



Prosperous Immigrants, Prosperous Americans

How to Welcome the World's Best Educated,
Boost Economic Growth, and Create Jobs

Marshall Fitz December 2009

Center for American Progress



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Executive summary

Immigrants who come to the United States to study at our best universities and then go to work at our nation's leading companies contribute directly and immediately to our nation's global economic competitiveness. High-skilled immigrants who have started their own high-tech companies have created hundreds of thousands of new jobs and achieved company sales in the hundreds of billions of dollars.

Yet despite the critical importance of such immigrants to the nation's economic success in a global economy, our current high-skilled immigration system is a two-fold failure: arbitrary restrictions prevent companies from effectively tapping the full potential of this talent pool, while inadequate safeguards fail to prevent against wage depression and worker mistreatment. The reforms outlined in this paper will help establish a 21st century immigration system that serves the nation's economic interests and upholds our responsibilities in a global economy.

Of course, our current immigration policies have failed the country on many fronts beyond the high-skilled policy arena. And the urgent need for comprehensive, systemic reforms is beyond question. The national debate has understandably focused up to this point on the most visible and most highly charged issue—ending illegal immigration. Solving that riddle and ending illegal immigration is indisputably a national imperative and must be at the heart of a comprehensive overhaul of our system.

But reforms to our high-skilled immigration system are an important component of that broader reform and integral to a progressive growth strategy.¹ Science, technology, and innovation have been—and will continue to be—keys to U.S. economic growth. The United States must remain on the cutting edge of technological innovation if we are to continue driving the most dynamic economic engine in the world,² and U.S. companies must be able to recruit international talent to effectively compete in the international innovation arena.

To be certain, educating and training a 21st century U.S. workforce is a paramount national priority and the cornerstone of progressive growth. Improving access to top-flight education for everyone in this country will be the foundation for our continued global leadership and prosperity.³ But it is shortsighted in a globalized economy to expect that we can fill *all* of our labor needs with a homegrown workforce. In fact, our current educational demographics point to growing shortfalls in some of the skills needed in

today's economy.⁴ And as global economic integration deepens, the source points for skill sets will spread—such as green engineering in Holland or nanotechnology in Israel—the breadth of skills needed to drive innovation will expand, and global labor pools must become more mobile.

Reforming our high-skilled immigration system will stimulate innovation, enhance competitiveness, and help cultivate a flexible, highly-skilled U.S. workforce while protecting U.S. workers from globalization's destabilizing effects. Our economy has benefitted enormously from being able to tap the international pool of human capital.⁵ Arbitrary limitations on our ability to continue doing so are ultimately self-defeating: Companies will lose out to their competitors making them less profitable, less productive, and less able to grow; or they will move their operations abroad with all the attendant negative economic consequences. And the federal treasury loses tens of billions of dollars in tax revenues by restricting the opportunities for high-skilled foreign workers to remain in the United States.⁶

Access to high-skilled foreign workers is critical to our economic competitiveness and growth, but facilitating such access triggers equally critical flip-side considerations, in particular the potential for employers to directly or indirectly leverage foreign workers' interests against the native workforce. Current enforcement mechanisms are too weak to adequately prevent fraud and gaming of the system.⁷ And current regulations tie foreign workers too tightly to a single employer, which empowers employers with disproportionate control over one class of workers. That control enables unscrupulous employers to deliberately pit one group of workers against another to depress wage growth.⁸ Even when there is no malicious employer intent or worker mistreatment, the restriction of labor mobility inherently affects the labor market by preventing workers from pursuing income maximizing opportunities.

The end goal must be a system that inherently preferences the hiring of U.S. workers, but streamlines access to needed foreign workers and treats all workers employed in the United States on a level plane. Reforms that enhance legal immigration channels for high-skilled immigrants must be complemented with reforms to ensure that a worker's immigration status cannot be used to manipulate wages and working conditions.

This paper digs deeper into the structural deficiencies and enforcement shortcomings in our high-skilled immigration system and offers a number of legislative solutions designed to:

- Target employer fraud and abuse.
- Enhance worker mobility.
- Establish market-based mechanism to set H-1B levels.
- Raise green card caps and streamline process.
- Strengthen recruitment requirements.
- Restrict job shops.

The recommendations detailed in this report will enhance labor market mobility and promote economic growth while advancing workforce stability through enforceable labor standards and protections.

Background

The United States is the home of many of the world's finest colleges and universities, and attracts a significant number of foreign nationals who come on temporary visas to pursue Bachelor's and advanced degrees. In fact, eight of the nine Nobel Prize winners this year in chemistry, physics, and medicine, were U.S. citizens, but four of the American winners were foreign born.⁹ In some academic fields like computer and information systems, foreign students receive the bulk of advanced degrees issued from U.S. universities.¹⁰

Foreign-born U.S. citizen Nobel Laureates

Name	Year	Field	Country of origin
Charles Kao	2009	Physics	China
Venkatraman Ramakrishnan	2009	Chemistry	India
Elizabeth Blackburn	2009	Physiology or Medicine	Australia
Jack Szostak	2009	Physiology or Medicine	United Kingdom
Yoichiro Nambu	2008	Physics	Japan
Mario Capecchi	2007	Physiology or Medicine	Italy
Oliver Smithies	2007	Physiology or Medicine	United Kingdom
Anthony Leggett	2003	Physics	United Kingdom
Riccardo Giacconi	2002	Physics	Italy
Herbert Kroemer	2000	Physics	Germany
Eric Kandel	2000	Physiology or Medicine	Austria
Ahmed Zewail	1999	Chemistry	Egypt
Gunter Blobel	1999	Physiology or Medicine	Germany

Many of these foreign students return abroad following completion of their studies, but others want to remain in the United States and seek a work-authorized visa following graduation. Indeed, these students often choose to study in the United States based in large part on the ability to pursue professional opportunities in this country after graduation. Yet annual numeric limits on the number of available employment visas create roadblocks for students seeking to remain in the United States. As the President of the Massachusetts Institute of Technology Susan Hockfield has recently argued:

“Our system of higher education and advanced research has been a magnet for creative talent . . . [but] we cannot count on that magnetism to last. Culturally, we remain a very open society. But that openness stands in sharp contrast to arcane U.S. immigration policies that discourage young scholars from settling in the U.S.”¹¹

These roadblocks have created openings for universities and employers in other countries to recruit them. A number of competitor countries have streamlined their immigration policies to make it easier for their companies to recruit international talent.¹² That has, in turn, led some prospective students to pursue educational opportunities in other countries.

Immigration basics

Our immigration system is a Byzantine patchwork of different visas designed to address specific needs or interests. Broadly speaking, our system is divided into temporary and permanent immigration categories. We have 70-plus different temporary visa categories and a couple dozen permanent resident categories.¹³ Excluding temporary visas issued for people traveling to the United States on business trips and vacations, the Department of State issued around 1.9 million nonimmigrant visas in 2008.¹⁴ And around 1.1 million foreign nationals obtained permanent resident status—colloquially referred to as “green card status”—in that year.¹⁵

The various types of employment visa categories makes any generic definition of “high-skilled immigration” inexact. For purposes of this article, “high-skilled immigration” encompasses programs authorizing individuals to work in the United States based on qualifications that include at least a bachelor’s degree or equivalent experience. Only around 261,000 of the 1.9 million nonimmigrant visas issued in 2008 were issued to high-skilled professionals.¹⁶ That number includes individuals who had already been admitted and were obtaining a new travel visa, as well as individuals who never entered. Only around 70,000 of the permanent employment-based visas issued in 2008 went to sponsored workers. In addition, 10,000 are set aside for low-skilled workers so the total number of high-skilled immigrants that were granted permanent residence in 2008 was around 60,000.¹⁷

An employer typically sponsors a worker for temporary employment in one of the many categories. Several of the most common examples for high-skilled workers include H-1B visas used to hire professionals; L-1 visas for intracompany transferees; O-1 visas for individuals with extraordinary ability; and J-1 visas for doctors, scholars, trainees, and researchers.¹⁸ Each category serves discrete interests, imposes separate requirements,

and creates unique obligations and limitations on the visa holder (the worker) and the sponsor (the employer). Some of these categories—such as H-1B and L-1—authorize the employer to begin the process of sponsoring the visa holder for permanent residence.

When an employer sponsors their foreign national employee for permanent residence, this normally involves first testing the U.S. labor market to assess whether there are qualified U.S. workers to perform the position in question. The employer cannot proceed with the green card process for a foreign national worker if they can find a qualified U.S. worker. It is not a requirement to first test the labor market in a limited number of cases, such as transfers of high-level managerial personnel from operations abroad.

The employment-based green card process is subject to strict numerical limits that lead to lengthy, multi-year backlogs for applicants. The annual numeric caps limit the overall number of employment-based green cards as well as the number of green cards that can go to employees in certain types of jobs, with certain types of backgrounds, and from any one country.

Our current system requires Congress to create new channels each time a new need emerges, or restrict old channels if abuse is perceived. Congress, of course, is less than nimble, and it is no easy feat to legislate new visa categories into or out of existence. The consequence is an immigration system that responds glacially to changing national interest and economic needs.

This piecemeal mishmash of visa categories lacks a unifying vision. Multiplicity, rather than flexibility, is the hallmark of our system. Uncoordinated multiplicity leads to silos, which leads to rigidity and incoherence. Think “tax code” and you start to appreciate the immigration system’s complexity.

Foreign student interest in U.S. colleges and universities has indeed declined. A Council of Graduate Schools report found that international admissions to U.S. graduate schools have decreased in 2009 for the first time since 2004, and problems with obtaining work-authorized visas following graduation is one of the reasons for the decline.¹⁹ The decline is particularly significant with students from India, which has traditionally been a source of many graduate students in the fields of science, technology, engineering, and mathematics (the “STEM” fields). Applications to advanced degree programs by Indian nationals are down by 12 percent.

The drop in foreign student enrollment, particularly in advanced degree programs in the STEM fields, raises concerns because of the effect that high-skilled foreign nationals have had on innovation and job creation. A 2007 study by Duke University and University of California, Berkeley professors found that 25 percent of the technology and engineering companies started in the United States from 1995 to 2005 had at least one key founder who was foreign-born.²⁰ The study further reported that in 2005 these immigrant-founded companies produced \$52 billion in sales and employed 450,000 workers nationwide.

Immigrant-founded companies in 2005

Company Name	Profits	Number of people employed
Intel Corporation	\$38.8 billion	99,900
Solectron Corporation	\$10.4 billion	53,000
Sun Microsystems, Inc	\$11.1 billion	31,000
eBay Inc.	\$4.6 billion	12,600
Yahoo! Inc	\$5.3 billion	9,800
Life Time Fitness, Inc.	\$390.1 million	9,500
Google Inc.	\$6.1 billion	5,680

Source: National Venture Capital Association, “American Made: The Impact of Immigrant Entrepreneurs and Professionals on U.S. Competitiveness.” http://www.nvca.org/pdf/AmericanMade_study.pdf

The legitimate objective behind limiting the supply of high-skilled visas is to prevent employers from using unfettered access to foreign workers to de-leverage U.S. workers. But restricting the supply of such visas potentially undermines another important goal: maximizing opportunities for economic growth by enhancing our competitiveness. This article proposes targeted reforms to ensure that our high-skilled immigration policies lift up economic growth and worker protection as twin goals rather than competing alternatives.

The politics of high-skilled immigration

The main protagonists in this struggle over high-skilled immigration are business and labor, and their competing narratives cleave along obvious ideological lines. Labor: “Employers just want a cheap exploitable workforce. If they just raised wages, there would be more than enough native workers.” Business: “Government should get out of the way and let the ‘invisible hand’ guide the labor market. That is the only way we can effectively compete in this global economy.”

The reality is that both sides articulate legitimate concerns with the current system. Unsurprisingly, some employers *do* game the system by exploiting these workers to gain a competitive advantage. They are a distinct minority, but their practices nonetheless infect the integrity of the system. On the flip side, it is also true—and equally unsurprising—that our current immigration system fails to provide the flexibility and access to foreign talent needed by bona fide employers to compete in a global economy.

The philosophical divide between the two camps has prevented them from adequately acknowledging the other side’s concerns. CAP’s recommendations help Congress bridge this divide with practical reforms that advance the nation’s dual interests in growing the economy while protecting workers.

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