

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DOMINGO ARREGUIN GOMEZ, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States of
America, et al.,

Defendants.

Civil Action No. 1:20-cv-01419

DECLARATION OF C. SCOTT CORLEY

1. I am the Executive Director of the Compete America Coalition, a coalition of companies and associations that focuses on the need for the United States to obtain and retain high-skilled domestic and international talent in order for American employers to continue to innovate and create jobs in the United States. [Compete America members](#) have collaborated for over 20 years to work with successive administrations and Congress to promote the global mobility of talent, protect the integrity of the employment-based high-skilled immigration system, and enhance the education and training of domestic talent. The facts set forth in this declaration are based on my personal knowledge and, if called to testify to their truth, I could and would competently do so.

2. In mid-May 2020, while President Trump was considering whether the April 22 Presidential Proclamation should be amended to include a nonimmigrant visa ban, Compete America prepared a letter and Appendix presenting data points and information on high-skilled nonimmigrants. The letter, for consideration by the Trump administration, was drafted to explain why foreign professionals coming to the United States on nonimmigrant visas are key to industries currently keeping our economy operating and keeping an increasing number (according to the Bureau of Labor Statistics) of Americans employed, and why these sectors and their employees, including nonimmigrant visa holders, will be absolutely critical to President

Trump's plan for economic recovery for the remainder of calendar year 2020. Compete America member associations then asked other employers and industry associations and other peer groups across the country to consider co-signing the letter.

3. The final [letter and Appendix with sourced facts](#) was co-signed by 324 employers and trade, industry, and higher education associations and groups across the US economy focused on the high-skilled workforce and described how highly skilled foreign professionals play an essential role in American prosperity, our success as a nation of innovators, and US worker employment and opportunity. We urged the President to avoid outcomes, even for temporary periods, that restrict employment-authorization terms, conditions, or processing of nonimmigrants.

4. The view of the 324 signatories was that presidential decisions restricting nonimmigrant visa usage "are likely to result in unintended consequences and may cause substantial economic uncertainty if we have to recalibrate our personnel based on country of birth." For example, many US firms across sectors base R&D in the US but conduct those efforts without regard to national borders, with American staff collaborating with testing or engineering centers around the world. Often final product testing or production rollout in the U.S. necessitates teams of high-skilled professionals, including individuals who must seek nonimmigrant visa issuance, gathering at various US facilities at specified times. Delays in product development, manufacturing, and other endeavors is inevitable and unavoidable when staffing is driven by nationality, sometimes at great cost.

5. On May 21, 2020, I sent the attached letter with Appendix to a number of White House staff and politically-appointed staff and officials explaining that artificial constraints to the high-skilled workforce are of great concern to the public.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 29, 2020.

By:

A handwritten signature in black ink, appearing to read "C. Scott Corley", written in a cursive style.

C. Scott Corley

May 21, 2020

The Honorable Donald J. Trump
President of the United States of America
The White House
Washington, DC 20500

The Honorable Secretary Michael Pompeo
Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Secretary Eugene Scalia
Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Acting Secretary Chad Wolf
Department of Homeland Security
Washington, DC 20528

Dear Mr. President and Honorable Secretaries,

The undersigned organizations, speaking for a variety of sectors and geographies across the American economy, and small, medium, and large employers, are writing about the importance of the high-skilled workforce to America's economic recovery. In particular, the undersigned represent employers that rely on a highly skilled, college-educated, science and engineering workforce, including nonimmigrant professionals, to innovate, produce, research, develop, and lead. At this critical juncture in our nation's history, the ability to continue to do so is in the national interest.

We urge you to avoid outcomes, even for temporary periods, that restrict employment-authorization terms, conditions, or processing of L-1, H-1B, F-1, or H-4 nonimmigrants. Constraints on our human capital are likely to result in unintended consequences and may cause substantial economic uncertainty if we have to recalibrate our personnel based on country of birth.

We join you in your continued commitment to protect the health and economic well-being of Americans, and hope our attached Appendix is helpful as you consider weighty judgments on how to navigate this important moment.

Respectfully submitted,

324 employers and trade, industry, and higher education associations and groups across the American economy focused on the high-skilled workforce (signatory list follows Appendix)

APPENDIX

Importance to the nation of the STEM workforce and avoiding artificial constraints to this workforce

IMPORTANCE OF THE COLLEGE-EDUCATED STEM WORKFORCE, INCLUDING NONIMMIGRANTS

STEM Jobs. It has been well-understood in the post-World War II era that the STEM workforce is of particular interest to all developed economies because of its central role in fostering innovation, economic competitiveness, and national security. The centrality of the STEM workforce across the American economy is evidenced by the fact that in the 21st century Americans with university STEM degrees are called upon to use their quantitative skills in finance, public administration, professional services, manufacturing, information, education, health care, transportation, and retail, in addition to high-tech, as the [Census Bureau has explained](#). However, over the years, computer-related professional job openings have outstripped the availability of qualified Americans to fill those positions. For this reason, the [Department of Homeland Security reports that 66% of all H-1B approvals are in computer-related occupations](#) and, correspondingly, the [Department of Labor reports that 60% of Permanent Labor Certifications approved to sponsor new green card holders are in the computer and mathematical occupations](#), with most such labor certifications filed on behalf of H-1B visa holders. Importantly, when Department of Labor wage data on H-1B workers is compiled, as the [Cato Institute did for a May 2020 article](#), “the unequivocal takeaway from the data is that H-1B employers are, on average, paying a premium for many of their foreign workers.” Today, the unemployment rate in computer occupations remains low, at about 2.8% through April 2020, [according to a May 2020 analysis of government occupational level data](#).

Innovation. Foreign-born STEM professionals have had a positive impact on the American economy. As described in a [July 2019 economic study on the impact of highly-skilled STEM immigration on the U.S. economy](#), the foreign-born share of STEM professionals in the United States increased from about 16% to 24% over the period 2000 to 2015 creating an estimated benefit of \$103 billion for American workers almost all “attributed to the generation of ideas associated with high-skilled STEM immigration which promotes the development of new technologies that increase the productivity and wages of U.S.-born workers.” An [economic report on global talent and U.S. immigration policy published in April 2020](#) highlights that when looking at the net global migration of inventors from 2000 to 2010 China and the United States are at opposite ends of the spectrum, where China receives virtually no immigrant inventors and instead possesses the largest number of natives moving to other countries to become inventors elsewhere. The United States dwarfs all other 26 advanced economies in the world in welcoming new inventors, with about ten times that of Germany, the next highest country. Indeed, economists from [George Borjas in June 1986](#) (National Bureau of Economic Research) to [those at the Census Bureau and George Mason University in February 2019](#) (IZA - Institute for Labor Economics) to [William Kerr in April 2020](#) (Harvard Business School) have consistently found that for immigrants coming to America their propensity toward innovation, as well as entrepreneurship, is higher than for U.S.-born workers. We want to continue to harness that innovation and entrepreneurship for America and Americans, and we’re sure the administration wants the same.

Nonimmigrants. Among the nonimmigrant classifications that play a role in providing access to this STEM workforce for American employers, three classifications have been most critical and have been tools in our toolbox for **decades**: the L-1, H-1B and F-1 nonimmigrant classifications.

- o Created by Congress in 1970, over the last **50** years the L-1 visa category has been available to facilitate international transfers of existing employees to the United States within related firms. A cornerstone of business operations for those that do business both in the United States and abroad has been the ability to transfer current staff that are managers, executives, and specialized knowledge personnel across national boundaries in order to harmonize operations, expand markets, service clients, and share knowledge.

- Established in the 1952 rewrite of the nation's immigration laws, for over **65** years the H-1 visa classification has existed to allow U.S. employers to hire professionals born outside our country. Since 1990, this category has been subject to numerical limits and a labor condition application, and the category has been designated as the H-1B visa.
- In [August 1947 the Department of Justice promulgated a regulation permitting "employment for practical training"](#) for international students, after completion of the student's regular course of study. For over **70** years, a program allowing such post-completion employment authorization for international students has continued, now through Department of Homeland Security regulations governing F-1 nonimmigrants.

The stability of America's workforce – including L-1, H-1B, and F-1 nonimmigrants – cannot be more important than at this very moment when the Trump administration and the entire nation look to our companies to reinforce the backbone of the national economy.

IMPORTANCE OF AVOIDING UNNECESSARY CHURN IN THE COLLEGE-EDUCATED STEM WORKFORCE, INCLUDING NONIMMIGRANTS

Churn. Economists define "churn" as hiring for replacement, which means that a prior worker, being replaced, left voluntarily or was terminated. Turnover may come about because employers grow and shrink, but more frequently because of churn. Separations in the employment relationship that occur based solely on changed agency policy choices governing nonimmigrant employment authorization create additional churn and result in inefficiency. Thus, at this critical juncture in our nation's economic life, creating government-mandated churn in our human capital creates significant risks because the ramifications of those decisions will quickly reach into our capacity and productivity.

L-1. Narrowing access to L-1 intracompany transfers is a significant concern as we respond to Covid-19 challenges, because appropriate use of the L-1 classification by employers plays a direct role in supporting job creation and job retention in the United States, as well as expanding U.S. advanced manufacturing, continuing U.S.-centered research and development, increasing exports from the U.S., and encouraging foreign direct investment into the U.S. Multinational companies, of the type that might qualify to use the L-1 category, employ about one-quarter of all U.S. private sector employees. The impact of business disruption to a group of firms that play such an outsized role in the economy is significant.

With regard to U.S.-based R&D, an economist at the Wharton School of the University of Pennsylvania assessed Department of Commerce data [in a February 2020 study and found restrictive high-skilled immigration policies encouraged multinational companies to off-shore R&D efforts](#). As the Wharton economist explains, "From a nationalistic perspective, this is problematic; if skilled foreign-born workers are at a U.S. firm's foreign affiliate instead of in the U.S., the innovative spillovers that they generate will go to another country instead." The [National Science Foundation's 2020 reports](#) show that the U.S. performs one-quarter of global STEM R&D, the largest percentage for any single nation; that STEM R&D performed in the U.S. increased sharply in 2017, up 10% when compared to 2015 and 34% higher than 2010; that 73% of all development research in the U.S. is performed by private sector businesses; and that U.S. multinational firms are responsible for 80% of such private R&D in the U.S. Changing long-standing immigration policies risks many unintended consequences, including disruption of these positive trends.

H-1B. Temporarily or indefinitely eliminating or reducing the H-1B program or discouraging its use would not create or leave more jobs for U.S. natives *and* would risk reducing growth and productivity. The [University of Chicago did a survey in February 2017 through its Initiative on Global Markets](#) (IGM Forum), asking its panel of economists from Yale, MIT, Princeton, Berkeley, Harvard, and Stanford about the following premise: "If the U.S. significantly lowers the number of H-1B visas now, employment for American workers will rise materially over the next four years." None (0) of the economists agreed with the premise, 81% disagreed, 19% were

uncertain. A [May 2017 economic study on firm dynamics and immigration](#) found that completely eliminating the H-1B category would ultimately result in a 3.7% decrease in GDP. An [August 2018 economic study on the relationship between H-1B visa petitions and the entry of new products and exit of outdated products](#) (product reallocation) concluded that firm-level analysis shows H-1B visa petitions are associated with higher rates of product reallocation. Generating product reallocation is one measure to identify where smaller, incremental innovations are occurring. In a seminal economic evaluation of H-1B visas and productivity in 219 American cities, [published in the Journal of Labor Economics in July 2015](#), economists concluded that their simulations showed an increase of H-1B visa holders in a city explained increased productivity. Specifically, the economists found that “foreign STEM growth explained between one-third and one-half of the average Total Factor Productivity growth during the period” 1990 to 2010. It seems the Trump administration should not initiate a realignment of the H-1B category to respond to a downturn in the economy, especially because history shows us that H-1B demand from employers is tightly connected to market forces.¹

OPT. As the number of U.S. postsecondary STEM degrees attained by F-1 nonimmigrants has steadily grown, the Optional Practical Training (OPT) program, to include the STEM OPT extension, has correspondingly become a significant pipeline for the U.S. STEM workforce. [As explained by CRS in November 2019](#), from school year 88-89 (the earliest year for which annual data are available) to school year 16-17 (the most recent year for which data are available) there has been a 315% increase in STEM degrees awarded in the U.S. to foreign students, most of which is at the graduate level. When the Business Roundtable of American CEOs (BRT) partnered with the Interindustry Forecasting Project of the University of Maryland (Inforum) to assess the OPT program the [resulting December 2018 report showed a negative impact to the U.S. economy should OPT participation be reduced](#). The BRT-Inforum modeling showed, among other things, a loss of 443,000 jobs over a decade, including 225,000 jobs held by native-born workers. Relatedly, [an economist's study in March 2019](#), analyzing unemployment among STEM workers in 102 metro areas, concluded that unemployment rates are lower in areas with larger numbers of F-1 nonimmigrants doing OPT as a share of workers in STEM occupations. When [the Niskanen Center reported on its OPT research in March 2019](#) its data suggest that 10 additional OPT participants working in a core-based statistical area (CBSAs are aggregated metropolitan areas) leads to 5 additional patents originating in that CBSA. The economic risk of taking steps that might dilute the utility of OPT as a pipeline is further highlighted by a [policy brief from October 2018](#) that illustrated that 22% of America’s billion-dollar start-ups had at least one immigrant founder that first came to the U.S. as an international student.

H-4. Lastly, we draw attention to H-4 dependent spouses of the H-1B professionals we are sponsoring for green card status. These H-4 visa holders are permitted to work when they are waiting in long immigrant visa backlogs after the sponsoring employers have completed all legal hurdles to classify the H-1B professional as an immigrant. [Economists conducted a cost-benefit analysis in April 2019 on whether H-4 spousal work authorization rules should be rescinded](#), and found that rescinding the H-4 employment authorization regulation would cost the U.S. economy some \$7.5 billion including loss of employment for American workers employed by the 2% of H-4 workers that have started their own businesses and employ 5 workers on average. The same economists found that 66% of employed H-4 visa holders held a job in a core STEM field, another 16% in business, finance, or management, and another 8% were health care professionals or health care support workers.

¹ The **only** three fiscal years *since FY1997* where cap-subject H-1B petitions did not exceed the numerical limit at some time prior to the end of the fiscal year were FY2000, 2001 and 2002, years for which Congress had temporarily increased the H-1B cap to 195,000 in response to the dotcom explosion. Because the new numbers became available only as the dotcom bubble burst, cap-subject H-1B filings in those three fiscal years were 163,600, 79,100, and 78,000 respectively – with decreasing numbers, well under the cap in each successive year. Similarly, following the 2008 great recession, H-1B filings were significantly down such that the numerical limits were *not* met in April (H-1B cap-subject filings are made in April for the government’s fiscal year beginning October 1 of that calendar year). The so-called “regular cap” of 65,000 H-1B petitions was met in December 2009, January 2011, November 2011, and June 2012 for, respectively, FY2010, 2011, 2012, and 2013. When the economy is stronger, numerical H-1B limits are met in April, as in calendar years 2008 and 2009 (for FY2009 and 2010) and calendar years 2014 to the present (for FY2015 to 2021).

SIGNATORIES

1871 – Chicago’s Technology & Entrepreneurship Center	Ceva Logistics
ACE Physical Therapy and Sports Medicine Institute, Inc.	Chatanooga Technology Council
Adex Medical Staffing, LLC	Chr. Hansen, Inc.
Adobe	Cisco Systems Inc.
Advanced Polymer Coatings	Citadel Drilling
airCFO	CivilTech Engineering, Inc.
Akamai Technologies	Clockwise Inc
Altair Global	Colorado Technology Association (CTA)
Amazon.com	Complete Genomics
American First Finance Inc.	Computer Measurement Group (CMG)
American Immigration Lawyers Association	Computing Technology Industry Association
Applied Value LLC	Connecticut Technology Council (CTC)
APPS Solutions inc	Consonus Health
Arch Group LLC	Consumer Technology Association
Argo AI, LLC	Contentsquare
Ariston Tek Inc	Credit Karma, Inc.
Arizona Technology Council (AZTC)	CrowdSmart
Asana	Cyclomedia Technology Inc.
Aspen Technology, Inc.	Dashlane
Association of American Universities	Dedrone
Association of Public and Land-Grant Universities	Deem, Inc.
Attentive	Dell Technologies
Aulder Capital	Dematic
Aurora	Demon Oilfield Services Corp.
Avicenna Medical Systems, Inc.	Derakhshan Consulting LLC
Avventis Tech Inc	DMG MORI USA, Inc.
Axess North America	DoorDash
Baslee Engineering Solutions (BES), Inc	DotHouse Health
Bates White	Dr. Schar USA
BBVA Digital Bank - San Francisco Rep Office	Dropbox
Belcher Pharmaceuticals, LLC	DRS Engineering Inc.
Benefit Resource, Inc.	DTC Global Services LLC
BIO-key International, Inc.	E.W. Howell Co., LLC
BioBridge Global	E&M Electric and Machinery, Inc.
Biogen	Enanta Pharmaceuticals Inc
Biologique Recherche USA	Essence Corp
Bloom Energy	ETS
Bloomberg	Facebook
Bluestone Lane	Far East Metals, Inc.
Box, Inc.	Fast
Brandinc US, Inc	FEAM Maintenance/Engineering
Briteskies, LLC	Finsight Group Inc
BSA The Software Alliance	FirstPass Global, Inc
Business Roundtable	Fitesa Simponville Inc
Cadence Design Systems, Inc.	FlagshipKansas.Tech
California Technology Council (CTC)	Forensic Fluids Laboratories
Carbon Health Technologies, Inc.	ForgeRock, Inc.
Cardone Industries Inc	Fortress Engineering Ltd.
censhare US Inc.	Furniture Design Studios, Inc

Fusion Technologies Inc	KabanaSoft LLC
FWD.us	KC Tech Council
g2o, LLC	Khan Academy
Game Prophecies, Inc.	Kleiner Perkins
Garmin International, Inc.	Knoxville Technology Council
GCP Tech	Kolla Soft Inc
Genius Minds LLC	Kong Dragon Capital Investment
Getaround	Kongsberg Digital
GitHub	L'Oreal Travel Retail Americas, Inc.
Glamsquad	Laguro, Inc.
Global Business Alliance	LANXESS Corporation
Global Engine Maintenance LLC	Lilu, Inc.
GN Hearing Care	LinkedIn
Golden Technology, Inc	Louis Dreyfus Company LLC
Google, Inc.	LUCITO
Grandison Management	Lyft
Great Point Partners	Lynk Inc.
Greater Memphis IT Council	MachiningCloud Inc
Greater Nashville Technology Council	Madrona Venture Group
Green Village Concrete INC	MANN+HUMMEL Purolator Filters LLC
GreenShape LLC	Maryland Tech Council (MTC)
greight freight llc	Masimo Corporation
Harco Manufacturing Group, LLC.	Massachusetts Technology Leadership Council (MasTLC)
HBPO North America, Inc.	Matician Inc
Hennepin Healthcare System, Inc.	MBLM
Hewlett Packard Enterprise	McMillen Jacobs Associates
Himax Imaging	Medialocate, Inc
Hired	Medium
Hirsch Bedner Associates	Microbiologics
Horizon Hydraulics	Micron Technology, Inc.
HP Inc.	Microsoft Corporation
HUMAC INC.	Mid-America Technology Alliance
I&L Investments and Management, Inc.	Millbrook Revolutionary Engineering Inc
Idaho Tech Council (ITC)	Minnesota High Tech Association (MHTA)
Illinois Technology Association (ITA)	Mokuni LLC
iLogic inc	Montana High-Tech Business Alliance
Information Technology Industry Council	Monzlapur New York
InfoTech Resources	MUEngineers, Inc.
Insight Venture Management LLC	NAFSA: Association of International Educators
Instacart	NAM Info Inc
Institute of International Bankers	Nasdaq
Integrated Automation Systems, LLC	NationsBenefits LLC
Intel Corporation	NAVAC Inc.
Intuit	Netgear, Inc.
IPEX Global Inc	Nevada Technology Association
Isthmus Engineering, Inc	New American Economy
Jantzen Brands Corporation	New Jersey Tech Council (NJTC)
Juniper Networks	New Mexico Technology Council (NMTC)
Jyve Corporation	New York Tech Alliance

NH Tech Alliance
North Carolina Technology Association (NC TECH)
Northern Virginia Technology Council
Nova Credit Inc.
Novita Communications
Nuvia, Inc
NXP Semiconductors
Ohio IT Association
Okta
ON Semiconductor
OnSiteIQ Inc
Palm Beach Tech Association
PayPal
PEGRight
Philadelphia Alliance for Capital and Technologies (PACT)
Pirelli Tire LLC
Pittsburgh Technology Council
Postmates
PreciseLED.INC
Pronix
Propeller Health
PVH Corp (Phillips-Van Heusen Corporation)
Qnergy, Inc.
quadric.io Inc
Qualcomm, Inc.
R.H. Chen Engineering
Region Technologies Inc
Remedy Analytics, Inc.
Remitly
Ricoh Printing Systems America, Inc.
Roanoke-Blacksburg Technology Council
Roblox Corporation
Rollbar, Inc.
Salesforce
SAMSON Controls, Inc.
SAP
SEBA International LLC
SEDA Environmental
Segment.io, Inc.
Selldorf Architects
Selux Diagnostics
Semex USA, Inc.
Semiconductor Industry Association
Shielding Integrity Services Inc.
Sigma Software LLC
Silicon Valley Bank
Silicon Valley Leadership Group
Simulations Plus, Inc.
SK hynix memory solutions America
Slack Technologies
SLK America, Inc.
Society for Human Resource Management
SolarEdge Technologies
Solution BI US Corp.
Sony Corporation of America
SPACO-Inc
Spectrum Health System
Square
Starburst Accelerator LLC
Sterling Software, Inc.
Stoll America Knitting Machinery, Inc.
Sunsong North America, Inc.
TAG
Tamp Bay Tech
Taro Engineering LLC
TaskRabbit
TEAM Industries Inc.
Tech Association of South Carolina
Tech Birmingham
Tech Collective
Tech Council of Central Pennsylvania
Tech Rochester
Tech San Diego
Tech Titans
Tech:NYC
TechLauderdale
TechNet
TechNexus Venture Collaborative
Technology Association of Georgia (TAG)
Technology Association of Iowa (TAI)
Technology Association of Louisville Kentucky (TALK)
Technology Association of Oregon (TAO)
Technology Council of North Dakota
Technology Councils of America (TECNA)
TechPoint
Tekion
Texas BioMedical Research Institute
Texas Instruments
The Marskell Group, LLC
The Yes Platform, Inc.
TheraCare of New York Inc.
Thumbtack
Tillster, Inc.
Titan Data Group Inc.
Tomorrow Water
Top Notch Logworks Inc.
Tracker Corp
Tri Marine Fish Company, LLC
Trinity Health
Turbo Air, Inc.
Turo
Twitter

U.S. Chamber of Commerce	Wisconsin Technology Council (WTC)
Utah Technology Council	Woodbridge Group
V Plus O Communications	Workday, Inc.
VEB Solutions, Inc.	World Fresh Produce Inc.
Venture Home Solar LLC	Worldwide ERC
VigiLanz Corporation	WorldWide HealthStaff Solutions Ltd.
VMWare	Xero
Voss USA Inc.	YOOBIC Inc.
Waymo	Zillow
Webber, LLC (a Ferrovial company)	ZOLLER Inc
West Coast Consulting	Zoom Video Communications, Inc.
Wi-Tronix, LLC	Zymergen, Inc.