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Immigration

Post-Graduate Work Program For Foreign Students Skyrockets

A program that allows international students to work after graduation is continuing to grow even as access to temporary visas for skilled workers becomes less certain.

The federal government approved 136,617 optional practical training applications in fiscal year 2014, up from 28,497 in FY 2008, according to the Pew Research Center. With a record high 1 million international students attending U.S. institutions in the 2015-2016 school year, that number is likely to grow, Pew said.

OPT lets foreign graduates of U.S. colleges and universities work for 12 months while still on their student visas. In 2008, the Department of Homeland Security allowed graduates with science, technology, engineering, and mathematics degrees to extend their OPT an additional 17 months, for a total of 29. The DHS followed up in 2016 by lengthening the STEM extension to 24 months, for a total of 36 months of OPT.

The program often is viewed as a bridge to the H-1B guest worker visa program for skilled workers, especially in recent years as competition for the limited number of H-1B visas has become more fierce.

The program provides 65,000 visas a year, with an additional 20,000 for workers with advanced degrees. Demand has far outpaced supply in recent years. This year, employers filed 199,000 petitions for the visas, a drop from last year's high of 236,000.

Turn Away From H-1B? And with recent negative attention the H-1B program has received, there's likely to be "increased use of the OPT program" as an alternative, Eric Ruark, director of research for NumbersUSA, told Bloomberg BNA May 19. "Even though we have a president" elected to "address the abuses of the immigration system by employers," those that use these immigration programs are "not going to give up until someone makes them," he said.

Many employers continue to view the H-1B program and OPT as necessary for their operations. The unemployment rate for U.S. workers with the qualifications sought in the STEM OPT and H-1B programs is around 2 percent, American Immigration Lawyers Association President William Stock said May 19.

If companies don't have access to these workers in the U.S., "a lot of jobs would move overseas," Stock told Bloomberg BNA.

Similar to the H-1B program, the OPT program is dominated by graduates in STEM fields.

Between calendar year 2012 and 2015, STEM graduates made up 49 percent of those approved for OPT and seeking employment, according to Pew. But during that same time period, 73 percent of graduates on OPT with STEM degrees were employed, compared with 57 percent of those with non-STEM degrees, the organization said.

The majority (57 percent) of graduates on OPT who found jobs between 2012 and 2015 came from India and China, Pew said. And STEM graduates accounted for at least 70 percent of OPT approvals from India, Iran, Bangladesh, and Sri Lanka during that time.

'No Statutory Basis' The Trump administration needs to "ultimately end the OPT program" because "there's no statutory basis" for it, said Ruark, whose organization supports lower immigration levels. At the very least, the STEM extension should be eliminated and it should be cut back to the original 12-month period, he said.

A federal judge in Washington, D.C., in April dismissed a lawsuit challenging the STEM OPT extension. The lawsuit, filed by a union representing U.S. technology workers, argued that OPT is allowing employers to skirt the H-1B program without providing protections for Americans. The union has appealed the judge's ruling.

"Part of the problem we see with the immigration system" is that programs continue to expand unchecked, Ruark said. The growing numbers of international students participating in OPT is "troubling," but "the bigger problem is that it exists at all," he said.

It's not that international STEM graduates don't have valuable skills, Ruark said. But there are U.S. workers who have those skills as well, he said.

There are cost savings that come from hiring someone on OPT, and it's understandable that a company would do something to help its bottom line, Ruark said. But just because we understand why, the question remains whether it should be done, he said. "Our position is no," he said.

Keeping Jobs in U.S. But by hiring graduates on OPT and participating in the H-1B program, these companies are "keeping jobs for Americans in the United States," said Stock, who practices with Klasko Immigration Law Partners in Philadelphia.

The cheap labor argument "fundamentally misunderstands the way that young talent moves into a tech company," he said. Hiring international students for entry-level jobs allows more experienced U.S. workers to get promoted into higher-level positions, Stock said.

In that regard, the data can be misleading, he said. Management positions aren't considered STEM even if

the person has a STEM degree and is managing STEM workers, he said.

And it's not just companies but also universities that benefit from the OPT program, Stock said. The program is "making American universities competitive" with those in Canada and Australia, where there's a much clearer path to employment and permanent residence post-graduation, he said.

"We can certainly shut the door on international students," but that will also drive U.S. colleges and universities overseas, Stock said. "They have just begun to dip their toe in the water of branding an educational expe-

rience that is not in the United States with the American educational brand," he said.

And when foreign nationals graduate from the overseas campuses of U.S. colleges and universities, U.S. companies will move to where the talent is, he said.

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