



INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL ENGINEERS AFL-CIO & CLC

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Our National Economic Policies and Investments in Innovation Require Strategic STEM Workforce Development and Reform of High-Skills Work Visa Programs

America's National Economic Strategy Needs Worker-Centered Workforce Development. Over the last three years, Congress has passed historic legislation – the CHIPS and Science Act, the Bipartisan Infrastructure Law, and the Inflation Reduction Act – to direct federal support and incentivize private domestic investment to advanced manufacturing, R&D, reshoring supply chains, and to transition to clean energy. The implementation of these bills seeks to remake a resilient, innovative, and globally competitive U.S. economy that creates pathways to good jobs, broadens economic prosperity, grows union density, and combats climate change.

For this industrial policy to succeed, Congress and the Biden Administration must commit to STEM workforce development with unions as key and leading partners. The Biden Administration has already taken the first steps towards a strategic approach to worker-centered workforce development through the Department of Labor (DOL) and Commerce Department's Good Jobs Principles and through several grants and federal investment efforts, including allowing unions to be lead applicants for workforce development grants, issuing federal funding notices that incentivize workforce development that includes labor unions, encourages high job quality and equitable domestic recruitment from underserved communities, and coordinates a "sectoral partnership" approach between employers, unions, educators, and community partners to broaden the domestic high-skill talent pool.¹

Claims of High-Skills Labor Shortage Are Not Supported by Reliable Data and Cannot Be Solved by a Dependence on Low-Road Guestworker Visas. Just as Congress was passing the CHIPS and Science Act and other strategic investments in the U.S. economy, employers in STEM industries redoubled their claims that the U.S. has a skills and worker shortage that should be fixed by expanding the H-1B visa program and other high-skill guest worker visa programs. These claims are not new and not supported by evidence, and therefore do not justify expanding high skills guestworker visa policies.

Presently, the public discourse around STEM labor shortages is driven by employers who benefit from claiming there is an urgent need for expanding high-skilled guestworker programs. In fact, the evidence shows that the U.S. is producing more engineering, computing, and mathematics graduates than the projected annual increase in jobs over the next decade.² Even if the U.S. labor market does have a persistent STEM workers shortage, the H-1B program and other high-skill temporary work visa programs have demonstrably failed to address it over the past three decades. An effective approach to addressing gaps in the workforce is to commit to workforce development and domestic recruitment as a strategic piece of the U.S. industrial policy. A necessary component of that strategic and ongoing investment in workforce development is to enact the DOL's Workforce Information Advisory Council's recommendations for building a comprehensive labor market information system that can serve as a public resource for determining worker, jobs, and skills shortage, and one that is available to workers, educators, employers, students, policymakers, and local workforce development boards.³

¹ "[Good Jobs Principles](#)," DOL, January 2022; Recent examples of worker-centered workforce development grants include DOL's [Building Pathways to Infrastructure Jobs Grant Program](#), [Critical Sectors Job Quality Grants](#), and [Critical Sectors Job Quality Grants](#).

² R. Hira, "[Is There Really a STEM Workforce Shortage?](#)," Issues in Science and Technology, Summer 2022.

³ Workforce Information Advisory Council, "[Recommendations to Improve the Nation's Workforce and Labor Market Information System](#), [PDF]" WIAC Recommendations Submitted to DOL Secretary Marty Walsh, May 11, 2022.

Additionally, reforms for high-skill guestworker programs such as the H-1B and the Optional Practical Training (OPT) visa programs, are long overdue and urgently needed. Abuse of these programs has created a perverse incentive for employers to circumvent the U.S. labor market recruitment and hire workers from overseas. Workers here on work visas have limited labor market power, are dependent on their employers to stay and work in the U.S., and are frequently paid below the median occupational wage, leaving them highly vulnerable to exploitation by their employer.

The H-1B Visa Program Hurts All Workers. In the 32 years since its creation, the H-1B program has shifted bargaining power in favor of employers to the disadvantage of both U.S. STEM workers and H-1B workers. Employers' abuse of this work visa program suppresses wages, reduces job security, disincentivizes employers from recruiting workers already in the U.S., and binds the H-1B worker to their H-1B-sponsoring employer. Enforcement against employers who misclassify H-1B employees at lower wage levels, underpaying them relative to their skill level, is practically nonexistent.

The H-1B program's annual process for allocating visas by random lottery has created an established practice where a small number of employers can game the system to secure H-1B approvals by flooding the application process with numerous petitions to increase the odds that their petitions are selected. In a given year, about half of the top 30 H-1B employers are offshore-outsourcing firms that profit from placing their H-1B employees at a secondary employer and moving work to lower wage countries.⁴ A recent Economic Policy Institute report titled "New Evidence of Widespread Wage Theft in the H-1B Visa Program" analyzed a 2016 internal document from foreign IT staffing firm HCL Technologies. It revealed how the lucrative offshore-outsourcing business model abuses the H-1B program to vastly underpay H-1B workers and allowed HCL to reduce labor costs by at least \$95 million in just one year. This abusive practice is not an outlier – it is an industry standard for offshore-outsourcing firms to pay H-1B workers below market wages and take advantage of H-1B workers' limited ability to seek fair wages.⁵

IFPTE members at TVA Engineering Association-IFPTE Local 1937 know first-hand how the H-1B program is abused and displaces American workers. In 2020, over 200 IT workers represented by Local 1937 faced layoffs due to the privatization of their jobs to three IT outsourcing firms. These firms don't hire H-1B workers to solve a skilled worker shortage, but rather to support a lucrative "offshore-outsourcing" business model that displaces American workers by abusing the H-1B program. While Local 1937 halted the outsourcing and protected members' jobs, the episode shows how the H-1B visa program allows outsourcing, offshoring, and even the privatization of public service jobs.

Reforming the H-1B Program Requires Congressional and Executive Branch Action – Addressing the structural flaws, rampant misuse, and lack of enforcement in the H-1B visa program requires both legislation and administrative actions. The Biden Administration should undertake, with Congressional support, rulemaking to raise H-1B wage levels to reflect actual prevailing wages, change the lottery allocation process to an auction that awards visas to employers paying the highest wages first, and prevent outsourcing firms from placing H-1B employees at secondary employers.

IFPTE 2023 Legislative Requests:

- **Reauthorize the Workforce Innovation and Opportunity Act, support the modernization of the workforce labor market information system, and continue support for funding for DOL grants for STEM workforce development.** Congress must continue the funding stream from H-1B visa fees that support STEM workforce development efforts so that Americans have pathways to in-demand high-skill jobs and the labor market is less dependent on foreign recruitment. Additionally, modern dynamic workforce data is needed so workers, employers, educators, and all workforce stakeholders can make informed decisions about career pathways, training and education, and skills needed in the labor market based on timely, accessible, and objective data.
- **Pass the bipartisan *H-1B and L-1 Visa Reform Act* (S.979),** sponsored by Sen. Richard Durbin (D-IL) and Sen. Chuck Grassley (R-IA). If enacted, H-1B visas would be allocated by education and the highest salary level first; outsourcing firms would be prohibited from displacing American workers and paying H-1B workers' wages below the prevailing wage at secondary employer sites; firms with 50 or more employees would not be allowed to have more than 50% of their workforce on H-1B visas or L-1 intracompany transfer visas; employers would be required to attest to recruiting qualified U.S. workers and DOL would have authorization to randomly audit those attestations; DOL would have more resources for enforcement; and, the L-1 visa program would require a median prevailing wage. The legislation also closes the loophole that allows H-1B dependent employers to legally lay off U.S. workers and replace them with H-1B workers if those H-1B workers are paid \$60,000 or more.
- **Support the passage of the *Keep Stem Talent Act* (S.2384, H.R.5477),** which provides foreign STEM graduates from U.S. universities a high-road path to the U.S. workforce and citizenship by requiring their employers to provide fair wages and non-displacement of workers in the U.S.

⁴ H. Park, "[How Outsourcing Companies Are Gaming the Visa System](#)," *New York Times*, Nov. 11, 2015.

⁵ R. Hira, D. Costa "[New Evidence of Widespread Wage Theft in the H-1B Visa Program](#)," *Economic Policy Institute*, Dec. 9, 2021.