

AILA Issue

H-1B PROFESSIONALS AT A GLANCE

Who are H-1B Professionals:

- **Temporary highly educated professionals:** H-1B visa holders are foreign professionals who are hired by a U.S. employer to temporarily fill “specialty occupations,” those jobs requiring a bachelor's degree or the equivalent. H-1B professionals include teachers, doctors, engineers, professors, lawyers, physical therapists, and computer professionals.
- **Comprise a low percentage of the workforce:** During the economic boom, when H-1B professionals were at their height, these temporary professionals comprised less than **one-tenth of one percent** of the U.S. workforce of more than 127 million people.

Employers Hire H-1B professionals for Three Reasons:

- **To provide specialized or unique skills:** Employers hire H-1B professionals to obtain cutting edge technical skills or expertise that is relatively unique and not readily found in the U.S. Roughly half of the students graduating with advanced degrees from U.S. universities in math and sciences are foreign nationals. If U.S. employers cannot hire these professionals with cutting edge knowledge and research experience, they will go abroad and work for our competitors.
- **To relieve temporary worker shortages:** H-1B professionals fill positions when there is a temporary shortage of workers with specific skills in a specific field, thus allowing employers to respond quickly to shifts in the labor market.
- **To supply global market expertise:** Employers often need H-1B professionals who bring special expertise in overseas needs, markets or trends that enable U.S. businesses to compete globally.

Employers Must Protect U.S. Workers When They Hire H-1B Professionals:

- **Help Train and Protect Americans:** Employers must pay a \$1,500 training fee for each H-1B petition they file in addition to the other fees associated with the H-1B visa program. This fee goes to scholarship and other training programs to help train Americans in critical industries. In addition, employers must pay a \$500 fraud prevention and detection fee to fund efforts to detect and prevent fraud in the visa program.
- **Safeguard wages and working conditions:** Employers must pay each H-1B professional a wage that is the higher of either the typical wage in the region for that type of work (“prevailing wage”), or what the employer actually pays existing employees with similar experience and duties. Employers cannot use H-1B professionals to break a strike and must notify their U.S. workforce when hiring an H-1B professional. Employers cannot make the H-1Bs work under conditions different from their U.S. counterparts, including hours, shifts and benefits.
- **Recruit in the U.S. and not displace U.S. workers:** Employers who use a lot of H-1B visas first must try to find U.S. workers before they can hire an H-1B professional. They also must attest that they are not using an H-1B visa if they have laid-off or displaced a similarly situated U.S. worker. Employers who fail to comply with Department of Labor regulations may be subject to investigation, civil and

administrative penalties, payment of back wages, and even debarment from participating in key immigration programs.

Numerical Cap on H-1B Professionals:

- **A rigid cap restricts employers' access to professional workers:** The visa is limited to 65,000 initial visas per fiscal year plus an annual cap exemption of 20,000 visas for H-1B beneficiaries who have graduated from a U.S. university with a Masters degree or higher. The U.S. needs increased access to H-1B professionals. Congress and the Administration must develop new mechanisms to ensure that American companies have access to this vital visa program.

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