TALKING POINTS

IMMIGRATION 101: H-2B AND H-1B WORKERS

H-2B WORKERS

The H-2B visa program is vital to America's small businesses and thus to America's economic recovery. The H-2B program is capped at 66,000 visas per year and equally split between the winter and summer seasons. This is the same arbitrary number set by Congress 20 years ago, in 1990. Small business owners rely on the H-2B program because it is the only way they can legally hire workers for temporary and seasonal positions when they cannot find Americans to hire.

Small and seasonal businesses have every incentive to hire any qualified American who applies for a seasonal or temporary short-term position. Nevertheless, even in this economy, positions remain unfilled, leaving these businesses desperately in need of workers. This is not surprising since these jobs typically involve low-skilled and semi-skilled labor, involve work at remote locations, and are only short-term in duration.

Unlike the hiring of American workers, small business owners must go through a tough application process to hire foreign workers through the H-2B program. Employers must prove to the U.S. Department of Labor that there are no available U.S. workers to fill vacant short-term positions. The H-2B workers are in most cases required to return to their home country at the end of the season.

They are not allowed to stay in the U.S. permanently through this program. Without access to more temporary H-2B workers, many small businesses will be extremely short-staffed this year and could be forced to close. Small businesses need relief now so that they can get the seasonal temporary workers they need to stay afloat and contribute to America's economic recovery.

ACHIEVABLE SOLUTIONS

Relief in the H-2B program includes reauthorizing the returning worker extension. This extension would provide needed relief by exempting from the cap H-2B workers who are returning to the same seasonal job and who already have successfully participated in the program in one of the previous three years.

H-1B WORKERS

Through the H-1B program, U.S. employers are able to hire, on a temporary basis, highly educated foreign professionals for "specialty occupations"—jobs that require at least a bachelor's degree or the equivalent in the field of specialty. Examples include doctors, engineers, teachers and researchers in a wide variety of fields, accountants, medical personnel, and computer scientists. Besides using these foreign professionals to obtain unique skills and knowledge in short supply in this country, U.S. businesses use the program to alleviate temporary shortages of U.S. professionals in specific occupations, and to acquire special expertise in overseas economic trends and issues, thereby allowing U.S. businesses to compete in global markets.

U.S. employers also turn to H-1B professionals when they recruit post-graduates from U.S. universities. Foreign students represent half of all U.S. graduate enrollments in engineering, math, and computer science. It is imperative that U.S. businesses have access to foreign professionals who have graduated from U.S. master's and Ph.D. programs. The H-1B visa is a vital tool necessary to help in the recovery of the U.S. economy and to keep jobs in America. Far from harming U.S. workers and the U.S. economy, highly educated foreign professionals benefit our country by allowing U.S. employers to develop new products, undertake groundbreaking research, implement new projects, expand operations, create additional new jobs, and compete in the global marketplace.

H-1B workers do not undercut wages of U.S. workers. When an employer submits a petition for an H-1B worker, there are safeguards to help prevent highly educated foreign professionals from undercutting the wages offered to U.S. workers. The employer must offer the foreign 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. Furthermore, there are other safeguards that the employer must meet including indicating that: the foreign professional will not adversely affect the working conditions of U.S. colleagues, there is no strike or lockout at the worksite and the position requires a professional in a specialty occupation and the intended employee has the required qualifications.

ACHIEVABLE SOLUTIONS

Some of the immediate ways to provide relief for the H-1B visa category would be to recapture unused H-1B visas from previous fiscal years, exempt U.S.-educated workers with advanced degrees from the H-1B cap and permit work authorization for spouses of H-1B visa holders.