The H-1B Visa Program and Its Impact on the U.S. Economy

Foreign workers fill a critical need in the U.S. labor market—particularly in the Science, Technology, Engineering, and Math (STEM) fields. Every year, U.S. employers seeking highly skilled foreign professionals compete for the pool of H-1B visa numbers for which U.S. Citizenship and Immigration Services (USCIS) controls the allocation.¹ With a low statutory limit of visa numbers available, demand for H-1B visa numbers has outstripped the supply in recent years, and the cap has been reached before the year ends. Research shows that H-1B workers complement U.S. workers, fill employment gaps in many STEM occupations, and expand job opportunities for all.

This fact sheet provides an overview of the H-1B visa category and petition process, addresses the myths perpetuated about the H-1B visa category, and highlights the key contributions H-1B workers make to the U.S. economy.
Overview

What is the H-1B Visa Category?

The H-1B is a temporary (nonimmigrant) visa category that allows employers to petition for highly educated foreign professionals to work in “specialty occupations” that require at least a bachelor’s degree or the equivalent. Jobs in fields such as mathematics, engineering, technology, and medical sciences often qualify. Typically, the initial duration of an H-1B visa classification is three years, which may be extended for a maximum of six years.

Before an employer can file a petition with USCIS, the employer must take steps to ensure that hiring the foreign worker will not harm U.S. workers.

- Employers first must attest, on a labor condition application (LCA) certified by the Department of Labor (DOL), that employment of the H-1B worker will not adversely affect the wages and working conditions of similarly employed U.S. workers.

- Employers must also provide existing workers with notice of their intention to hire an H-1B worker.

Since the category was created in 1990, Congress has limited the number of H-1Bs made available each year. The current annual statutory cap is 65,000 visas, with 20,000 additional visas for foreign professionals who graduate with a master’s degree or doctorate from a U.S. institution of higher learning (Figure 1). In recent years, the limit has been reached well before the end of the fiscal year. In Fiscal Year (FY) 2022, the cap was reached on February 28, 2022.

FIGURE 1: ANNUAL CAP ON H-1B VISAS, FY 1991-2022

20,000 additional visas per year allowed for foreign professionals who graduate with a master’s degree or doctorate from a U.S. institution of higher learning.

During the Trump administration, more H-1B petitions were initially being denied. But with a growing number of these denials being overturned, the denial rates decreased substantially during the last half of FY 2020. Denials of new H-1B petitions for initial employment rose from 6 percent in FY 2015 to a high of 24 percent in FY 2018 before dropping to 21 percent in FY 2019, 13 percent in FY 2020, and only 4 percent in FY 2021 (the lowest denial rate ever recorded).9 The denial rate for petitions for continuing employment was 2 percent in FY 2021, down from 7 percent in FY 2020 and 12 percent in both FY 2018 and FY 2019.10 However, the USCIS Administrative Appeals Office overruled Service Center denials nearly 14 percent of the time in FY 2018 and FY 2019, compared to only 3 percent of the time between FY 2014 and FY 2017.11 Moreover, a record number of H-1B petitioners challenged denials in federal court during the Trump administration, and a significant number managed to get the denials reversed.12

### H-1B Petition Denial Rate by Fiscal Year

<table>
<thead>
<tr>
<th>Year</th>
<th>Denial Rate for New H-1B Petitions</th>
<th>Denial Rate for Petitions for Continuing Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>24.0%</td>
<td>12.0%</td>
</tr>
<tr>
<td>2019</td>
<td>21.0%</td>
<td>13.0%</td>
</tr>
<tr>
<td>2020</td>
<td>13.0%</td>
<td>21.0%</td>
</tr>
<tr>
<td>2021</td>
<td>4.0%</td>
<td>12.0%</td>
</tr>
</tbody>
</table>

### Denials of New H-1B Petitions

- **2015**: 6.0%
- **2018**: 24.0%

### Share of Service Center Denials Overruled by the USCIS Administrative Appeals Office

- **2014 - 2017**: 3.0%
- **2018, 2019**: 24.0%
H-1B Registration Process

Prior to 2020, employers were required to submit full H-1B petitions without knowing whether a visa number would be available, given that demand for visa numbers usually outstrips supply. In March 2020 (for FY 2021, beginning October 1, 2020), USCIS changed to a registration process for employers that occurs before a full petition is required. The purpose of this new process was to reduce the burden on U.S. employers, and the agency, caused by requiring employers to submit complete H-1B petitions and supporting documentation prior to knowing whether a visa number would even be available. Each year, USCIS will announce the next registration period, during which a U.S. employer must register electronically for each foreign national for whom the employer intends to file an H-1B petition.

Before USCIS required registration, if the cap was hit during the first five business days of the fiscal year, the agency conducted a lottery to determine which employers’ petitions for H-1B workers would be processed. From FY 2008 to FY 2020, the annual H-1B cap was reached within the first five business days on eight occasions.

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Under the new registration process, the U.S. employer must pay a $10 fee for each registration submitted. The registration includes limited information about the U.S. employer and the foreign national, in contrast to the details USCIS requires when the U.S. employer submits a full H-1B petition. While USCIS has not placed any limit on the number of registrations a U.S. employer may file, the employer must attest that it intends to file an H-1B petition on the foreign national’s behalf and cannot submit more than one registration per foreign national.

If USCIS receives more registrations than there are visa numbers available, the agency will run a lottery to determine who can file an H-1B petition. USCIS will select registrations for the 65,000 visa numbers first and then for the 20,000 master’s exemption visa numbers. The agency will send notification electronically if it selects a registration. USCIS will give the U.S. employer at least 90 days to file its H-1B petition. If those whose registrations are selected do not submit enough petitions to use the available visa numbers, USCIS has the option to make additional selections.
USCIS reports that, for FY 2022, the agency received 308,613 registrations from employers early in 2021 and initially selected 87,500 of those, which is the number it projected would be necessary to meet the FY 2022 cap. But, because fewer selected employers than predicted actually submitted applications, the agency subsequently conducted two additional selections in the course of 2021. For FY 2023, the agency received 483,927 registrations early in 2022 and initially selected 127,600 of those. It remains to be seen how many of the selected employers will submit applications.26

The number of H-1B visa holders admitted into the United States plummeted in 2020 as a result of travel and visa restrictions implemented by the Trump administration in response to the COVID-19 pandemic.27 The Department of Homeland Security's Office of Immigration Statistics reports that the number of H-1B recipients (plus their family members) who were admitted into the country rose from 570,368 in FY 2018 to 601,594 in FY 2019 and then dropped to 368,440 in FY 2020.28 The restrictions imposed by Trump on the recipients of nonimmigrant work visas such as the H-1B expired in March 2021 and were not renewed by the Biden administration.29

### NUMBER OF H-1B RECIPIENTS (PLUS THEIR FAMILY MEMBERS) WHO WERE ADMITTED BY FISCAL YEAR

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Admissions</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>570,368</td>
<td></td>
</tr>
<tr>
<td>2019</td>
<td>601,594</td>
<td>+5.5%</td>
</tr>
<tr>
<td>2020</td>
<td>368,440</td>
<td>-38.8%</td>
</tr>
</tbody>
</table>
The Impact of H-1B Workers on the U.S. Economy

According to many economists, the presence of immigrant workers in the United States creates new job opportunities for native-born workers. This occurs in five ways. First, immigrant workers and native-born workers often have different skill sets, meaning that they fill different types of jobs. As a result, they complement each other in the labor market rather than competing for the exact same jobs. Second, immigrant workers spend and invest their wages in the U.S. economy, which increases consumer demand and creates new jobs. Third, businesses respond to the presence of immigrant workers and consumers by expanding their operations in the United States rather than searching for new opportunities overseas. Fourth, immigrants themselves frequently create new businesses, thereby expanding the U.S. labor market. And fifth, the new ideas and innovations developed by immigrants fuel economic growth.

The economic contributions of H-1B workers in particular may increase the employment opportunities available to native-born workers in the United States. That is why unemployment rates are relatively low in occupations that employ large numbers of H-1B workers. Many occupations for which H-1Bs are routinely requested are found within the broader category of Professional and Related Occupations. Low unemployment rates in these occupations from 2004 through 2021 (even during the COVID-19 pandemic) indicate that demand for labor exceeded the supply (see Figure 2).

FIGURE 2: UNEMPLOYMENT RATE IN THE UNITED STATES, 2004-2021

Similarly, a recent study found that, between 2005 and 2018, an increase in the share of workers within a particular occupation who were H-1B visa holders was associated with a decrease in the unemployment rate within that occupation. Another recent study found that restrictions on H-1B visas (such as rising denial rates) motivate U.S.-based multinational corporations to decrease the number of jobs they offer in this country. Instead, the corporations increase employment at their existing foreign affiliates or open new foreign affiliates—particularly in India, China, and Canada.

**Restrictions on H-1B visas (such as rising denial rates) motivate U.S.-based multinational corporations to decrease the number of jobs they offer in this country.**

The available data also indicates that H-1B workers do not earn low wages or drag down the wages of other workers. In 2021, the median wage of an H-1B worker was $108,000, compared to $45,760 for U.S. workers in general. Moreover, between 2003 and 2021, the median wage of H-1B workers grew by 52 percent. During the same period, the median wage of all U.S. workers increased by 39 percent. In FY 2019, 78 percent of all employers who hired H-1B workers offered wages to H-1B visa holders that were higher than what the Department of Labor had determined to be the “prevailing wage” for a particular kind of job.
The economic benefits of the H-1B visa program are felt in communities all across the United States—not just in the technology firms of Silicon Valley. For instance, from FY 2010 to FY 2016, the largest numbers of H-1B recipients were in the New York City metropolitan area (247,900 H-1B visa petition approvals, or 29 percent of all H-1B visa petition approvals in the country); followed by Dallas (74,000); Washington, DC (64,800); and Boston (38,300). The highest concentration of H-1B workers was in College Station, Texas (32 H-1B approvals per 100 workers). San Jose, California—home of Silicon Valley—was a distant second (two approvals per 100 workers).

The COVID-19 pandemic has served as a reminder that the skills which H-1B workers bring with them can be critical in responding to national emergencies. For instance, between FY 2010 and FY 2019, eight U.S. companies that were developing a COVID vaccine—Gilead Sciences, Moderna Therapeutics, GlaxoSmithKline, Inovio, Johnson and Johnson Pharmaceuticals, Regeneron, Vir Therapeutics, and Sanofi—received approvals for 3,310 biochemists, biophysicists, chemists, and other scientists through the H-1B program. In addition, many doctors on the front lines of the pandemic are present in the United States on H-1B visas.

![Largest Number of H-1B Recipients by City, 2010-2016](chart)

- New York City: 247,900
- Dallas: 74,000
- Washington, D.C.: 64,800
- Boston: 38,300

*The highest concentration of H-1B workers was in College Station, Texas with 32 H-1B approvals per 100 workers.*
1. A U.S. employer may file an H-1B petition at any time, without being subject to the numerical limitations, if it is within certain “cap exempt” categories, such as an “institution of higher education” or if the employer is petitioning for an H-1B worker who has already been counted against the numerical limitations within six years of the agency’s approval of the petition the employer files. See 8 U.S.C. §§ 1184(g)(5)(A)-(B), 1184(g)(7).


5. See 20 C.F.R. § 655.734.


8. For FY 1991 to FY 1998 the limit is 65,000, see 8 U.S.C. § 1184(g)(1)(A)(i); for FY 1999 and FY 2000 the limit is 115,000, see 8 U.S.C. § 1184(g)(1)(A)(ii)-(iii); for FY 2001 to FY 2003 the limit is 195,000, see 8 U.S.C. § 1184(g)(1)(A)(iv)-(vi); for FY 2004 and later the limit is 65,000, see 8 U.S.C. § 1184(g)(1)(A)(viii); for FY 2006 and later, there are an additional 20,000 visas available for foreign professionals who graduate with a master’s degree or doctorate from a U.S. university, see 8 U.S.C. § 1184(g)(5)(C).


10. Ibid., 12.


14. USCIS will announce the registration period on its website at least 30 days in advance. 8 C.F.R. § 214.2(h)(8)(iii)(A)(3). USCIS must start the registration period at least 14 calendar days before the date on which H-1B petitions may be filed for the particular fiscal year and accept registrations for at least 14 calendar days. Id.

15. 8 C.F.R. § 214.2(h)(8)(iii)(A)(1)-(2).


ENDNOTES (CONTINUED)

24. 8 C.F.R. §§ 214.2(h)(8)(iii)(C), (iii)(D)(1)-(2). For petitions subject to the numerical limitations, the U.S. employer may file for an H-1B worker only if USCIS selected the registration for that worker and only within the filing period USCIS specifies in the selection notice. 8 C.F.R. §§ 214.2(h)(8)(iii)(A)(1), (iii)(D)(1).

25. USCIS will keep the other registrations in “reserve” for the remainder of the fiscal year and may select additional registrations as needed to allocate all of the H-1B visa numbers. 8 C.F.R. § 214.2(h)(8)(iii)(A)(7). If USCIS selects all of the “reserve” registrations but has not used all of the H-1B visa numbers allocated, the agency will announce on its website a reopened registration period. Id. USCIS will monitor the new registrations, and if it receives sufficient registrations, announce another final registration date (which could be earlier than the announcement date). Id. If necessary, USCIS will hold another lottery of the registrations “properly submitted” on the final registration date. Id.


31. Ibid.


33. Ibid.


39. Ibid.
