



Is the United States Keeping Pace in the Global Competition for Skilled Talent?

Daniel Griswold and Jack Salmon

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The job market in the United States is strong, and the technology industry, in particular, is booming. Interest in US tech jobs from foreign workers, however, is not. An increasingly restrictive and burdensome US immigration system is resulting in talented workers looking elsewhere for jobs.¹ This trend is worrisome, because evidence shows that temporary foreign workers increase both employment and wages of American workers.² This shifting pattern of skilled immigration raises two questions: Where are these skilled workers going, if not the United States? And why are they choosing these places over the United States?

Historically the default destination for high-skilled temporary migrants, the United States now finds itself competing globally for high-skilled workers. With the means to apply for visas to work in several developed nations, these talented workers now have a choice of destinations. In order to assess the proposition that the United States should pattern immigration reform on practices in countries that place great value in skilled talent, this policy brief will examine the differences in temporary skilled immigrant visas among the developed English-speaking nations: the United States, Australia, the United Kingdom, and Canada.³ We review the differences in application processing times, filing fees, denial rates, and numbers of admitted skilled workers, relative to population, between these countries. The skilled temporary visa system in the United States is lagging in all significant measures, with longer processing times, significantly higher filing costs, and escalating rates of denial. Consequently, global talent is choosing to take its skills to countries such as Canada in increasing numbers.

TEMPORARY WORK VISA PROGRAMS

Temporary skilled work visa programs vary from country to country. Here we briefly review the background of skilled visa programs for the four countries included in our analysis.

United States: H-1B Visa

Created in 1990,⁴ the H-1B visa program is the primary skills-based work visa program that permits global talent to work in the United States on a temporary basis. The temporary visa is valid for a period of three years from the date of filing with the option to extend for an additional three years. This work-focused visa allows US companies to hire skilled workers, primarily in the sectors of technology, education, engineering, and healthcare.⁵ Under this program, an annual cap of 65,000 visas is set with an additional 20,000 visas prioritized for workers with a US master's degree or higher. But it should be noted that some industries, such as higher education, nonprofit, and government research, are exempt from the annual cap. In some years those cap-exempt workers can add an additional 30,000–50,000 to the total number of approved H-1Bs.

In recent years, the H-1B program has become increasingly restrictive, particularly since the declaration of the “Buy American and Hire American” executive order in 2017.⁶ As a result of increased stringency, the number of requests for evidence (RFEs) since 2016 has increased from 21 percent of petitions received to 60 percent in the first three months of 2019. US Citizenship and Immigration Services issues an RFE when it believes there is not enough evidence to approve the visa petition, which can slow down the entire process by weeks or even months. At the same time, the number of visa denials has increased significantly from 6 percent to 26 percent.⁷

Australia Subclass 457 (482)

The Australian temporary work (skilled) visa, also known as subclass 457, was created in 1996 after a government report recommended that the entry of skilled workers be simplified and streamlined to bolster the Australian economy.⁸ The temporary work visa authorizes skilled immigrants, accompanied by their immediate families, to work in Australia for approved employers for a period of up to four years. The program has no numerical cap, allowing the market to dictate the number of skilled immigrants needed, driven entirely by employer demand. The program involves a three-stage process for the employer: applying to become an approved sponsor, paying the application fee, and demonstrating that the employer is a lawful business. Workers are also required to meet certain standards; they must have the skills necessary for the role and hold the relevant licensing required to perform the duties of the role, and they must possess English language proficiency.⁹

Similar to the United States, Australia has experienced a tightening of its skilled work visa program in recent years. In 2018, the temporary work visa subclass 457 was replaced by subclass 482, otherwise known as a Temporary Skill Shortage (TSS) visa. The new visa has a shorter list of eligible

occupations and establishes a Temporary Skilled Migration Income Threshold (TSMIT), which is currently set at AUD\$53,900 (USD\$37,665).¹⁰ Temporary immigrants must earn at least the TSMIT to obtain a visa. In addition to these changes, employers who hire skilled foreign workers are now subject to an annual Skilled Australians Fund (SAF) training levy of between AUD\$1,200 (USD\$839) and AUD\$1,800 (USD\$1,258) per worker per year depending on company size.¹¹

United Kingdom: Tier 2 Visa

Established in 2008 to replace the provisions of work permit employment, the Tier 2 visa program covers skilled workers with an offer of employment from a UK-based employer. Similar to Australia's temporary work visa, Tier 2 is a points-based system whereby points are awarded based on educational qualifications, future expected earnings, English language proficiency, company sponsorship, and funds available (to support oneself). General Tier 2 non-EU workers are subject to an annual limit of 20,700 visas, while those switching to Tier 2 within the United Kingdom and intracompany transfers are not subject to any limit or points test, including established staff and graduate trainees.¹²

After pledging to reduce net migration to the “tens of thousands,”¹³ the UK government made changes to Tier 2 requirements, such as setting a minimum earnings threshold of GBP£30,000 (USD\$37,489). However, in recent years (following the vote to leave the European Union), changes have been made to attract more skilled workers. In 2018, healthcare workers were made exempt from the annual limit. This is significant, as healthcare workers account for around 40 percent of General Tier 2 places.¹⁴ By freeing up these spaces, the new policy allows nonmedical professionals such as tech workers to benefit. Further, as of March 2019 medical and educational STEM (science, technology, engineering, and mathematics) workers no longer need to meet the GBP£30,000 (USD\$37,489) threshold, but instead they are required to meet only a much lower threshold of GBP£20,800 (USD\$25,992).

Canada: Temporary Foreign Worker Program and International Mobility Program

Created in 1973, the Temporary Foreign Worker Program (TFWP) allows Canadian businesses to employ foreign nationals to fill temporary labor and skill shortages for up to four years. The program was initially intended for high-skilled workers but has been expanded to include low-skilled workers. In order to hire a foreign worker, employers require approval from the government to ensure that the foreign national possesses in-demand skills.¹⁵ The International Mobility Program (IMP), on the other hand, does not require such permission, so it is subject to a far simpler and quicker hiring process. IMP work permits serve Canada's broader economic interests by facilitating international agreements (e.g., NAFTA), permitting company transfers, giving international graduates who studied in Canada the opportunity to work postgraduation, and expanding reciprocal youth exchange agreements.¹⁶ For the purpose of comparing skilled visa programs, we will review the numbers of high-skilled workers from the TFWP and IMP programs.

While countries such as the United States and Australia have been increasingly restrictive in their temporary skilled worker programs in recent years, Canada has been increasingly open to global talent. Canada recently introduced the Global Talent Stream (GTS), which allows work permits to be processed within two weeks for talented workers. Unlike the H-1B visa, there is no lottery system and no cap on the number of skilled workers admitted every year.

BURDENS OF ACQUIRING A WORK VISA

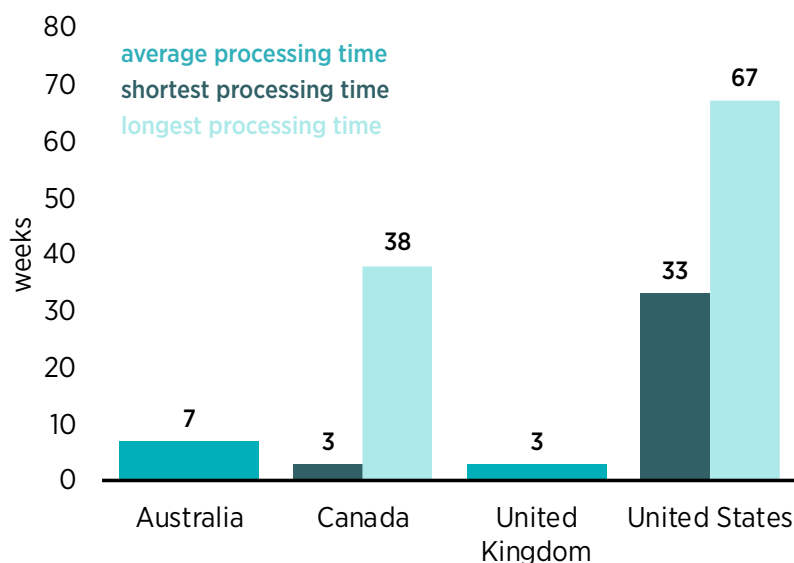
In order to answer the question of why skilled migrants are choosing to live and work in some countries over others, we review the differences in application processing times, filing fees, denial rates, and numbers of admitted skilled workers, relative to population, between these countries. Countries with more streamlined and affordable application processes, and higher chances of approval may be more attractive destinations for global talent.

Visa Processing Time

When applying for a temporary work visa, an important nonfinancial cost for both foreign employees and domestic employers is the processing time required for visa approval. Having to wait several weeks or even months for a visa to be processed can present a serious challenge for employers, particularly for small businesses, who may not have the time or resources to wait for a prolonged period. Long processing times can also be a determining factor regarding which country skilled foreign talent chooses to work in—long periods without gainful employment can be a significant disincentive for skilled workers to apply.

Figure 1 presents the estimated time in weeks that it takes to process a skilled work visa for the four aforementioned countries. The United Kingdom is the most efficient at processing Tier 2 visas, with most visas processed inside 10 business days and all visas processed in just 15 business days.¹⁷ Australia is also relatively efficient, with 90 percent of applications processed within 43 days of filing.¹⁸ Processing times in Canada vary depending on which country workers are applying from. For example, processing times for Mexican applicants average 3 weeks, while the average processing time for Vietnamese applicants is 38 weeks.¹⁹ Similar to Canada, processing times vary broadly in the United States: visas processed at the US Citizenship and Immigration Services (USCIS) California Service Center can take up to 33 weeks to process, while visas processed at the USCIS Vermont Service Center can take as long as 67 weeks to process.²⁰ One explanation for such long processing times in the United States is that USCIS no longer gives deference based on previous determinations of eligibility. Since the Trump administration issued a policy memorandum in 2017,²¹ USCIS has been treating every H-1B extension as an entirely new petition, even when the applications involve the same parties and facts present in the initial petition. These unnecessary reevaluations add time to the H-1B approval process and worsen the existing backlog. Another explanation for the increased backlog can be found in the dramatic increase in the number of RFEs issued for H-1B petitions. RFEs create a back-and-forth between USCIS and petitioners, which adds further time to the already backlogged process.

Figure 1. Estimated Time in Weeks to Process Skilled Worker Visa



Sources: UK Home Office, "Visa Processing Times," accessed September 20, 2019, <https://visa-processingtimes.homeoffice.gov.uk/y>; Australia Department of Home Affairs, "Subclass 482: Temporary Skill Shortage Visa," July 1, 2019, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-skill-shortage-482>; Immigration, Refugees and Citizenship Canada, "Check Processing Times," September 20, 2019, <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/check-processing-times.html>; US Citizenship and Immigration Services, "Check Case Processing Times," accessed September 20, 2019, <https://egov.uscis.gov/processing-times/>.

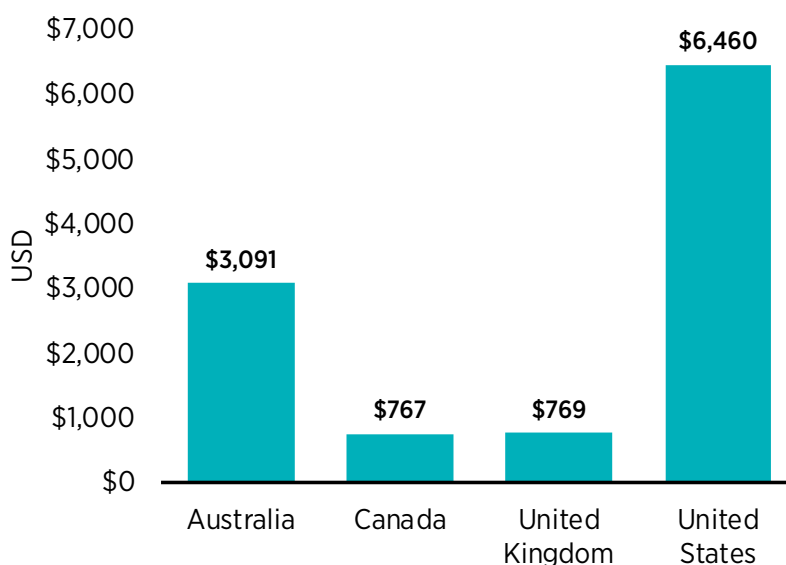
Visa Filing Fees

A second important cost to consider when comparing visa programs between countries is the financial cost to the employer of filing for the work visa. This does not include the cost of hiring an attorney, which in the United States can be an additional \$2,000–\$3,000 or more per applicant. Much the same as processing time, filing costs disproportionately burden small businesses, which may lack the financial resources to hire skilled foreign workers.

Figure 2 displays the cost of filing for skilled work visas for each of the four countries in US dollars (costs may vary depending on the exchange rate). Both the United Kingdom and Canada have the lowest filing costs at \$769 and \$767 respectively.²² Filing costs in Australia have increased in recent years owing to the new SAF levy, pushing total filing costs to \$3,091.²³ However, all three of these countries' filing fees pale in comparison to the total filing costs in the United States, which include base fees; American Competitiveness and Workforce Improvement Act (ACWIA) fees; fraud prevention fees; and Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113, 129 Stat. 2242) fees totaling \$6,460 per applicant.²⁴ In exchange for raising the cap to 115,000 in 1998, the ACWIA fee was introduced to fund US scholarships, and the Pub. L. No. 114-113 fees were doubled in 2015 to impose additional compliance costs on companies that hire large numbers of skilled foreign workers.²⁵

This is a large cost for employers to pay when hiring skilled foreign workers. A significant portion of the filing expenses for H-1B visas is rooted in regulatory compliance costs, a fact that in

Figure 2. Cost of Filing for Skilled Work Visa



Source: UK Home Office, “General Work Visa (Tier 2),” accessed September 20, 2019, <https://www.gov.uk/tier-2-general>; SeekVisa, “457 Visa Fees,” accessed October 7, 2019, <https://www.seekvisa.com.au/457-visa-fees/>; Foreign Worker Canada, “Labour Market Impact Assessment (LMIA),” accessed October 7, 2019, <https://www.canadianimmigration.net/work/labor-market-impact-assessment/>; US Citizenship and Immigration Services, “H and L Filing Fees for Form I-129, Petition for a Nonimmigrant Worker,” February 20, 2018, <https://www.uscis.gov/forms/h-and-l-filing-fees-form-i-129-petition-nonimmigrant-worker>.

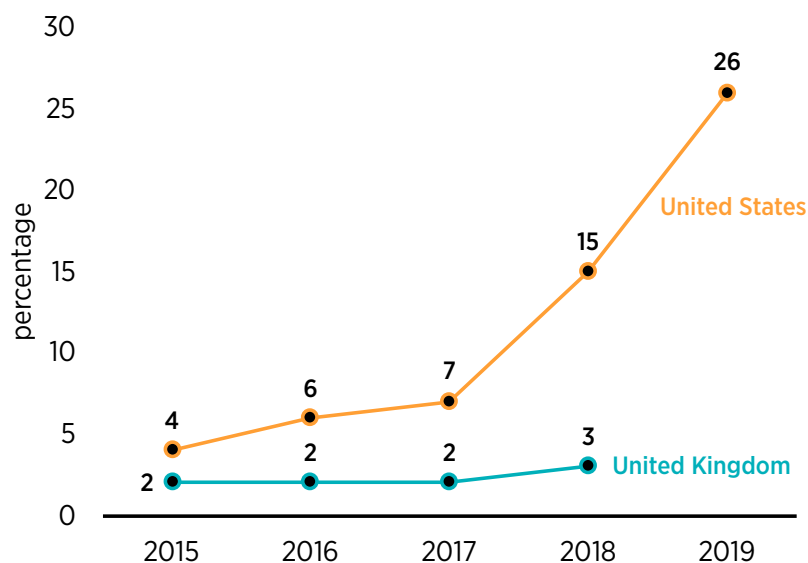
turn relates to largely unfounded protectionist labor market concerns. In fact, evidence suggests that every temporary foreign worker hired results in the hiring of several American workers. Further, a 1 percent increase in foreign STEM workers is associated with a 7 to 8 percent increase in American workers’ wages.²⁶

Rate of Visa Denial

A third comparison of skilled visa programs that impacts the incentives of foreign workers in determining where to take their skills is the rate of denial, or conversely, odds of approval. When governments tighten their requirements and deny higher shares of visa applicants, fewer skilled workers apply for those visas. Visa programs with low rates of denial will incentivize more foreign workers to apply.

Figure 3 shows a comparison in the annual denial rate for skilled workers between the United Kingdom and the United States from 2015 to 2019. The data on denial and approval rates are not available for Australia or Canada but are publicly available for the United Kingdom and the United States. The denial rate for Tier 2 visas in the United Kingdom has remained very low at 2–3 percent over the entire period.²⁷ Denial rates for H-1B visas in the United States were relatively low from 2015 to 2017, at 4–7 percent; however, following 2017, denial rates have shot up significantly, reaching 26 percent in the first three months of 2019.²⁸ The data suggest that this significant increase in

Figure 3. Annual Skilled Visa Denial Rate in the United Kingdom and United States, 2015–2019



Sources: UK Visas and Immigration, “Allocations of Restricted Certificates of Sponsorship,” August 15, 2019, <https://www.gov.uk/government/publications/employer-sponsorship-restricted-certificate-allocations/allocations-of-restricted-certificates-of-sponsorship>; US Citizenship and Immigration Services, *United States Citizenship and Immigration Services (USCIS), I-129, Petition for a Nonimmigrant Worker Class Preference: H-1B Receipts, Completions, and Requests for Evidence (RFE) Sent FY15–FY19 (through December 31, 2018)*, January 2, 2019.

denial rates is not the result of improved screening for those who may lack the required skills or qualifications. In 2017, 99.85 percent of applicants held a bachelor’s degree or above, and around 60 percent held a master’s degree or above; this is in line with historical trends and does not signal an educational or skills-based justification for rising denial rates.

IMMIGRATION DEMOGRAPHICS

Annual (Temporary) Skilled Immigrant Admissions as a Share of the Population

Comparing the absolute numbers of temporary skilled immigrants admitted annually is not an apples-to-apples comparison when considering the large variation in population size among the four countries in question. While the population of the United States is almost 330 million, the population of Australia is around 25 million. To see how open the four countries’ skilled (temporary) visa systems are to global talent, we need to review the numbers as a share of the population.

Figure 4 lays out the number of skilled temporary immigration admissions each year per 1,000 domestic citizens. With the smallest population and a relatively high annual admission of skilled foreign workers, Australia has the highest temporary admission-to-population ratio at 2.62 skilled workers per 1,000 people. With a similarly high rate, Canada has a ratio of 2.52. In third place, the United Kingdom has a ratio of 0.85, and with by far the lowest rate, the United States has a ratio of just 0.26 skilled foreign workers per 1,000 people.

Figure 4. Annual Skilled Temporary Immigrant Admissions per 1,000 People



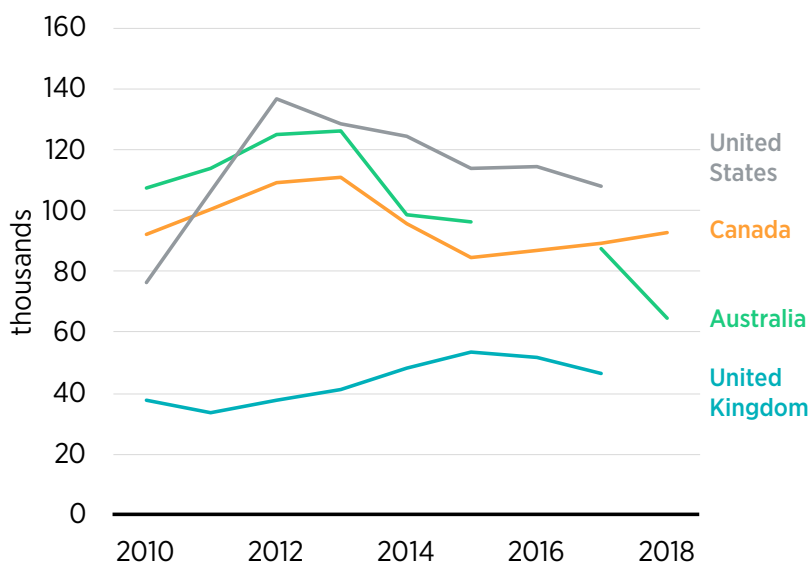
Sources: Calculations by authors; US Citizenship and Immigration Services, *Characteristics of H-1B Specialty Occupation Workers: Fiscal Year 2017 Annual Report to Congress October 1, 2016 – September 30, 2017*, April 9, 2018; UK Home Office, "Immigration Statistics, Year Ending December 2018," February 28, 2019, <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2018-data-tables> (see the file "Admissions Data Tables Immigration Statistics Year Ending December 2018"); Immigration Refugees and Citizenship Canada, "Temporary Residents: Temporary Foreign Worker Program (TFWP) and International Mobility Program (IMP) Work Permit Holders – Monthly IRCC Updates," April 18, 2019, <https://open.canada.ca/data/en/dataset/360024f2-17e9-4558-bfc1-3616485d65b9>; Australia Department of Home Affairs, "Migration Program," April 12, 2019, <https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live/migration-program>.

Where Is Global Talent Going?

Considering the factors described earlier and the relatively high mobility of migrant workers, it is important to assess which countries immigrants are choosing to take their talents to in order to determine which reforms attract global talent and which discourage them.

Figure 5 displays the number of temporary skilled immigrants admitted in each of the four countries during the period of 2010–2018. The numbers reveal that over this period there has been a slight uptick in the number of skilled temporary workers moving to the United Kingdom, a consistent decline in the numbers for both Australia and the United States over the past 5–6 years, and strong growth in the numbers admitted to Canada in 2015–2018, the years for which data are available. The data broadly suggest that skilled global talent is increasingly choosing to work in Canada and the United Kingdom over Australia and the United States.

Figure 5. Where Skilled Temporary Immigrants Are Moving, 2010–2018



Note: The gap in the series for Australia in 2016 and for the United Kingdom and the United States in 2018 indicate years for which data are unavailable. Source: UK Home Office, “Immigration Statistics, Year Ending December 2018: Data Tables,” February 28, 2019, <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2018-data-tables> (see the file “Admissions Data Tables Immigration Statistics Year Ending December 2018”); US Citizenship and Immigration Services, “Reports and Studies,” August 28, 2019, <https://www.uscis.gov/tools/reports-studies/reports-and-studies>; Immigration, Refugees and Citizenship Canada, “Temporary Residents: Temporary Foreign Worker Program (TFWP) and International Mobility Program (IMP) Work Permit Holders – Monthly IRCC Updates,” accessed September 20, 2019, <https://open.canada.ca/data/en/dataset/360024f2-17e9-4558-bfc1-3616485d65b9>, Australian Department of Home Affairs, “Migration Program,” April 12, 2019, <https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live/migration-program>.

LESSONS LEARNED FOR THE UNITED STATES

Policymakers in the United States need to ensure that the country’s talent-based visa system continues to attract the best and brightest that the world has to offer so that innovation and economic growth do not falter. Policymakers need look no further than Canada, the United States’ neighbor to the north. In 2017 alone, Toronto created more tech jobs than the Bay Area, Washington, DC, and Seattle combined. Survey data of US businesses reveal that 65 percent of US employers now consider Canada’s immigration policy to be more favorable than US policy.²⁹

Examining what other nations do suggests ways in which the US skilled temporary work visa program can be improved to attract global talent. By raising the existing H-1B cap to a level closely matching market demand (around 200,000 visa petitions were filed by US employers in 2017, 2018, and 2019) would resolve the burden of excessive processing times and reduce the disincentives for applicants who worry about the lottery process. In adopting a similar approach to the United Kingdom, policymakers should consider exempting healthcare workers from the H-1B cap as they do for higher education employees. Such a change would not drastically increase the ratio of admitted skilled foreign workers to population, but this modest and viable step would demonstrate the willingness of policymakers to attract the necessary talent to fuel US industry.

The administration should also review the total filing costs involved in America’s current process, which leaves the United States less competitive when compared to other countries, with current H-1B filing fees almost nine times higher than those in Canada and the United Kingdom. The ACWIA fee was introduced in 1998 in exchange for raising the cap to 115,000—the H-1B cap has since been lowered back to 65,000, so the ACWIA fee should be scrapped entirely. The Fraud Prevention and Protection fee was created as part of the 2004 Reform Act. Historically, the Department of Labor (DOL) has only used 15–40 percent of funds raised, and H-2B visas are only charged a \$150 Fraud Prevention fee—for H-1B visas, this fee should be reduced to at most \$200, which represents the historical maximum allocation of funds used by the DOL.³⁰ The Pub. L. No. 114-113 fee is significantly higher than anything similar in other developed countries and should be lowered back to its initial level of \$2,000, as it was under Pub. L. No. 111-230. These three cost reforms alone would lower the H-1B filing costs from \$6,460 to \$2,660, making the United States a more attractive destination for skilled foreign workers.

Finally, and perhaps most importantly, the rising rate of visa denials is acting as a signal to skilled talent not to apply for work in the United States. At a time when Canada is opening up to aggressively attract tech and healthcare workers, American policymakers should review the effects of the Buy American and Hire American executive order, which has led to a backlog in visa processing times. The 2017 policy memorandum should be revoked so that deference is given based on prior determinations of eligibility, as it was before. This would put an end to unnecessary reevaluations that add time to the approval process and worsen the existing backlog time. Instead of encountering greater restrictiveness, skilled immigrants should be encouraged to work in the United States where tech and healthcare markets are in serious need of talented workers.

ABOUT THE AUTHORS

Daniel Griswold is a senior research fellow at the Mercatus Center at George Mason University and codirector of its Trade and Immigration Project. Griswold is a nationally recognized expert on trade and immigration policy. He is the author of the 2009 book *Mad about Trade: Why Main Street America Should Embrace Globalization* (Washington, DC: Cato Institute). He has authored numerous studies; testified before congressional committees; commented for CNBC, CSPAN, Fox News, and other TV and radio outlets; and written articles for the *Wall Street Journal*, the *Los Angeles Times*, and other publications.

Jack Salmon is a research assistant at the Mercatus Center at George Mason University. His research focuses on the federal budget, means-tested welfare reform, and institutions and economic growth. Jack received his MA in political economy from King’s College London.

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