

Immigration restrictions driving top jobs offshore: Study

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in Washington, DC

A new study has found that US technology companies, research labs and other American firms serving clients in a fields ranging from financial services to healthcare, are being driven by Congress to pursue offshore alternatives because of current and proposed restrictions on high-skill immigration.

The report, by the National Foundation for American Policy, said the burgeoning demand for skilled labor throughout the US economy and an increasing need to compete globally has created a demand for scientists, engineers and professionals in the United States that cannot be filled by Americans alone. The NFAP is an Arlington, Virginia-based policy research group that focuses on trade, immigration and related issues.

The NFAP's executive director and author of the study, Stuart Anderson said, "The reality of the global economy is that employers and their capital will follow the talent - wherever that talent is permitted to work and flourish." Anderson is a former executive associate commissioner for policy and planning and counselor to the commissioner of the erstwhile Immigration and Naturalization Service.

He noted that during the past decade, low H-1B and green card quotas had caused the country's employers to lose opportunities to grow and innovate, and "while members of Congress often talk about protecting American jobs, those who persist in pursuing restrictions on hiring skilled foreign nations unfortunately are inhibiting job creation and innovation in the United States."

The study, titled 'Driving Jobs and Innovation Offshore: The Impact of High Skill Immigration Restrictions on America', said the availability of H-1B temporary visas, which generally are good for six years, "is crucial, otherwise skilled foreign nationals, particularly graduates of US universities, could not work or remain in the United States, since visas for green cards take many years."

It noted that the supply of H-1B visas had been exhausted before the start of each of the past four fiscal years, often leaving employers with no choice but to hire skilled foreign nationals outside the United States.

"I don't believe a lot of Indian Americans realize - how reliant the growth of the Indian-American community has been on employment-based immigration," he said.

"It's extremely important that they realize this and the way our immigration system is set up, it turns out that the H-1B is crucial because it's almost impossible for anyone to get hired directly on green cards because of the long wait," he said. "I mean, no one is going to hire someone and say, 'Mary will show you around the office on June 12, 2013 at 2 pm!'"

Anderson also said "critics have attacked Indian companies operating in the US for their use of H-1B visas but this appears to be a tactic designed to prevent increases in the H-1B quota and to impose restrictive labor provisions on all technology companies."

He said, "Because H-1Bs make up a higher percentage of their workforce, Indian companies already must adhere to a much stricter set of rules on H-1Bs, so the legislative proposals from Senators (Richard) Durbin, (Charles) Grassley, would mostly harm US firms and, of course Indian and Chinese professionals and their families."

Anderson, who before he worked for the INS, spent nearly five years on Capitol Hill as a staffer on the Immigration Subcommittee, first for Senator Spencer Abraham and then as staff director of the subcommittee for Senator Sam Brownback, said, "These proposals don't help Americans, since not allowing tech companies to bring scientists, engineers and professionals into the US encourages companies to move more work outside of the United States."

He said, "Employers snapped up all H-1B visas on the first day applications were submitted in FY 2008, about six months before the fiscal year started (which is October 1), so even if no Indian companies had been permitted to hire anyone on an H-1B, it's clear the quota still would have been exhausted on the first day."

Anderson predicted that "it seems that what the current scenario is, indicates that if there is going to be any increase in H-1Bs or green cards, there is going to be an effort to add a series of probably had provisions to it that would make it hard for employers to hire people."

The report said under current law, H-1B professionals

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It noted that the supply of H-1B visas had been exhausted before the start of each of the past four fiscal years, often leaving employers with no choice but to hire skilled foreign nationals outside the United States or see these scientists, engineers and professionals lost to competitors overseas.

But, it bemoaned that despite this hard fact of life, some members of Congress, "often relying on anecdotes rather than the realities of the global economy, have launched concerted efforts to make it even more difficult to use H-1B visas by proposing a variety of restrictive amendments to current law," and pointed out that "this comes at a time when the European Union is opening its doors wider to attract skilled immigrants."

Anderson said "the number of the provisions proposed by lawmakers view skilled foreign nationals as something that must be kept from our shores, rather than human beings with skills and ambitions that benefit our nation."

He said that research and interviews show efforts at restriction often are based on myths, including the belief by some that H-1B visa holders are hired only as cheap labor, and argued that "in fact, if companies simply wanted to save money they would hire foreign nationals only in other countries, where wage rates can be a fraction of US salaries."

Anderson said that companies are employing skilled foreign nationals because they help create innovations, fuel growth, and fill skill gaps, "not because they'll work more cheaply. The issue is not simply one of numbers, nor is it confined to the information technology industry," he said, and said one director of a top research facility had told him that "we're losing people all the time," and that "perhaps nothing impedes more the chain of brilliance in medical research in America than the H-1B cap."

He told *India Abroad* that "raising the quotas for both H-1Bs and green cards should be a top priority of the Indian-American community, since not only is it important to the nation but the growth of the community is far more dependent on employment-based immigration than any other immigrant group in America's history."

The majority of H-1B holders, ever since this visa category was instituted, have come from India, conservatively about 50 percent of the cap.

Anderson said that research has shown that most of the Indian youth who have over the years won the spelling bees and the Intel Science Talent Search and other such competitions, have been children of H-1B professionals or those who initially came to the US on H-1B visas and consequently became permanent residents or green card holders and ultimately naturalized US citizens.

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The report said under current law, H-1B professionals must be paid the higher of the prevailing wage or the actual wage paid to similarly employed Americans. In addition, companies generally pay approximately \$6,000 in legal and government-imposed fees when hiring an H-1B visa holder and up to \$10,000 more to sponsor an individual for permanent resident.

It said even among the relatively small number of employers where suspicion of abuse has been present, the average underpayments owed to H-1B workers had turned out to be relatively small.

The report said in examining all Department of Labor final agency action between 1992 and 2004, the average amount of back wages owed to an H-1B employee was only \$5,919 - that is about the amount of money US employees typically pay in H-1B legal and government-imposed fees.

Also, according to the report, despite the impression created by critics, there wasn't an inordinate number of investigations, nor complaints filed or serious violations uncovered. Moreover, among the comparatively small number of violations found in recent years, the Department of Labor concluded employers either committed paperwork violations or misread employer obligations in a non-willful manner in almost 90 percent of the investigations.

It said that only approximately 7 to 15 willful violations had been found each year since 1992.

The report also said that "it is inaccurate, and offensive to argue that people not born in the United States have no value in the marketplace unless they work more cheaply than Americans."

Official data show 57 percent of new H-1B professionals have earned a master's degree or higher," it said, and added, "When recruiting on college campuses, companies find that foreign nationals account for 50 to 80 percent of advanced degree candidates in science and engineering disciplines at leading American universities."

The report also slammed some proposals in Congress that would even require companies to gain advance permission from the Department of Labor before a company's employees could provide services at a client's location.

Such a poor understanding of the global economy and the alternatives faced by companies to conducting work in the US undermines the already tenuous arguments offered by critics against educated foreign nationals," it said.

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