

National Foundation for American Policy

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New Report Finds Green Card Problems Likely to Grow Worse for High Skill Immigrants

Arlington, Va. – Over the past several months, skilled foreign nationals have seen no improvement in their prospects for obtaining green cards and, in fact, wait times are likely to increase in employment-based immigration categories, according to a new report released by the National Foundation for American Policy (NFAP), an Arlington, Va.-based policy research group.

An earlier analysis by the National Foundation for American Policy concluded (in October 2011) that wait times for employment-based green cards sponsored today can last 5 years or even decades, depending on the category and country of origin. And now, according to the U.S. Department of State, a wait time may be developing for prospective immigrants in the employment-based first preference (EB-1) category (outstanding researchers and professors, aliens of extraordinary ability), which previously had no backlog. Moreover, in another new development, skilled foreign nationals from countries other than China and India in the employment-based second preference (EB-2), for persons of “exceptional ability” and “advanced degree” holders, will soon experience backlogs. And for at least the rest of Fiscal Year 2012, the U.S. Department of State is not accepting new green card applications for nationals of China and India in the EB-2 category.

A copy of the report “Still Waiting: Green Card Problems Persist for High Skill Immigrants” is available at www.nfap.com.

“Absent changes in the law, the long wait times for high skilled foreign nationals, including those educated in America, will continue,” said NFAP Executive Director Stuart Anderson, formerly head of policy and counselor to the Commissioner at the Immigration and Naturalization Service (August 2001 to January 2003). “At a time when there is fierce competition around the world to hire highly skilled individuals, this threatens to deprive the country of talented individuals who will choose to develop innovations, make their careers and raise their families in other nations.”

The 2011 analysis by NFAP found projected green card waits for Indians of 8 years or more in the EB-2 category and up to 70 years for Indians in the EB-3 (employment-based third

preference) category if sponsored today for an employment-based green card, while a Chinese immigrant sponsored today in the EB-3 category could wait two decades.

Long wait times carry implications for whether or not highly skilled foreign nationals, including international students, will be able to have careers in the United States. The waits are longest for those affected by the per country limits – overwhelmingly skilled foreign nationals from India and China, the report found.

The waits for employment-based green cards are caused by two key factors. First, the annual quota of 140,000 is too low for the number of skilled foreign nationals employers seek to sponsor for permanent residence. The 140,000 annual limit was set by Congress in 1990 and includes both the principal and dependent family members, with dependents typically using half or more of the slots. The Gross Domestic Product (GDP) of the United States has nearly tripled (in nominal dollars) since 1990, from \$5.8 trillion to over \$15 trillion in 2012, but the employment-based immigrant visa category has remained at 140,000 visas annually.

The second factor causing long waits for certain employment-based immigrants is the per country limit. In most cases, that limits employment-based immigrants from one country to approximately 10,000 a year. In practice, individuals from countries with large populations can wait several years longer than people from smaller population countries. Nationals from China and India are most affected by the per country limit. Under the law, China and India are allotted the same number of green cards as Iceland and Luxembourg.

Some have argued that providing green cards to highly skilled foreign nationals harms the job prospects of Americans. However, that argument ignores that skilled scientists, researchers and professionals help create more jobs and innovation. Moreover, such individuals are hired as part of the normal recruitment process, complementing, not replacing, Americans. Another argument made is that the green card problem is not dire, since many foreign nationals stay in the United States years after receiving a Ph.D. But foreign nationals with Ph.D.s are more likely to work in academia and represent only about 13 percent of H-1B visa holders annually. The 5-year stay rate for Indians earning Ph.D.s at U.S. universities in science and engineering declined from 89 percent for those who received a doctorate in the year 2000, to 79 percent for Indian recipients of Ph.D.s in 2004. Even if Ph.D.s from India and China were staying in the U.S. at the same rate as before it would not be relevant to the green card problems experienced by foreign nationals at the masters and undergraduate levels.

Years of backlogs have developed, particularly for highly skilled individuals from India and China. The problem affects not just employers in high technology, but also health care providers, financial firms, manufacturers, pharmaceutical companies and many others. It also affects the individuals sponsored for the green cards, who live in legal limbo, which is difficult on spouses and children. Individuals waiting in temporary status for their green cards may be limited in their advancement opportunities because a promotion could require starting the green card process again.

The report finds that Congress can make two reforms to alleviate the long wait times for skilled immigrants: 1) eliminate the per country limit for employment-based immigrants and 2) provide an exemption from employment-based green card quotas for foreign nationals who earn a masters degree or higher in science, technology, engineering or mathematics (STEM) from a U.S. university. A number of recently introduced bills would make such reforms.

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About the National Foundation for American Policy

Established in the Fall 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) non-profit, non-partisan public policy research organization based in Arlington, Virginia focusing on trade, immigration and related issues. The Advisory Board members include Columbia University economist Jagdish Bhagwati, Ohio University economist Richard Vedder, former U.S. Senator and Energy Secretary Spencer Abraham and other prominent individuals. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post*, and other major media outlets. The organization's reports can be found at www.nfap.com.

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