

THE NEED FOR REFORMING THE CURRENT H-1B VISA PROGRAM

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Why is it important to maintain the H-1B program?

- It provides specialized workers who keep the U.S. competitive: These workers are highly educated in fields that fuel this country's innovation. About half of the advanced degree holders from U.S. universities in math, science, and technology are foreign nationals. Without these visas allowing them to work in the U.S., these students would likely go abroad with their skills, making the U.S. less competitive or prompting U.S. companies to relocate their operations overseas.
- It can create new jobs for U.S. citizens: Many workers have gone on to become entrepreneurs that have created new jobs and voluminous sales. In fact, one study showed that 25% of technology and engineering companies started in the U.S. between 1995 and 2005 were founded by immigrants and produced \$52 billion in sales and employed 450,000 workers across the country.¹
- It provides safeguards to protect U.S. workers: Employers must attest that no U.S. worker could fill the job. Employers that rely upon a large percentage of H-1B workers must also go through an extensive recruitment process to try to obtain a U.S. worker before they hire a foreign national. H-1B workers must receive the same wage, hours/shifts, and benefits as U.S. workers. Employers must pay an additional \$1,500 fee per petition that goes towards training program scholarships for U.S. workers.
- It includes robust anti-fraud mechanisms: While fraud may occur with any visa program, a Department of Homeland Security assessment showed that an overwhelming percentage of employers complied with existing regulations.² Many of those who were not in compliance committed minor or inadvertent violations.

What challenges exist for workers and employers under the H-1B program and how can Congress address them?

While the H-1B program is critical to moving the economy forward, many workers and employers face challenges under its current structure.³

- Limitations on visa portability: Currently, H-1B workers face difficulties changing jobs and receiving promotions because both their immigration status and green card application are tied to their sponsoring employer for a specific position. This increases the potential for fraud, exploitation, and wage depression by unscrupulous employers. *Congress should change the program to allow greater flexibility for workers seeking to change employers and the ability to self-petition for green cards.*
- Restrictions on grace periods for laid-off workers: If an H-1B worker loses their job, which is increasingly occurring in this economy, it is difficult for them to remain in status without obtaining immediate sponsorship from a new employer. As a result, many workers who have established roots and families in this country suddenly find themselves undocumented and facing deportation rather than contributing to the country's innovation. *Congress should establish a grace period for terminated workers to allow them to seek new employers or take care of their affairs before they leave the country.*

¹ UC Berkeley School of Information, "America's New Immigrant Entrepreneurs" (2007).

² U.S. Citizenship and Immigration Service, "H-1B Benefit Fraud & Compliance Assessment."

³ See generally, Center for American Progress, "Prosperous Immigrants, Prosperous Americans: How to Welcome the World's Best Educated, Boost Economic Growth, and Create Jobs" (2009).