute of Technology (MIT). Dr. H applied for “adjustment of status” in October 2002, and MIT filed a labor certification application with the U.S. Department of Labor under “special handling” for university professors. Upon its approval, MIT submitted a petition for permanent residence on Dr. H’s behalf. The petition was approved in May 2003.

Issue: Today, 34 months after MIT’s petition for permanent residence was approved, Dr. H continues to wait for final approval of his green card. Dr. H cannot apply for research grants that require the principal investigator to be a U.S. permanent resident.

Consequences: He has no feelings of security about his future here in the United States. It is likely that Dr. H will choose to leave the country for an opportunity elsewhere.

Source: Provided by MIT, 2006

Geological Research Advances for Foreign Competitors, Not the United States

Employer: Massachusetts Institute of Technology

Location: Cambridge, MA

Employee/Position: Dr. X (China)/Geologist, professor and researcher

Project(s): Dr. X was awarded a Ph.D. degree in Geology from the GeoForschungsZentrum in Postdam, Germany in 1999. Dr. X then joined the Department of Earth, Atmospheric and Planetary Sciences at MIT as a Postdoctoral Associate. In 2002, he was promoted to the position of Research Scientist and obtained an H-1B visa. In March 2003, MIT filed an “Outstanding Professor/Researcher” petition for permanent residence based on his outstanding accomplishments and MIT’s desire to keep him on the permanent research staff. That petition was approved in September 2004.

Issue: In October 2003, Dr. X and his wife filed applications for “adjustment of status.” Dr. X’s final approval was granted September 22, 2005, but his wife’s was not. Essentially, when he became an immigrant, his wife, who had held H-4 status, had to apply for independent work and travel permission. In October 2005, USCIS announced that priority dates for immigrant visas had retrogressed for citizens of China. Mrs. X was told that although her husband’s green card was already approved, she would have to wait an undetermined period of time for her priority date to become current and before USCIS would adjudicate her case. As of March 1, 2006, Dr. X’s wife’s priority date had still not been reached, and as such, she has no green card.

Consequences: It is unknown how long the continued wait will be until USCIS catches up on backlogged cases. MIT stands to lose Dr. X to foreign competitors if his wife’s residency status is not addressed soon.

Source: Provided by MIT, 2006

Europe Gains U.S.-Educated Wildlife Biologist, United States Cannot Hold on to Talent

Employer: University of Utah International Studies Office

Location: Salt Lake City, UT

Employee/Position: Manuele Antonacci (Italy)/Recent graduate

Project(s): N/A

Issue: As a recent graduate of the University of Utah, Manuele Antonacci, a native of Parma, Italy, is enthused about his future in the U.S. workforce. However, like many foreign-born students who study in the United States with hopes to contribute to the talent pipeline upon graduation, he is nearing the expiration of his student visa. Mr. Antonacci, who hopes to become a wildlife biologist, is currently working in the university's International Studies office, while waiting approval from the school on his occupational practical training (OPT) so he can continue to work post-graduation. Though he has no firm job offers yet, Mr. Antonacci hopes that his potential employers will be willing to apply for an H-1B visa to keep him in the United States temporarily. However, the current cap on H-1B visas for FY 2007 will make it nearly impossible for Mr. Antonacci to secure residency in the coming year.

Consequences: Though he says, "I don't want to go back to Europe now; I really have no ties there," Mr. Antonacci may choose to return to Italy or take his education and talent to another country.

Source: Salt Lake Tribune, July 22, 2006

Competitor Nations Gain Technologists, United States Loses

Employer: HP

Location: Palo Alto, CA

Employee/Position: Various technologists

Project(s): N/A

Issue: As with many other companies in the United States, HP is faced with a pending workforce talent dilemma, as the cap for H-1B visas for FY 2007 has already been reached. Though the company has not been prevented from hiring highly educated foreign-born professionals just yet, company representatives say, "it's not just about our ability to hire people; it's also about the retention."

Consequences: HP could lose out on stellar employment prospects in 2007 because the H-1B visa cap prevents highly educated professionals from working in the United States. The company's competition overseas stands to gain valuable workers that will not be granted temporary residency status here. A company representative notes, "there is a race for the best and brightest, and we have these numerical limitations."

Source: San Francisco Business Times, July 14, 2006

Competitor Nations Advance in Civil Engineering, Not the United States

Employer: California Department of Transportation (Caltrans)

Location: California

Employee/Position: Various civil engineers

Project(s): Various projects

Issue: Roughly 75 civil engineers employed by Caltrans, California's state agency responsible for highway, bridge and rail transportation safety, maintenance and planning, are working on H-1B visas nearing expiration.

Consequences: Unless the state is able to obtain green cards for these highly educated engineers, they will be forced to leave the United States to return to their native countries or take their talent to a competitor nation.

Source: Sacramento Bee, September 10, 2006

China to Make Gains in Electrical Engineering, United States Does Not

Employer: Peregrine Semiconductor

Location: San Diego, CA

Employee/Position: Anna Li (China)/Test engineer

Project(s): Various projects

Issue: Anna Li, a native of China, is a highly educated foreign-born professional with a master's degree in engineering. Ms. Li has worked in the United States for five years on an H-1B visa, which is set to expire in April 2007. Two years ago, Ms. Li applied for a green card.

Consequences: Given the current EB green card backlog, it is unlikely that Ms. Li will be able to obtain a green card by the time her H-1B visa expires. She may have to leave the United States for an opportunity elsewhere.

Source: Copley News Service, September 1, 2006

Another Nation May Gain Physician, United States Loses Valued Professional

Employer: A private medical practice

Location: Yuma, AZ

Employee/Position: Dr. Alok Sharma (India)/Physician

Project(s): Various projects

Issue: Dr. Alok Sharma is a native of India, who came to the United States 10 years ago on an H-1B visa. After years of working as a physician in Yuma, Dr. Sharma applied for a green card. Though his green card application was approved in January, Dr. Sharma still faces a four to five year wait to secure permanent residency status because of extensive backlogs in the EB green card system.

Consequences: While Dr. Sharma waits to obtain a green card, he may decide to leave the United States for a job opportunity in a competitor nation with a less cumbersome immigration system.

Source: Arizona Republic, October 2, 2006

Canada Could Gain Database Manager, Not the United States

Employer: A medical insurance company

Location: Phoenix, AZ

Employee/Position: Kola Akinwande (Nigeria)/Database administrator

Project(s): Various projects

Issue: Mr. Akinwande, a native of Nigeria, works as a database administrator for an insurance company in Phoenix, Arizona. He is here on an H-1B visa and has applied for a green card. While waiting to become a resident, he was offered a promotion by his employer, which he had to turn down because of the limits of the current green card system. In addition, though Mr. Akinwande and his family live in Arizona, he pays out-of-state tuition for his son to attend Arizona State University because he does not have a green card.

Consequences: He says that he is considering moving to Canada, noting, "Right now if I applied, it would take me about 12 months to get a permanent resident card. Here, you don't know how long the process will take."

Source: Arizona Republic, October 2, 2006

Software Engineering Gain for Competitor Nations, Not the United States

Employer: Google, Inc.

Location: New York City, NY

Employee/Position: Semih Salihoglu (Turkey)/ Software engineer

Project(s): Various projects

Issue: Mr. Salihoglu graduated from Yale University in May with a dual degree in computer science and economics. He planned to work for Google, Inc. here in the United States. However, proof of at least a bachelor's degree is required for an H-1B visa application, and because Yale's graduation took place four days after the cap on H-1B visas was reached for FY 2007, Mr. Salihoglu is one of many highly educated foreign-born graduates of U.S. universities who were unable to obtain an H-1B visa this year. After returning to Turkey following graduation, Mr. Salihoglu will come back to the United States this fall to work for Google on an OPT visa.

Consequences: More than likely, when his OPT visa expires, Google will relocate Mr. Salihoglu to another Google office in a competitor nation.

Source: Yale Daily News, October 5, 2006

Financial Services Sector Gain for United Kingdom, Not the United States

Employer: Citigroup

Location: United States

Employee/Position: Yue Zhou (China)/Financial services professional

Project(s): Various projects

Issue: Ms. Zhou is a recent graduate of Harvard University with a degree in economics. As Harvard's commencement took place on June 8, days after the cap on H-1B visas for 2007 was reached, Ms. Zhou was unable to secure an H-1B visa upon graduation.

Consequences: Though Ms. Zhou looked forward to a career in the United States, given the H-1B visa cap, she had no choice but to relocate to London for the job with Citigroup.

Source: Yale Daily News, October 5, 2006

Competitor Nations Gain Investment Banking Analyst, United States Does Not

Employer: Lehman Brothers

Location: New York City, NY

Employee/Position: Matthew Konieczny (Canada)/Investment banking analyst

Project(s): Various projects

Issue: Mr. Konieczny, a native of Canada, is a member of the Yale University class of 2006. Upon graduating, he planned to take a job in New York with investment banking firm, Lehman Brothers. Because he graduated just days after the cap on H-1B visas for 2007 was reached, Mr. Konieczny was unable to secure an H-1B visa and was informed by his prospective employer that he would have no choice but to move abroad to keep his job.

Consequences: As a result, Mr. Konieczny followed the job and was permanently relocated to an overseas office in a competitor nation.

Source: Yale Daily News, October 5, 2006

El Salvador Retains Management Consultant, United States Loses

Employer: Orion Consultants

Location: New York City, NY

Employee/Position: Elisa Segovia (El Salvador)/Institutional management consultant

Project(s): Various projects

Issue: Ms. Segovia, a native of El Salvador, is a 2006 graduate of Harvard University. Like many other highly educated foreign-born graduates of U.S. institutions, she was unable to obtain an H-1B visa this year. She had hoped to use her OPT visa to work in the United States for a year after graduation, but summer jobs she held during college counted toward the 12-month OPT allowance.

Consequences: Ms. Segovia will work in the United States until her OPT visa expires, at which point, her employer has agreed to send her home to El Salvador until another H-1B visa application can be filed. While she remains hopeful that she will be able to secure long-term residency status in the United States, Ms. Segovia says, "Right now, I have no idea what's going to happen and I don't think anybody else does."

Source: Harvard Crimson, October 5, 2006

China Gains Vanderbilt Medical Center Researcher, The United States' Loss

Employer: Department of Urological Surgery, Vanderbilt Medical Center

Location: Nashville, TN

Employee/Position: Younqing Wang (China)/ Medical Research Fellow

Project(s): Various projects

Issue: Wang has been conducting research at Vanderbilt on an H-1B visa. However, Wang can only research in the U.S. for a total of six years before he must leave for a full year before even being eligible to apply for another H-1B visa. In the meantime, two years ago, Wang applied to become a naturalized U.S. citizen. Wang continues to wait for an answer on his application that may or may not come before he has to leave.

Consequences: Wang remains in legal and professional limbo as he tries to plant roots in the United States where he wants to live. Despite numerous inquiries as to why his application had been help up for over 20 months, Wang still has never received any word back. In Wang's case, it may only be a matter of time before he is asked to leave the country.

Source: Nashville City Paper, November 1, 2006