

Immigration information

How employers can boost success rates when hiring foreign workers

INTERVIEWED BY MARK SCOTT

American companies, small and large, need foreign workers to fulfill critical needs in the technical, medical and business sector. Additionally, many CEOs would like to have a more diverse workforce, including at the board level.

However, they are often hesitant to recruit foreign talent “because they view the immigration process as an impediment,” says Isabelle Bibet-Kalinyak, an Immigration and Health Care Corporate Attorney at Brouse McDowell.

“This is especially true in the manufacturing sector. The technical and medical sectors just have no choice because they need that talent to remain competitive in their respective fields.”

Also, U.S. manufacturers can easily and cost-effectively take advantage of social media to achieve their goal of a more diverse workforce.

Smart Business spoke with Bibet-Kalinyak about opportunities for U.S. companies to recruit and retain foreign professionals and how the immigration system protects American workers.

What challenges does the U.S. immigration system create for U.S. employers?

The most challenging limitation resides in the numbers. There are nearly 900,000 foreign students in the U.S. today. Collectively, this group contributes to research and innovations critical to American competitiveness. Yet, there is a strict annual quota of 85,000 non-immigrant (H-1B) visas to hire professionals. From this number, 20,000 visas are reserved for people with a master's degree or higher level of education and the other 65,000 are earmarked for people with at least a bachelor's degree or equivalent.

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Even if not all foreign students want to stay and work in the U.S., it is easy to see the discrepancy. U.S. companies and universities are missing out on talented professionals who can help their mission.

The filing process for H-1B visas runs from Oct. 1 to Sept. 30. Employers can begin filing six months in advance, hence the big rush leading to April 1. This year, once again, visas are expected to run out in one week. About half the petitioners will obtain an H-1B visa, while the other half has to go through the entire process again next year with the same odds.

Importantly, there are some exemptions. For example, a foreigner is only subject to the H-1B cap one time, even if he or she changes employers. Additionally, entities like universities or nonprofit hospitals affiliated with a university or college are also exempt.

How should companies approach hiring foreign nationals?

The most common type of visa for professionals is the H-1B visa. H-1B beneficiaries can only work in the U.S. for a limited time, typically six years, and can only work for the U.S. company that sponsored them. Yet, most of them dream of long-term employment in the U.S. and permanent immigration, i.e. obtaining a green card. U.S. employers spend

considerable time and resources to recruit foreign talent, but many fail to retain these employees in the long run.

Our most successful clients address immigration expectations upfront. They set a clear path for advancement and lay out contractual obligations, including financial and administrative support for the green card, as applicable.

Although there is a cost to petition for a green card, after you have invested in recruiting and training an employee, the opportunity cost of losing that employee is disproportionate.

Doesn't this take jobs away from U.S. citizens?

The system is designed to protect the jobs of U.S. workers. The government has created a process to ensure that employers cannot displace American workers to take advantage of foreign labor.

Employers must comply and attest to strict requirements before proceeding with sponsoring a foreign worker for employment in the U.S., whether temporarily or on a permanent basis.

These safeguards include notification to labor union representatives, mandatory internal postings of the job opening (including salary information) and, in the case of permanent resident petitions, print and online advertisement for the position. ●