# NATIONAL FOUNDATION FOR AMERICAN POLICY

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### H-1B VISAS BY THE NUMBERS

### **EXECUTIVE SUMMARY**

The availability of H-1B visas is crucial, otherwise skilled foreign nationals, particularly graduates of U.S. universities, could not work or remain in the United States. However, the supply of visas has been exhausted during or before each of the past 6 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. The current wait for employer-sponsored green cards (used to stay permanently) is 6 to 10 years, a timeframe unrealistic for hiring new employees.

Based on historical usage, the H-1B visa quota for skilled foreign-born professionals is likely to be exhausted during the new fiscal year or even before the start of the fiscal year. While the number of initial applications may diminish due to the economy, the demand built up by the inability of employers to hire skilled professionals on new H-1B visas for over the past year and the low quota on H-1Bs relative to the size of the U.S. labor force will contribute to employers likely reaching the annual cap of 65,000 and 20,000 exemption for recipients of a graduate degree from a U.S. university.

NFAP examined past studies and official government data on H-1Bs for FY 2008 and previous years. Among the findings in this research:

- Although important for the competitiveness of many U.S. companies, new H-1B visa holders each year represent only 0.07 percent of the U.S. civilian labor force, a tiny proportion of the U.S. workforce, making unsupportable claims that such individuals are "destroying" large numbers of U.S. jobs. Moreover, for the past several years no new H-1B visa holder could even be hired in the United States for at least a year at a time due to the low quotas, making it unlikely that employers would hold open jobs for 12 months at a time if a qualified U.S. applicant was available.
- Despite the press attention paid to India-based companies utilizing H-1B visas, U.S. Citizenship and Immigration Services (USCIS) data show the use of H-1Bs by Indian companies declined by 27 percent from 2006 to 2008. Contrary to assertions that Indian employers use up "most" or "80 percent" of the annual quota, USCIS data reveal that such companies utilized only 11.9 percent of the 2008 new H-1B petitions issued. The 12,180 new H-1B visa holders hired by Indian companies in 2008 represented 0.0083 percent of the U.S. labor force, less than 1/100<sup>th</sup> of 1 percent, a small proportion by any reasonable definition.
- While well-known U.S. technology companies are most often in the news related to H-1B visas, a large variety of businesses and organizations in America, including public school systems, hire H-1B professionals every year. In FY 2008, 24,692 different employers hired at least one individual on a new H-

1B petition. Many companies hire only one or two H-1Bs. In FY 2008, more than 16,130 employers hired one person on a new H-1B petition. Another 5,561 hired between two and five new H-1Bs. A total of 23,063 employers used between one and 10 new H-1Bs, representing over 41,000 of the petitions issued or 38 percent.

Examining the 2008 H-1B numbers and recent research on high skill immigration shows many of the arguments made to restrict H-1B visas are weak. H-1Bs are used by a large variety of businesses and organizations in the United States. With green card wait times between 6 to 10 years, H-1B visas remain often the only way an employer can hire an outstanding international student or bring a talented foreign national to America to work.

Research shows H-1B visa holders are important to innovation, entrepreneurship and job creation in America. With the annual flow of H-1Bs represents only 0.07 percent of the U.S. labor force, arguments that H-1B professionals overwhelm the American workforce are not supported by logic or the facts. Surveys of Indian and Chinese professionals who have left America show that visa constraints play a role in their leaving the country, an exodus that will continue absent reform of our immigration laws.

Liberalizing H-1B and green card quotas would help American companies innovate and create more jobs in the United States. While critics of H-1B visas often cloak their arguments in the guise of helping Americans, it is the current restrictions that are inflicting real harm on the country - and new restrictions will only increase the damage.

### A Brief History of H-1B Visas

H-1Bs visas are crucial to retaining skilled talent in America, otherwise skilled foreign nationals, particularly graduates of U.S. universities, generally could not work or remain in the United States. The current wait for employer-sponsored green cards (used to stay permanently) is 6 to 10 years, a timeframe unrealistic for hiring new employees.

Due to low quotas established by Congress, the supply of H-1B visas has been exhausted during or before the start of each of the past 6 fiscal years. As discussed below, despite the poor economy it is likely the H-1B limits will be reached again before or during FY 2010.

H-1B visas are temporary visas that allow foreign nationals to work in the United States on short-term projects or as a prelude to a green card. The visas generally are good for up to 6 years (with a renewal after three years). Contrary to popular impression, Congress did not "create" an H-1B visa program in 1990. Individuals had long been permitted to come into the United States on H-1 temporary visas. Moreover, such professionals were not intended necessarily to be immigrants, as opposed to temporary entrants into the U.S. labor market. Prior to 1990, going back to the 1950s, H-1s generally could not enter the United States if they intended to stay permanently.

Congress changed the law in 1990 to allow "dual intent," which allowed H-1B visa holders to intend to become permanent residents (green card recipients), while also placing an annual limit of 65,000. Until the law was expanded in 1970, H-1s could only enter the U.S. to fill jobs that were temporary or project-oriented.

By 1997, the 65,000 annual limit established by Congress in 1990 proved to be insufficient. Since that time employers have exhausted the supply of H-1B visas every year except during FY 2001 to FY 2003, when the ceiling was increased. In the past 6 years employers used up all the visas before or during the fiscal year. In 1998 and 2000 Congress passed short-term H-1B numerical increases that "sunset," while in late 2004 Congress approved an exemption of 20,000 from the cap for recipients of an advanced degree from a U.S. university. (Congress had earlier approved an exemption from the numerical limit for those hired by universities and nonprofit or government research institutes.) With each revision in the law has come greater regulation and scrutiny for employers and, starting in 1998, high and escalating fees for hiring H-1B professionals.

The current annual level of H-1Bs is about the same level as in 1990, even though the U.S. Gross Domestic Product has risen by 64 percent (from \$8.5 trillion to \$14 trillion) over the past 19 years, while the demand for skilled labor, particularly in technical fields, has also risen.

### THE MARKET HAS DETERMINED H-1B VISA USE

Examining previous years shows that the market has determined the use of H-1B visas. When Congress raised the limit to 195,000 a year in FY 2002 and 2003, in both years fewer than 80,000 visas were issued against the cap, leaving 230,000 H-1B visas unused in those two years. Firms did not hire more H-1Bs in those years just because the cap was higher.

Table 1
H-1B VISAS ISSUED AGAINST THE CAP BY YEAR

<u>Year</u>	CAP*	#Issued	#Unused
1992	65,000	48,600	16,400
1993	65,000	61,600	3,400
1994	65,000	60,300	4,700
1995	65,000	54,200	10,800
1996	65,000	55,100	9,900
1997	65,000	65,000	0
1998	65,000	65,000	0
1999	115,000	115,000	0
2000	115,000	115,000	0
2001	195,000	163,600	31,400
2002	195,000	79,100	115,900
2003	195,000	78,000	117,000
2004	65,000	65,000	0
2005	65,000	65,000	0
2006	65,000	65,000	0
2007	65,000	65,000	0
2008	65,000	65,000	0
2009	65,000	65,000	0

Source: Department of Homeland Security; National Foundation for American Policy. \*Does not include exemptions from the cap. Exemptions from the cap include those hired by universities and non-profit research institutes and 20,000 individuals who received a master's degree or higher from a U.S. university.

### H-1B CAP LIKELY TO BE REACHED AGAIN IN 2010

Despite recent economic troubles and an expected decline in initial H-1B fillings, it is likely the supply of H-1B visas again will be exhausted during or before the start of FY 2010. (USCIS will begin accepting applications for FY 2010 on April 1, 2009.) A number of factors point to this outcome.

First, during a one-week filing window in April 2008, U.S. Citizenship and Immigration Services (USCIS) received 163,000 H-1B applications, nearly twice as many petitions as slots available under the FY 2009 quota of 65,000, plus 20,000 for advanced degree holders from U.S. universities. The petitions were awarded to employers by lottery and no new H-1B petitions could be issued the remainder of the fiscal year. While certainly the economy was better a year ago, companies still seek talented people on an ongoing basis. Moreover, even firms that downsize in one part of a company may be hiring in another part.

Second, in FY 2002 and 2003, during the dot-com bust, nearly 80,000 petitions counted against the cap. Whether or not today's economic situation is comparable is difficult to assess but the totals in those years would have been much higher if Congress had not eliminated pent up demand in 2001 by setting an H-1B ceiling of 195,000. In contrast, today a "backlog" for H-1Bs exists in that no employer could file for a new H-1B petition for the previous 12 months. In some cases, employers may have kept a former international student working for a company on Optional Practical Training (OPT) and will seek an H-1B to keep the individual as an employee.

Finally, the U.S. economy is large and diverse and the H-1B cap is small as a proportion of the U.S. labor force. As discussed later in the report, more than 24,000 different U.S. employers hired one or more individuals on an H-1B visa in FY 2008, according to USCIS. It is likely that many different employers will hire an H-1B visa holder they have identified as valuable to their organization.

### **ANALYSIS OF 2008 H-1B NUMBERS**

NFAP has obtained the FY 2008 H-1B numbers detailing how many new H-1B petitions were approved for each employer. An analysis of the USCIS data reveals information contrary to the conventional wisdom about the share of H-1Bs relative to the U.S. labor force, the proportion of H-1B visas utilized by Indian companies and the variety of employers hiring individuals on H-1Bs. The findings appear below.

### H-1Bs Represent a Small Portion of the U.S. Labor Force

The number of new H-1B visa holders in the United States accounted for 0.07 percent of the U.S. labor force in 2008. Including those petitions exempt from counting against the H-1B quota, a total of 107,686 new H-1B

petitions were approved by USCIS in FY 2008. That compares to the U.S. civilian labor force of 154.6 million in 2008.<sup>2</sup>

Related to this, a key premise of critics is that companies hire H-1B professionals to the exclusion of Americans. But if one looks at the numbers this assertion makes little sense. Almost all companies that utilize H-1B visa holders have U.S. workers accounting for 85 percent to 99 percent of their workforce. Any businesses with more than 15 percent of their workforce on H-1B visas is considered "H-1B dependent" under the law and must adhere to a stricter set of labor rules.

Still, Senator Charles Grassley (R-IA) has stated, "Unfortunately, the H-1B program is so popular, it is now replacing the U.S. labor force rather than supplementing it." There does not appear to be any basis for such a statement. Given the current H-1B quota and the size of the U.S. workforce (over 154 million) it would take H-1B visa holders about 1,445 years to equal the size of – or "replace" – the U.S. labor force.

### H-1Bs For Indian Companies Represent a Fraction of Total Visa Use

Some have argued against increasing the H-1B quota by asserting that Indian companies use the majority or even 80 percent of the annual allotment of new H-1B petitions. While it is true Indian businesses are conspicuous among the top 10 users of H-1Bs in FY 2008 (and in previous years), they represent only a fraction of total H-1B use.

Indentifying 26 India-based firms and even including Cognizant, an American company with many employees in India, one finds Indian companies utilized 11.9 percent, or 12,810 of the 107,686 new H-1B petitions issued in FY 2008. (See the Appendix for Table 3 listing the Indian companies.)<sup>4</sup> The analysis also finds H-1B use by Indian companies declined by 27 percent between 2006 and 2008.

While some have expressed fears that H-1B professionals hired by Indian companies threaten the American workforce the data do not support this, even if one bought into a simplistic "zero-sum" view of how the U.S. labor market functions. In 2008, new H-1B visa holders hired by Indian companies represented only 0.0083 percent of the U.S. civilian labor force, less than 1/100<sup>th</sup> of 1 percent. Some have argued that given the scarcity of H-1B visas, the number of H-1B petitions used by Indian companies should be restricted. The H-1B quota is low - and visas are scarce - because Congress has not raised the ceiling in several years. Proposals that have the effect of limiting the number of new petitions issued to Indian companies, even if accomplished through language that appears country neutral, also would directly affect Indian nationals who would have been employed by these companies. Such measures could violate U.S. commitments on H-1Bs made in the General Agreement on Trade in Services (GATS).

### MANY EMPLOYERS USE H-1B VISAS

While Indian companies and well-known U.S. technology companies are most often in the news related to H-1B visas, it turns out a large variety of businesses and organizations in America, including public school systems, hire H-1B professionals every year. In FY 2008, 24,692 different employers hired at least one individual on a new H-1B petition. Moreover, many companies hire only one or two H-1Bs. In FY 2008, more than 16,130 employers hired one person on a new H-1B petition. Another 5,561 hired between two and five new H-1Bs. A total of 23,063 employers used between one and 10 new H-1Bs, representing over 41,000 of the petitions issued or 38 percent.

Table 2
Top 20 Employers for New H-1B Petitions in FY 2008

EMPLOYER	NEW H-1B PETITIONS
Infosys Technologies Ltd.	4,559
Wipro Ltd.	2,678
Satyam Computer Services Ltd.	1,917
Tata Consultancy Services Ltd.	1,539
Microsoft Corp.	1,037
Accenture LLP	731
Cognizant Tech Solutions Corp.	467
Cisco Systems Inc.	422
Larsen & Toubro Infotech Ltd.	403
IBM India Private Ltd.	381
Intel Corp.	351
Ernst & Young LLP	321
Patni Americas Inc.	296
Terra Infotech Inc.	281
Qualcomm Inc.	255
Mphasis Corp.	251
KPMG LLP	245
Prince Georges Cty Public Schools	239
Baltimore City Public School System	229
Deloitte Consulting LLP	218

Source: USCIS

### RECENT RESEARCH ON H-1BS AND HIGH SKILL IMMIGRATION

Over the past five years quite a bit of research has come out that makes a compelling case for America adopting more open policies toward foreign-born professionals and high skill immigration in general. Some of that research is summarized below.

# FOREIGN NATIONALS LEAVING U.S., VISA POLICY A FACTOR

A survey of more than 1,000 Indian and Chinese professionals who left the United States and returned to their native countries found many individuals perceive greater opportunities in their countries of birth than ever before. The March 2009 findings from Duke University and University of California, Berkeley researchers send a signal that America cannot take it for granted that outstanding international students, researchers and professionals from around the world will always want to stay and work in the United States. "The responses to our survey seemed to indicate that returnees' departures were not related solely to preferences for starting a business in their home countries or to perceptions of possibilities of further professional advancement in their home countries," concluded co-authors Vivek Wadhwa (Duke University), AnnaLee Saxenian (University of California, Berkeley), Richard Freeman (Harvard University), Gary Gereffi (Duke University) and Alex Salkever (Duke University). "Returnees showed a strong preference for their home country because of family and personal considerations." 5

"A majority of respondents indicated that they would at least consider returning to the U.S. if they could get a visa and a good job. Most likely the good job is the key here, as visa considerations did not weigh heavily in their decision to leave. Fewer than one-third of respondents had permanent-residency status, however, and it is possible that, though visa issues may not be perceived as a major reason to leave, job difficulties resulting from restrictive visa policies could be playing a major role in spurring the exodus," the authors found.<sup>6</sup>

In fact, the survey found that only 34 percent of Indians without a green card said "No," they would not return to the United States "if offered a permanent resident visa (green card) and a suitable job opportunity." The remaining 64 percent said yes or maybe they would return (26 percent said yes, 40 percent said maybe). The results were similar for Chinese professionals without a green card who had returned to China, with 27 percent saying they would not return to America if offered permanent residence and a suitable job opportunity, with the remaining 73 percent saying yes or maybe they would come back to America (17.5 percent yes, 55 percent maybe).

Approximately one-third of Indian temporary visa holders (32.6 percent) said U.S. visas/permits contributed to their decision to return home to India. Twenty-two percent of Chinese said visa issues contributed to their decision to leave America and return to China.8

### H-1Bs and Job Creation

Examining H-1B filings and year-by-year job totals for the technology companies in the S&P 500, the National Foundation for American Policy used a regression model that controls for both general market conditions and firm size and found that there is a positive and statistically significant association between the number of positions requested in H-1B labor condition applications and the percentage change in total employment. The data show that for every H-1B position requested, U.S. technology companies increase their employment by 5 workers.<sup>9</sup>

For technology firms with fewer than 5,000 employees, each H-1B position requested in labor condition applications was associated with an increase of employment of 7.5 workers. This is particularly remarkable since the actual number of individuals hired on H-1B visas is likely to be much lower than the total number of applications filed with the Department of Labor.

The March 2008 research found that even if increased hiring of H-1Bs and other workers are both influenced primarily by business opportunities specific to the firm it would still mean new H-1B professionals are complementing other U.S. hires, rather than displacing them, as critics allege.

In a finding particularly relevant to today's economic climate, the research found employers that reduced employment reduced it less if they had filed for H-1Bs visas, according to the analysis. Examining companies in the sample that had layoffs, the regression results found a positive association between H-1B positions requested and employment. For every H-1B position requested on a labor condition application, total employment is estimated to be 2 workers more than it otherwise would have been.

If the proposition was true that companies hire H-1B professionals because they're cheaper, then when businesses hit hard times they should hire more H-1Bs to save money. However, the analysis shows that, overall, H-1B filings at U.S. technologies declined when companies hit hard times, undermining the assertion that H-1Bs are hired as "cheap labor."

### H-1Bs, Green Card Holders and Taxes

A March 2009 study by Arlene Holen for the Technology Policy Institute found "highly skilled immigrants pay substantially more in taxes than they receive in federal benefits." According to the research, "The relaxation of green card constraints proposed in the Comprehensive Immigration Reform Act of 2006 could have increased labor earnings and GDP by approximately \$34 billion in the tenth year following enactment and had a net positive effect on the budget of \$34 to \$47 billion over ten years. . . . Relaxation of H-1B caps under the Comprehensive

Immigration Reform Act of 2007 could have increased labor earnings and GDP by \$60 billion in the tenth year following enactment and improved the federal budget's bottom line by \$64 to \$86 billion over ten years." <sup>10</sup>

### H-1BS AND PATENTS

A recent paper by economists William R. Kerr (Harvard Business School) and William F. Lincoln (University of Michigan) concluded, "We find that fluctuations in H-1B admissions levels significantly influence the rate of Indian and Chinese patenting in cities and firms dependent upon the program relative to their peers. Most of our specifications also find weak crowding-in effects or no effects at all for native patenting. We conclude that total invention increases with higher admission levels primarily through the direct contributions of immigrant inventors." <sup>11</sup>

Kerr and Lincoln found, "A 10 percent growth in H-1B admissions correlates with an 8 percent growth in Indian invention" relative to firms outside of the computer sector less reliant on H-1Bs. 12

Similarly, according to a study by Keith Maskus, an economist at the University of Colorado, for every 100 international students who receive science or engineering Ph.D.'s from American universities, the nation gains 62 future patent applications.<sup>13</sup>

### H-1B FEES AND OTHER COMPANY CONTRIBUTIONS TOWARD U.S. EDUCATION

U.S. businesses pay over \$91 billion a year in state and local taxes directed toward public education, while the mandated scholarship and training fees U.S. companies pay for each H-1B professional hired are more than \$2 billion since 1999. (These fees are \$1,500 for companies with more than 25 full-time employees and \$750 for firms with 25 or fewer employees and are levied on each new H-1B petition and renewals.) Some argue that companies should not be permitted to hire international students and other foreign nationals on skilled visas unless they do more to support education. However, it makes little sense to oppose increasing the annual level of green cards or H-1B visas in order to hold U.S. businesses responsible for the inadequate performance of U.S. public education, since it is elected officials, not companies, who are responsible for local, state and federal education policy. Moreover, changes to our schools will take years to have a major impact on overall student performance.

Companies such as Intel, Oracle, Microsoft and others make substantial charitable contributions to aid education in the United States. The Gates Foundation alone, funded by Microsoft stock, has contributed \$3 billion to U.S. public education since 1999.

The H-1B fees paid by companies have funded more than 45,000 scholarships for U.S. students in math and science through the National Science Foundation, as well as hands-on science programs for 130,000 middle and high school students and 4,500 teachers. More than 55,000 U.S. workers have received training through the H-1B fees paid by companies.<sup>15</sup>

### H-1BS AND WAGES

There is little evidence that native information technology (IT) workers are harmed by an openness towards H-1B professionals. A study by Madeline Zavodny, a research economist at the Federal Reserve Bank of Atlanta, found, "H-1B workers [also] do not appear to depress contemporaneous earnings growth." As to unemployment, the study concluded that the entry of H-1B computer programmers "do not appear to have an adverse impact on contemporaneous unemployment rates." The study also noted that some results "do suggest a positive relationship between the number of LCA [Labor Condition] applications and the unemployment rate a year later." Zavodny concluded: "None of the results suggest that an influx of H-1Bs as proxied by Labor Condition Applications filed relative to total IT employment, lower contemporaneous average earnings. Indeed, many of the results indicate a positive, statistically significant relationship." This would mean H-1B employment is actually associated with better job conditions for natives, according to the study, which could be because H-1B professionals are complementary to native professionals.<sup>16</sup>

If companies simply wanted to obtain services based only on wages, then U.S. companies would move all of their work outside the United States, since wage rates are lower in most countries around the world. Some have sought to use prevailing wage data filed with the Department of Labor to argue employers underpay H-1B visa holders. However, prevailing wage data do not necessarily reflect the salaries received by H-1B professionals. The wage data maintained by the Department of Labor are simply listings of the minimum an employer can pay an H-1B professional for a particular job. The data showing what an employer actually pays an H-1B visa holder are contained on the I-129 forms filed with U.S. Citizenship and Immigration Services (USCIS). Unlike the prevailing wage data at DOL, the forms filed with USCIS are not normally available to the public. To examine this issue, the National Foundation for American Policy asked a respected law firm to select a random sample of H-1B cases from among its client base. They represented different occupations but the vast majority of the H-1Bs were in high technology fields. Among the 100 randomly selected cases, the average actual wage was more than 22 percent higher than the prevailing wage. This is not meant to be definitive proof that actual wages are always, on average, 22 percent higher than prevailing wages. However, it does show, along with other evidence, that analyses utilizing prevailing wage data to claim H-1B professionals are underpaid are not reliable. The professionals are underpaid are not reliable.

### IMMIGRANT ENTREPRENEURS

A study by Stuart Anderson and Michaela Platzer conducted for the National Venture Capital Association found "Over the past 15 years, immigrants have started 25 percent of U.S. public companies that were venture-backed, a high percentage of the most innovative companies in America . . . The largest U.S. venture-backed public companies started by immigrants include Intel, Solectron, Sanmina-SCI, Sun Microsystems, eBay, Yahoo!, and Google."19

Duke University research that involved interviews with executives at U.S. technology and engineering companies found essentially the same results as the National Venture Capital Association study. "Of the 2054 companies we interviewed, 25.3 percent reported that at least one of their key founders was an immigrant. Extrapolating from this sample, we estimate that all companies founded by immigrants from 1995 to 2005 produced \$52 billion in sales and employed 450,000 workers in 2005," according to Vivek Wadhwa, AnnaLee Saxenian, Ben Rissing and Gary Gereffi.<sup>20</sup>

### THE CHILDREN OF H-1B VISA HOLDERS

At the 2004 Intel Science Talent Search, the nation's leading science competition for top high school students, the National Foundation for American Policy conducted interviews to determine the immigration background of the 40 finalists. The results: two-thirds of the Intel Science Talent Search finalists were the children of immigrants. And even though new H-1B visa holders each year represent only 0.03 percent of the U.S. population, it turns out more of the children had parents who entered the country on H-1B visas than had parents born in the United States. In other words, if current immigration policies had been even more restrictive, many of the coming generation's top scientists and engineers would not be here in the United States today - because we never would have allowed in their parents.<sup>21</sup>

### H-1Bs and Education Levels

Contrary to assertions that H-1B visa holders are not highly skilled, official data show 57 percent of recent new H-1B professionals earned a master's degree or higher, according to the Department of Homeland Security. 22 When companies recruit they find a high proportion of foreign nationals in important disciplines. In 2005, U.S. universities awarded 55 percent of Masters degrees and 67 percent of PhDs in electrical engineering to foreign nationals, according to the American Association of Engineering Societies.<sup>23</sup>

### CONCLUSION

Examining the 2008 H-1B numbers and recent research on high skill immigration shows many of the arguments made to restrict H-1B visas are weak. H-1Bs are used by a large variety of businesses and organizations in the United States, over 24,000 employers in 2008. With green card wait times between 6 to 10 years, H-1B visas remain often the only way an employer can hire an outstanding international student or bring a talented foreign national to America to work.

Research shows H-1B visa holders are important to innovation, entrepreneurship and job creation in America. Moreover, arguments that H-1B professionals overwhelm the American workforce are not supported by logic or the facts. The annual flow of H-1Bs represents only 0.07 percent of the U.S. labor force, while the H-1B professionals hired annually by Indian companies equal to less than 1/100 of 1 percent of the American workforce. Surveys of Indian and Chinese professionals who have left America show that visa constraints play a role in their leaving the country, an exodus that will continue absent reform of our immigration laws.

Liberalizing H-1B and green card quotas would help American companies innovate and create more jobs in the United States. While critics of H-1B visas often cloak their arguments in the guise of helping Americans, it is the current restrictions that are inflicting real harm on the country – and new restrictions will only increase the damage.

# **APPENDIX**

Table 3 Indian Company H-1Bs – FY 2006-2008

<u>EMPLOYER</u>	2008	<u>2007</u>	2006
Infosys Technologies Ltd.	4,559	4,559	3,189
Wipro Ltd.	2,678	2,567	3,246
Saytam Computer Services Ltd.	1,917	1,396	1,938
Tata Consultancy Services Ltd.	1,539	797	2,665
Cognizant Tech Solutions Corp.	467	962	1,028
Larsen & Toubro Infotech Ltd.	403	292	664
Patni Americas Inc.	296	477	985
Mphasis Corp.	251	248	456
I-Flex Solutions Inc.	148	374	720
HCL Technologies Ltd.	103	102	670
NIIT Technologies Ltd.	86	75	57
Mindtree Consulting Ltd.	68	49	108
Hexaware Technologies Ltd.	43	52	271
Mastek Ltd.	42	44	28
Polaris Software Lab Ltd.	32	191	513
Persistent Systems Pvt. Ltd.	27	19	15
Infotech Enterprises Ltd.	26	20	18
Tech Mahindra Ltd.	25	217	718
Birlasoft Ltd.	24	47	54
3i Infotech Consulting Ltd.	22	7	48
Quintegra Solutions Ltd.	16	11	61
Zensar Technologies Ltd.	13	31	22
Sasken Communication Technologies Ltd.	9	0	0
Prithvi Information Solutions Ltd.	9	52	58
Subex Technologies Inc.	4	8	16
Geometric Software Solutions Co. Ltd.	3	0	2
Total "Indian" Company H-1Bs	12,810	12,597	17,550
TOTAL New H-1Bs (all employers)	107,686	126,219	116,129
Percentage Indian	11.9%	9.9%	15.1%

Source: USCIS

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H-1B Visas By The Numbers

### END NOTES

- <sup>1</sup> Unless otherwise noted, the data discussed here come the U.S. Citizenship and Immigration Services list of FY 2008 employers and H-1B initial beneficiaries.
- <sup>2</sup> Bureau of Labor Statistics, U.S. Department of Labor.
- <sup>3</sup> Floor statement of Senator Charles Grassley, November 5, 2007.
- <sup>4</sup> It's possible there may be other U.S. firms with operations in India or other companies one might argue could be added to the list. However, even if one added another 1,000 H-1B visa holders to the total it would only increase the 11.9 percent figure by 1 percentage point.
- <sup>5</sup> Vivek Wadhwa, AnnaLee Saxenian, Richard Freeman, Gary Gereffi and Alex Salkever, America's Loss is the World's Gain, Duke University, University of California, Berkeley, Harvard University, Ewing Marion Kauffman Foundation, p. 6. The research is available at http://www.globalizationresearch.com/.
- <sup>6</sup> Ibid.
- <sup>7</sup> Thank you to Professor Wadhwa and Karna Vishwas for providing additional data by reexamining the survey results by filtering out respondents to this question who already possessed a green card or U.S. citizenship.
- <sup>8</sup> Additional data from the survey provided by Professor Wadhwa and Karna Vishwas.
- <sup>9</sup> H-1B Visas and Job Creation, National Foundation for American Policy, March 2008.
- <sup>10</sup> Arlene Holen, The Budgetary Effects of High-Skilled Immigration Reform, Technology Policy Institute, March 2009.
- <sup>11</sup> William R. Kerr and William F. Lincoln, "The Supply Side of Innovation: H-1B Visa Reforms and U.S. Ethnic Invention," Harvard Business School, Working Paper, 09-005, 2009, p. 30.
- <sup>12</sup> Ibid., p. 29.
- <sup>13</sup> Stuart Anderson, "The Nation's Future is Stuck Overseas," *The New York Times*, November 16, 2007; Keith E. Maskus, Gnanaraj Chellaraj, and Aaditya Mattoo, "The Contribution Of Skilled Immigration and International Graduate Students To U.S. Innovation," March 17, 2005.
- <sup>14</sup> See U.S. Businesses Pay Over \$91 Billion a Year to Support Education, NFAP Policy Brief, May 2007. http://www.nfap.com/pdf/0507brief-business-immigration.pdf. The research staff of the National Taxpayers Union pointed out these two studies and the relevant figures on taxes: http://www.taxfoundation.org/files/bp52.pdf) and http://www.taxfoundation.org/publications/show/2056.html. The fee figures are derived from data from the Department of Homeland Security. Estimates of annual receipts indicate that since 1999/2000 companies have

paid approximately \$2 billion cumulatively up to the middle of FY 2009 and will surpass that \$2 billion level after the filings for FY 2010. Such filings begin on April 1, 2009.

- <sup>15</sup> Ibid.; FY 2009 NFS Budget Request to Congress, EHR 25.
- <sup>16</sup> Madeline Zavodny, "The H-1B Program and Its Effects on Information Technology Workers," Federal Reserve Bank of Atlanta, *Economic Review*, Third Quarter 2003.
- <sup>17</sup> For a more detailed discussion of the wage issues see *H-1B Professionals and Wages: Setting the Record Straight*, NFAP Policy Brief, National Foundation for American Policy, March 2006. Under Section 212(n)(1) of the Immigration and Nationality Act, an employer hiring an individual in H-1B status must pay at least "the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question" or "the prevailing wage level for the occupational classification in the area of employment, *whichever is greater*. . ." Therefore, relying solely on prevailing wage data is inappropriate. <a href="http://www.nfap.com/researchactivities/articles/NFAPPolicyBriefH1BProfessionalsAndWages0306.pdf">http://www.nfap.com/researchactivities/articles/NFAPPolicyBriefH1BProfessionalsAndWages0306.pdf</a>
- <sup>18</sup> Ibid. While it is possible cases from a different law firm could yield somewhat different results, this law firm serves a diverse client base that appears typical of the employers petitioning for H-1B professionals.
- <sup>19</sup> Stuart Anderson and Michaela Platzer, *American Made: The Impact of Immigrant Entrepreneurs and Professionals on U.S. Competitiveness*, National Venture Capital Association, November 2006, p. 6.
- <sup>20</sup> Vivek Wadhwa, AnnaLee Saxenian, Ben Rissing, and Gary Gereffi, "Skilled Immigration and Economic Growth," *Applied Research in Economic Development*, vol. 5, issue 1, May 2008, p. 7.
- <sup>21</sup> Stuart Anderson, *The Multiplier Effect*, National Foundation for American Policy, July 2004.
- <sup>22</sup> 2006 data. Department of Homeland Security; National Science Foundation.
- <sup>23</sup> American Association of Engineering Societies.

### **ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY**

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