
STEM Labor Markets & U.S. Immigration Policy

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STEM Employment Practices Set Context for High Skill Immigration Policy

- Fate of US Workers No Longer Figures in Corporate Decisions
 - CEOs not compensated by # of US workers or quality of jobs for US workers
 - IBM
 - 1992 lifetime employment
 - 1990s layoffs during downturns then during upturns
 - 2002 forces US workers to train foreign replacements as condition of severance
 - Firm Behavior Has Radically Changed
 - But immigration discussion doesn't reflect it
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Myth: H-1Bs Hired Only When No American Worker Can Be Found

- DOL Strategic Plan 2006-2011
 - "H-1B workers may be hired even when a qualified U.S. worker wants the job, and a U.S. worker can be displaced from the job in favor of the foreign worker."
 - Not Hypothetical: Firms forcing US workers to train foreign replacements
 - Pfizer
 - Bank of America
 - Siemens (L-1 visas)
 - A.C. Nielsen
 - Wachovia
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Myth: Guestworkers Paid Market Wages

- Firms Can Legally Pay Below-Market Wages
 - Employers Say So...
 - GAO interviewed H-1B employers, "Some employers said that they hired H-1B workers in part because these workers would often accept lower salaries than similarly qualified U.S. workers; however, these employers said they never paid H-1B workers less than the **required** wage."
 - "*Prevailing Wage*" sets floor on wages ~17th percentile
 - FY05 Median Wage for New H-1B Computer Occupations = \$50,000
 - < entry-level salary for BS in Computer Science in 2005
 - L-1 Visas -
 - No wage floor – can pay low-cost country wages
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Myth: Guestworker Visas Prevent Offshoring

- H-1B & L-1 Visas Speed Up Offshoring
 - Offshore Outsourcing Business Model Relies on H-1B & L-1 Visa
 - FY08 Top 4 H-1B employers are offshore outsourcers
 - Infosys, Wipro, Satyam, and TCS get ~11k H-1Bs
 - India's Commerce Minister Kamal Nath dubs H-1B the "Outsourcing Visa" in NYT
 - Many firms regularly use H-1B & L-1 visas to facilitate "knowledge transfer"
 - Critical step in shifting tasks and work overseas
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Myth: Employers Use H-1B Only As A Bridge to Permanent Immigration

- Many Top H-1B Employers Never Sponsor Guestworkers for LPR (Greencards)

H-1B Rank FY08	Company	H-1B Petitions FY08	Perm Applications Certified FY08	Immigration Yield
1	INFOSYS	4559	263	6%
2	WIPRO	2678	38	1%
5	MICROSOFT	1037	936	90%
6	ACCENTURE	731	15	2%
10	IBM INDIA	381	0	0%
11	INTEL CORP	351	2	1%
21	GOLDMAN SACHS	211	15	7%

Myth: H-1B & L-1 Workers Have Bargaining Power - Can Easily Switch Jobs

- Guestworkers are de facto Indentured
 - Visa is Held by Employer
 - Worker is out-of-status and must leave US if terminated
 - H-1Bs Can Switch to Another Employer BUT...
 - Visa holder stuck in limbo once sponsored for Employment Based legal permanent residence
 - Goes to back of LPR queue
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Myth: H-1B & L-1 Programs Are Well Administered

- Numerous Government Reports Document Administrative Problems in Both Programs
 - GAO, DOL IG, DHS IG, OMB, etc.
 - Sept 2008 DHS Random Audit Found
 - 21% of H-1Bs were granted under false pretenses (either outright fraud and/or significant violations)
 - American Engineers & IT Workers Believe the H-1B & L-1 Programs are Scams
 - Best Ambassadors for profession
 - Depresses interest in STEM occupations
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Guestworker vs. Permanent Residence

- Guestworker Visas Badly Mismatched with Permanent Residence Policies
 - Guestworker intake >> Employment Based (EB) permanent residence quota capacity
 - Guestworker criteria << EB criteria
 - H-1B requires bachelors degree & no labor market test
 - Result is Oversubscription of EB
 - Large and long backlog of EB applications
 - Unreasonable wait times up to 10 years
 - False promises to foreign workers
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High Skill Immigration Policy: Moving Forward

- Recognize Changes in Employment Practices
 - Clear Policy Objectives
 - Complement the US STEM workforce
 - Restore integrity to the process - oversight
 - Fairness to both foreign and American workers
 - Provide adequate bargaining power to foreign workers
 - Design Criteria
 - How many?
 - Who? What criteria/skills?
 - Process? Probationary Americans or direct path to permanent residence?
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