



Economic Policy Institute

Research and Ideas for Shared Prosperity

REPLACING FUTURE IMMIGRANTS AND AMERICANS WITH TEMPORARY FOREIGN WORKERS

Temporary Foreign Workers and the Economy

Daniel Costa

Immigration Policy Analyst

dcosta@epi.org

6 June 2012

Washington DC

<http://www.epi.org/event/replacing-future-immigrants-americans-temporary/>



The Legal/Regulatory Framework: *recruiting requirements?*

Confusion among the public and political leaders

“the H-1B should be reserved only for those companies who say they cannot find someone in that particular field”





The Legal/Regulatory Framework: *recruiting requirements?*

Major visa categories with some recruiting requirements:

H-2A

- Contacting former U.S. employees.
- coordinating recruitment activities through the appropriate State Workforce Agency.
- Provide employment to any qualified, eligible U.S. worker who applies for the job opportunity until 50 percent of the period of the work contract has elapsed.

H-2B

- SWA job posting for a 10-day period before the employer files the Application.
- Newspaper ad on 2 days during the 10-day SWA posting.
- The call-back and re-employment offer to U.S. workers laid off within 120 before date of need.
- Union referrals where the employer is party to a CBA covering the occupation.

H-1B

- Employer is NOT required to recruit U.S. workers, unless it is “H-1B-dependent” (15%)
 - If dependent, must make 3 attestations regarding non-displacement and recruitment.
- H-1B dependent employers can be exempted if:
 - They pay H-1B workers at least \$60,000 per year; or
 - The H-1B worker holds a master's degree or higher in a specialty related to the employment.



The Legal/Regulatory Framework: *recruiting requirements?*

Examples of major Categories with no requirements:

L-1 intracompany transferee (5 or 7 years)

- 70,728 visas issued in 2011

J-1 exchange visitor

- 109,000 in SWT category (2011) (4 months)
- 62,000 in other J-1 full-time work categories (2010)

Optional Practical Training, 29 months for STEM graduates

- Approximately 40,000 granted since 2008



The Legal/Regulatory Framework: *recruiting requirements?*

Does the current system work?

- No, but that doesn't mean it couldn't...
- Employer-friendly attestation system we currently have could actually work, IF:
 - Systematic post-entry audits of TFW employers are required, combined with stiff penalties for violators.
- Instead, we have the worst of both worlds:
 - Minimal recruiting is required and not much verification at the back end (unless there's a valid complaint).



The Legal/Regulatory Framework: *“prevailing” wages*

- Only in H-2A, H-2B, and H-1B programs
- Can pay less than minimum wage in some categories:
 - Home country wages or “stipends” in L-1, J-1, B-1
- How they work:
 - DOL survey data to determine average wage by occupation and locality
 - 4 levels – correspond to education and skill?
 - Employer determines appropriate level
 - DOL certifies or rejects



The Legal/Regulatory Framework: “prevailing” wages

H-2B “Landscaping and Groundskeeping Workers” in Baltimore, MD

Level 1 Wage:	<i>\$9.12 hour</i>	\$18,970 year
Level 2 Wage:	\$10.96 hour	\$22,797 year
Level 3 Wage:	\$12.80 hour	\$26,624 year
Level 4 Wage:	\$14.64 hour	\$30,451 year
Mean Wage:	<i>\$12.80 hour</i>	\$26,624 year

Federal Poverty Threshold, family of four: **\$22,113**

- According to DOL, 75% percent of H-2B visas are certified at Level 1 wage.
- And in “96 percent of cases, the H–2B wage is lower” than the average wage.



The Legal/Regulatory Framework: “prevailing” wages

H-1B “Computer Programmers” in San Jose, CA

Level 1 Wage:	<i>\$34.95 hour</i>	\$71,947 year
Level 2 Wage:	\$42.90 hour	\$89,232 year
Level 3 Wage:	\$51.22 hour	\$106,538 year
Level 4 Wage:	\$59.53 hour	\$123,822 year
Mean Wage:	<i>\$51.22 hour</i>	\$106,538 year

H-1B employer savings of \$34,591 per year compared to a worker earning the average wage.

- According to GAO analysis of DOL data:
 - 54% of H-1B visas certified at Level 1 wage; 29% certified at Level 2.
 - 83% of H-1B visas are certified below the local average wage in the occupation.



The Legal/Regulatory Framework: *“prevailing” wages = corporate profits*

IT sector analysis from “Asia’s leading independent brokerage and investment group”:

**Definite margin impact
from greater local hiring:
higher wages + lower
utilisation**

Figure 3

Cost differential between a local hire and Indian employee sent on a visa

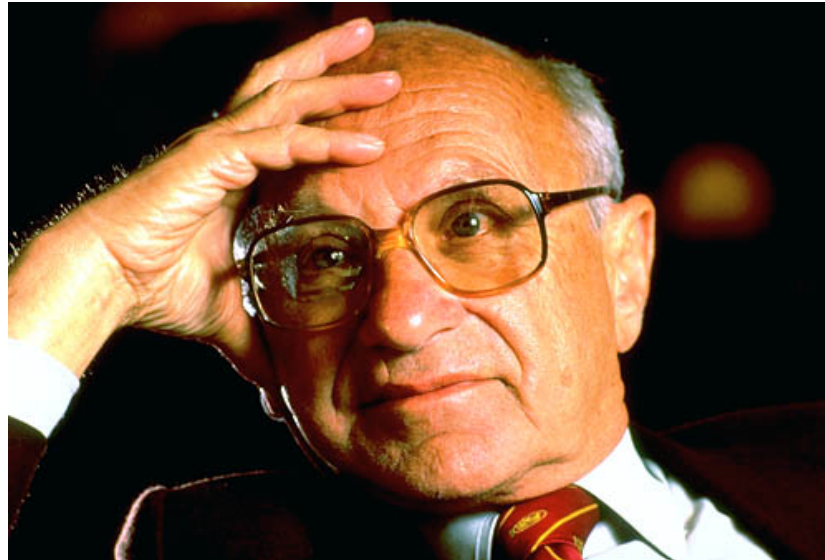
US\$	Utilisation		
	75%	83.3%	91.7%
Indian Employee sent on a visa			
Revenues	112,500	125,000	137,500
Wage Costs	66,150	72,100	78,050
Travel/Visa Costs	2,333	2,333	2,333
Gross Profit	44,017	50,567	57,117
%	39.1%	40.5%	41.5%
Local Hire			
Revenues	112,500	125,000	137,500
Wage Costs	84,000	84,000	84,000
Travel/Visa Costs	0	0	0
Gross Profit	28,500	41,000	53,500
%	25.3%	32.8%	38.9%

Source: CLSA Asia-Pacific Markets

<http://online.wsj.com/public/resources/documents/477617892.pdf>



The Legal/Regulatory Framework: *“prevailing” wages = corporate profits*



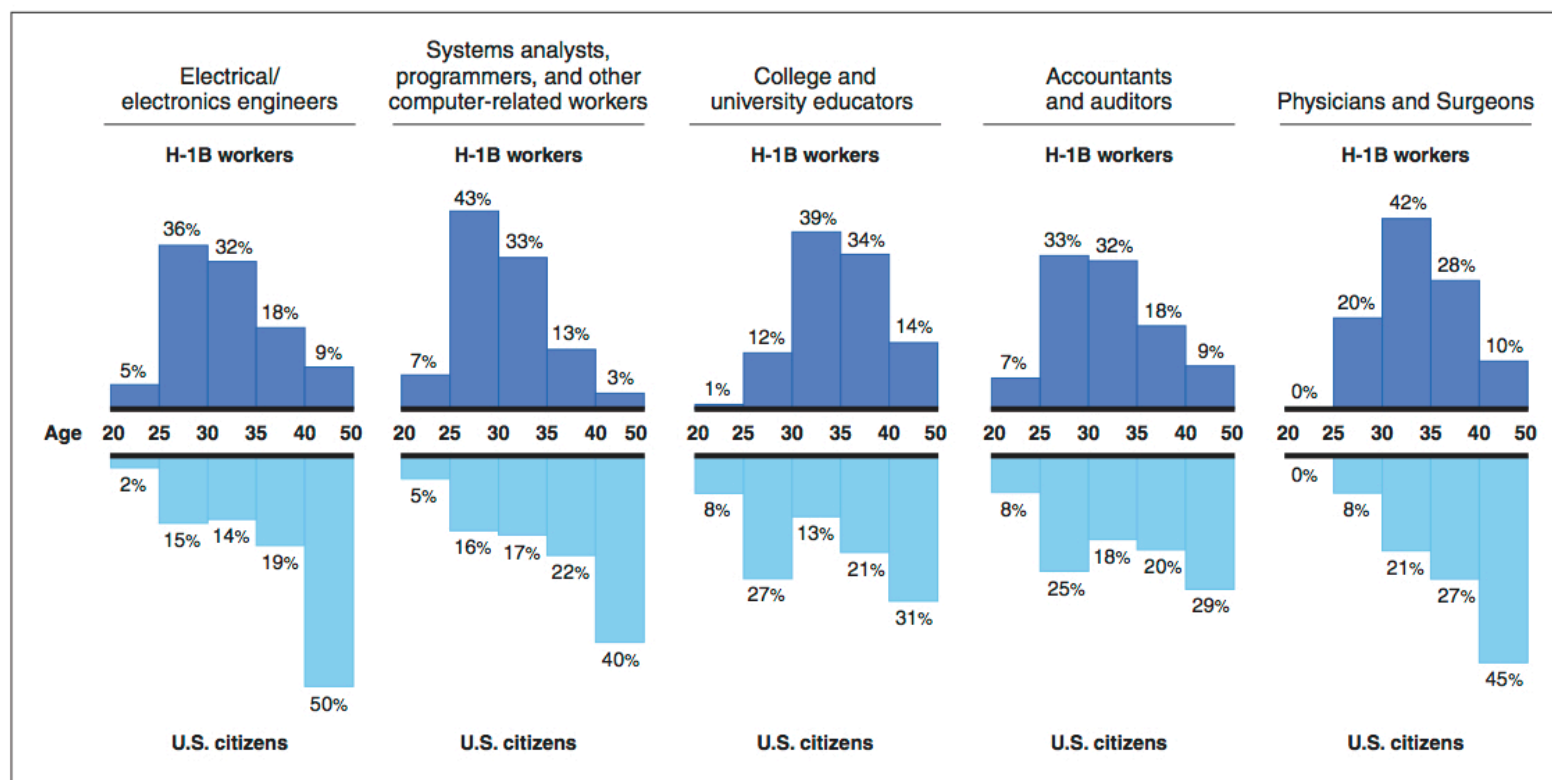
H-1B Is Just Another Government Subsidy

- "There is no doubt that the [H-1B] program is a benefit to their employers, enabling them to get workers at a lower wage, and to that extent, it is a subsidy." (Milton Friedman, 2002)



The Legal/Regulatory Framework: *age preference/discrimination?*

Figure 16: Age of Approved H-1B Workers (Initial and Extensions) and Estimated Age of the Stock of U.S. Citizen Workers in Select Occupations, 2008



Source: GAO analysis of Homeland Security CLAIMS 3 data and CPS data.

Note: Estimates for U.S. workers are based on Current Population Survey (CPS) data. Percentage estimates have 95 percent confidence intervals of +/- 13 percentage points or less.



Impact of TFWs on the Economy?

- Lack of good data is a major problem.
- Need to deconstruct “labor shortage” claims.
- Advocates for increasing volume of TFW programs argue that the number of TFWs in the US is too small to impact the economy.
 - *But it is clear that the main occupations where TFWs are concentrated have not fared well.*



Impact of TFWs on Occupations: *wages and unemployment rates*

In the lower-skilled sector:

- In 2010 and 2011 combined, DOL certified approximately 55,000 H-2B workers in “landscaping and groundskeeping” occupations (aka grounds maintenance workers).

Unemployment rates and hourly wages in selected H-2B occupations, 2000-2011							
Education	Occupation	2000-2001		2006-2007		2010-2011	
		Unemployment rate	Hourly wage	Unemployment rate	Hourly wage	Unemployment rate	Hourly wage
All	food prep and related services	7.30%	9.54	7.70%	9.47	12.4%	9.69
	lodging and related services	9.60%	10.81	9.80%	10.46	14.5%	10.65
	grounds maintenance workers	8.00%	12.01	9.40%	12.14	17.6%	12.51
High School or less	food prep and related services	8.10%	9.44	8.30%	9.27	13.7%	9.54
	lodging and related services	10.20%	10.64	10.20%	10.08	15.2%	10.29
	grounds maintenance workers	8.90%	11.73	9.60%	11.58	18.6%	11.88

*In 2011 dollars
Source: EPI analysis of Current Population Survey data, Bureau of Labor Statistics



Impact of TFWs on Occupations: *wages and unemployment rates*

Higher-Skilled: The STEM Workforce

Size

- Approximately 7.6 million STEM workers in the US, or about 1 in 18 workers (DOC)

How many STEM workers in the US labor market are TFWs?

- Government doesn't keep track

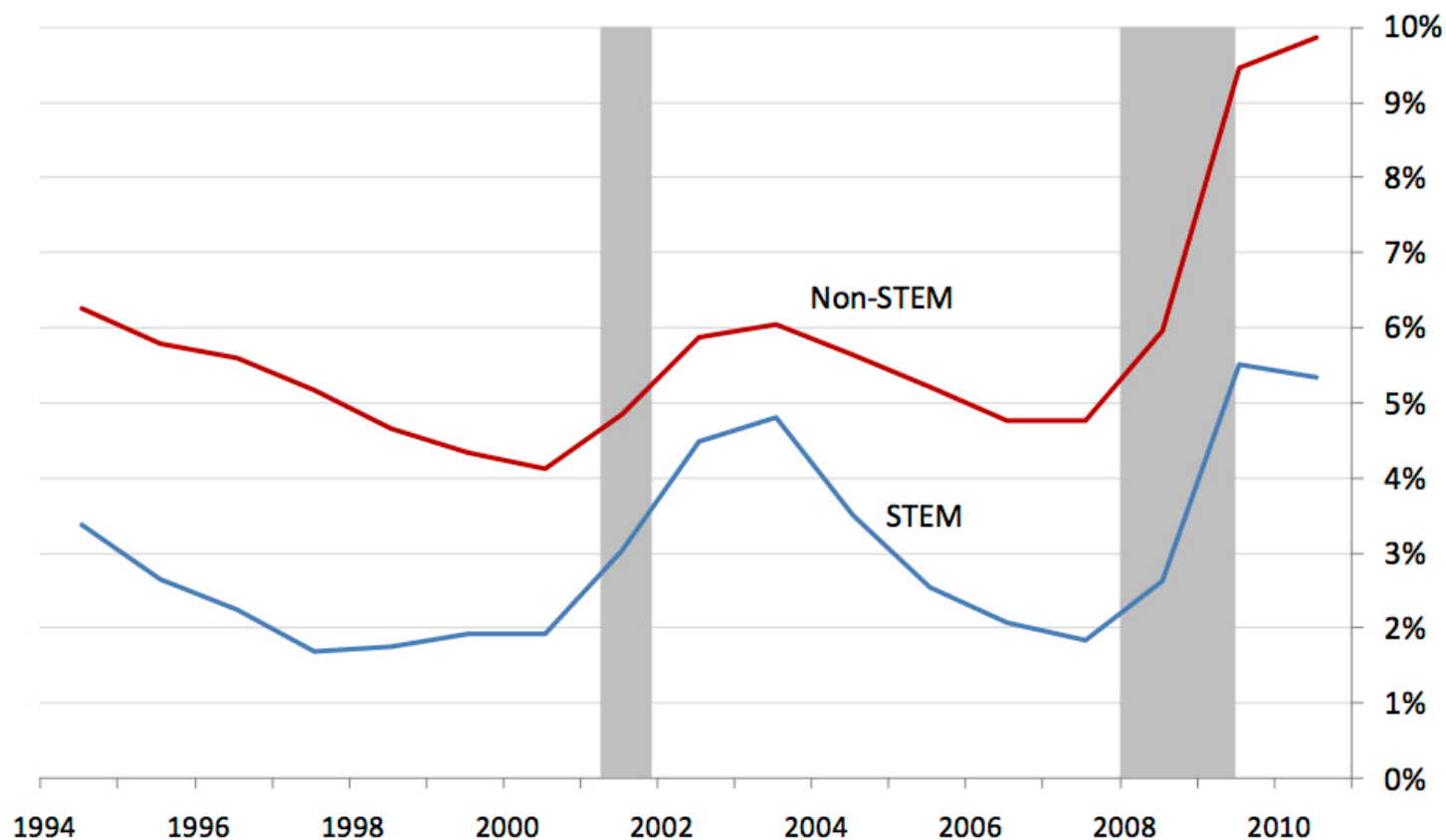
How many TFW visas go to STEM workers?

- Yearly Flow: At least half of all H-1B and L-1 visas, + all 29 month STEM OPT participants = 113,000 (FY 2011, State Dept., USCIS)
- Stock: Roughly one million H-1B and L-1 workers in the US (Hira)



Impact of TFWs on Occupations: *unemployment rates*

Figure 3. Unemployment Rates in STEM and Non-STEM Occupations, 1994-2010



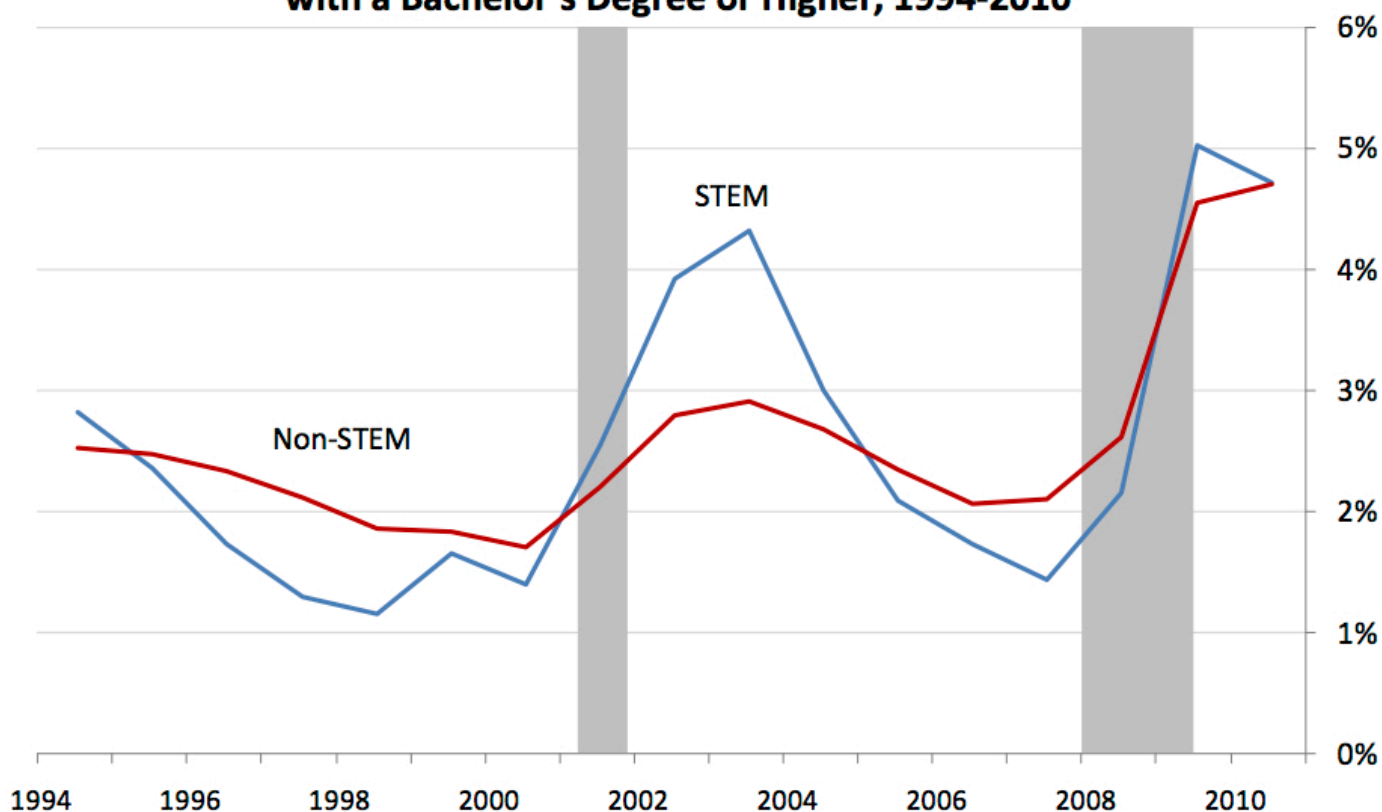
Source: ESA calculations using Current Population Survey public-use microdata.

Note: The estimates are for the civilian labor force age 16 and over. Shading indicates recession.



Impact of TFWs on Occupations: *unemployment rates*

Figure 4. Unemployment Rates in STEM and Non-STEM Occupations, Workers with a Bachelor's Degree or Higher, 1994-2010

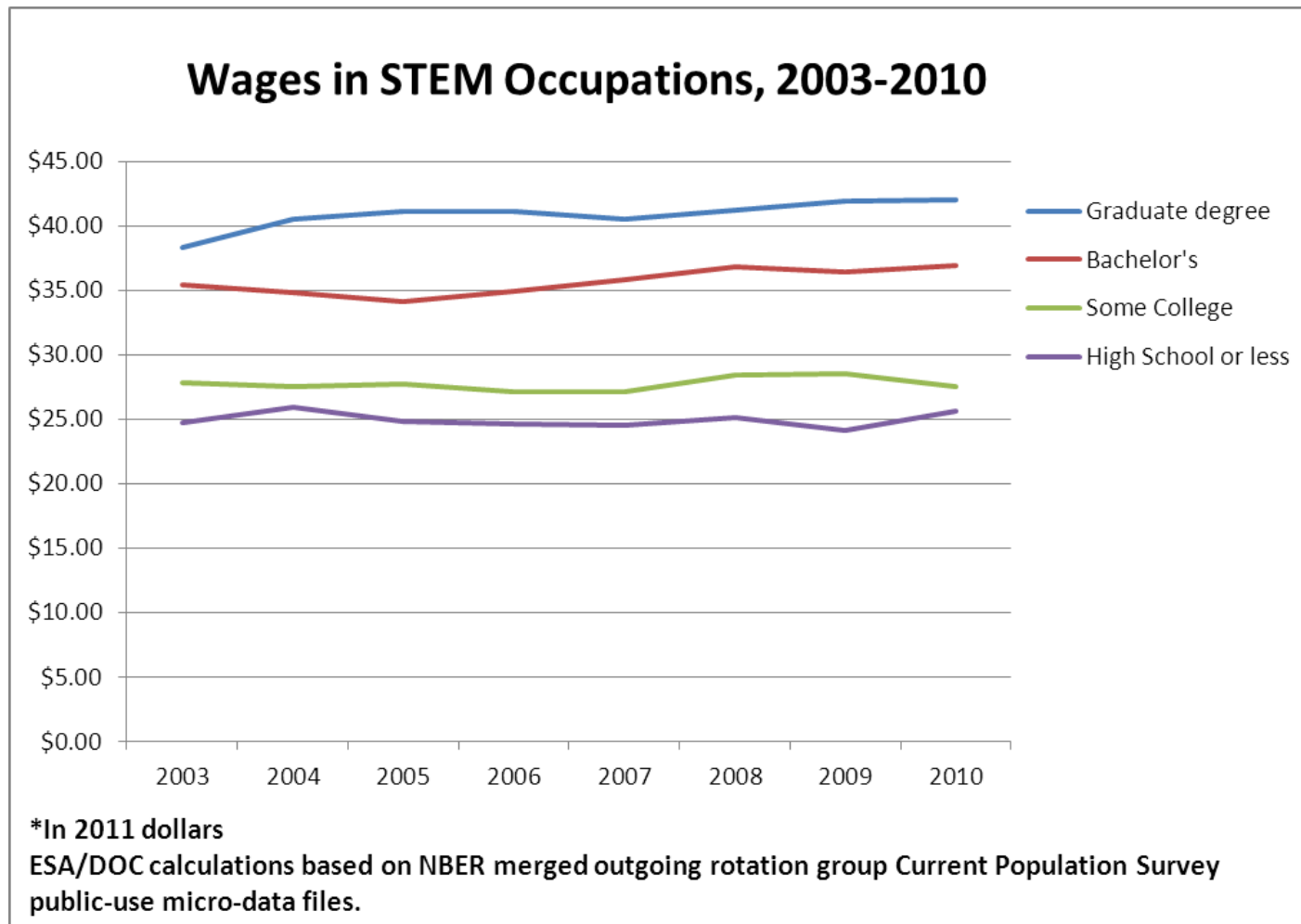


Source: ESA calculations using Current Population Survey public-use microdata.

Note: The estimates are for the civilian labor force age 25 and over with a bachelor's degree or higher. Shading indicates recession.



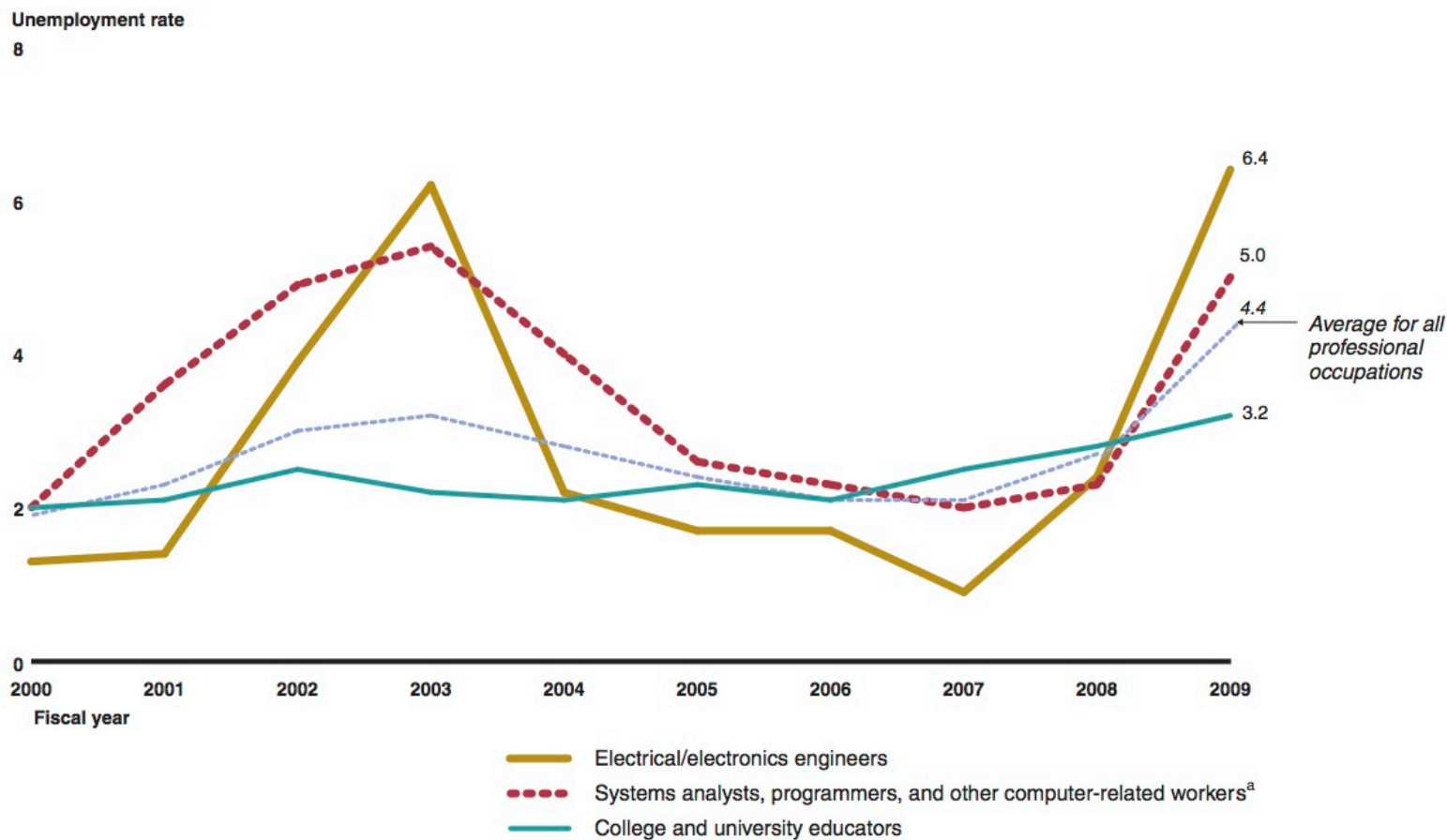
Impact of TFWs on Occupations: *wages*





Impact of TFWs on Occupations: *unemployment rates*

Figure 19: Unemployment Rate among U.S. Workers in Occupations with Large Numbers of H-1B Petitions, 2000–2009



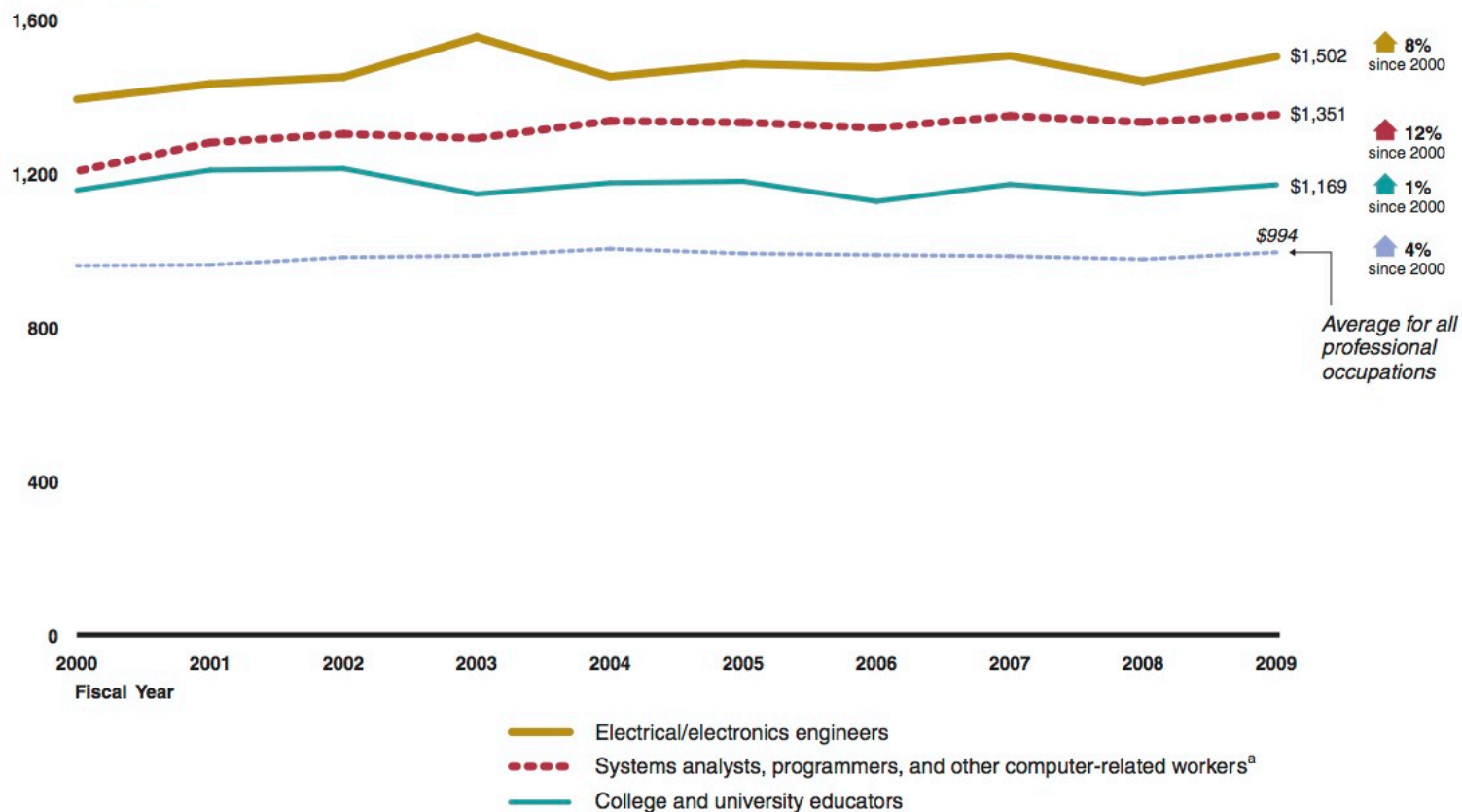
Source: GAO analysis of data from the CPS provided by the Bureau of Labor Statistics.



Impact of TFWs on Occupations: *wages*

Figure 18: Median Usual Weekly Earnings in Constant 2009 Dollars among U.S. Workers in Occupations with Large Numbers of H-1B Petitions, 2000–2009

Median usual weekly earnings
(in 2009 dollars)

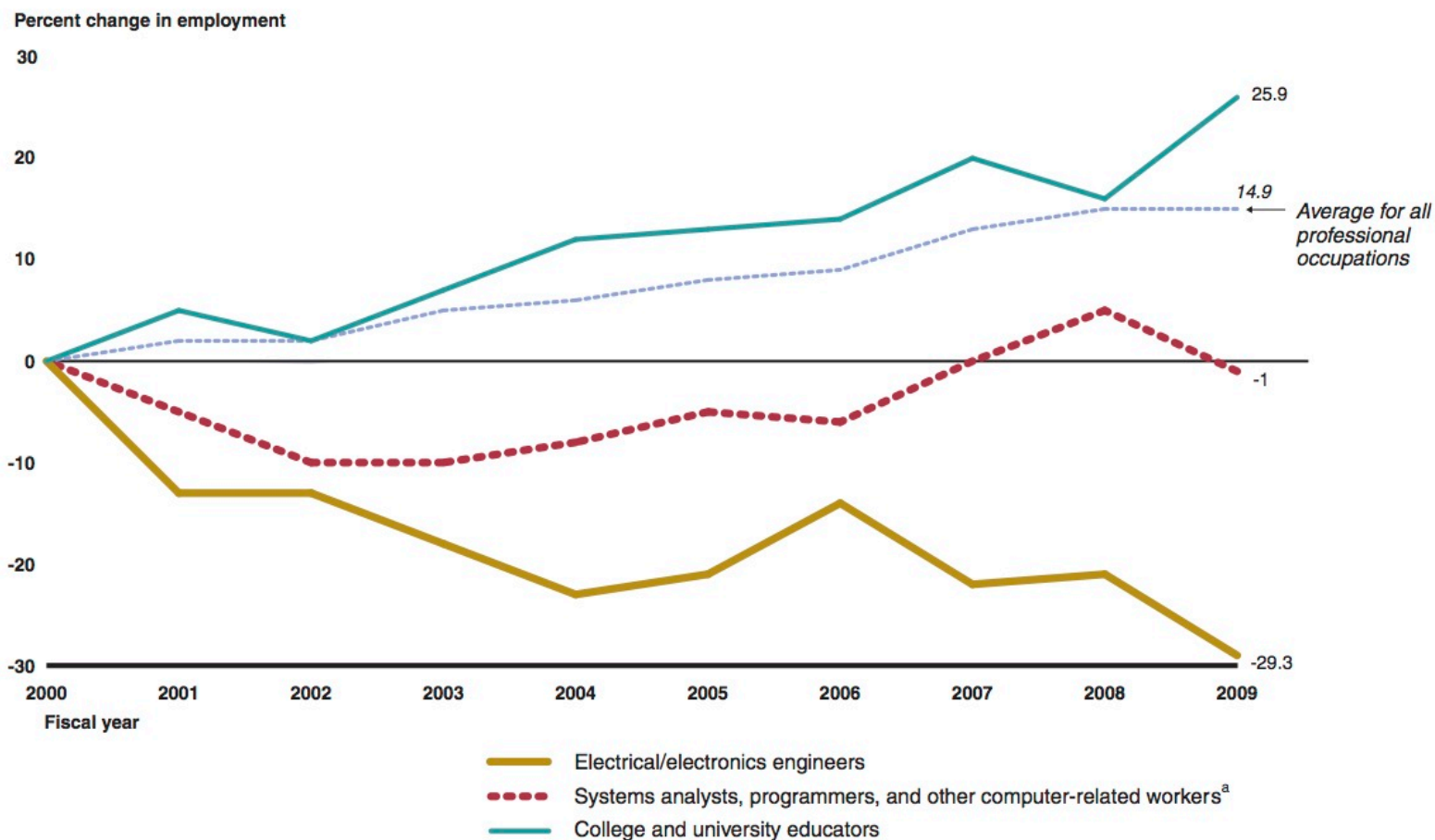


Source: GAO analysis of data from the CPS provided by the Bureau of Labor Statistics.



Impact of TFWs on Occupations: *employment*

Figure 20: Percent Change in U.S. Worker Employment Since 2000 in Occupations with Large Numbers of H-1B Petitions, 2000–2009



Source: GAO analysis of data from the CPS provided by the Bureau of Labor Statistics.



US Management of TFW programs: *Moving forward?*

- Lessons from abroad?
 - Value-added strategy vs. low-wage competition
 - Need green cards and provisional visas instead of temporary work visas:
 - Grants labor/employment rights; will promote investment and integration; research shows labor market adjusts to immigrants in the long term.
 - Do more to protect wages and employment for all workers:
 - Collect better data
 - Commission on Foreign Workers (determine shortages)
 - Points-Based System (flexible)
- In the short term, fixing prevailing wage structure and recruitment requirements in the US will go a long way....
 - Improved recruiting requirements and wage protections for US and temporary foreign workers will also lead to increased public support for immigration.