



BUILDING A 21ST CENTURY IMMIGRATION SYSTEM

MAY 2011





Table of Contents

I. Introduction	1
II. Building on Progress	5
Dedicating Unprecedented Resources to Secure the Border.	5
Making Interior and Worksite Enforcement Smarter and More Effective	7
Improving Our Legal Immigration System.	9
III. The Economic Imperative for Immigration Reform	11
Immigrants are Job Creators	11
Immigrants are Tax Contributors	12
IV. Responsibility of the Federal Government to Secure our Borders	15
V. Accountability for Businesses that Break the Law by Undermining American Workers and Exploiting Undocumented Workers	19
VI . Strengthening Our Economic Competitiveness by Creating a Legal Immigration System that Reflects Our Values and Meets Our Diverse Needs	23
VII. Responsibility from People who are Living in the United States Illegally	27
VIII. Call to Action	29



I. Introduction



“We are the first nation to be founded for the sake of an idea—the idea that each of us deserves the chance to shape our own destiny. That’s why centuries of pioneers and immigrants have risked everything to come here... The future is ours to win. But to get there, we cannot stand still.”

—President Obama, January 25, 2011

Nearly every American family has their own immigration story. Generations of immigrants braved hardship and great risk to reach our shores in search of a better life for themselves and their families. Their names and actions may not have made it into history books, but they were essential to building this country. Indeed, this constant flow of immigrants has helped make America what it is today. The country they built is a nation of immigrants and a nation of laws, a legacy that shapes the Administration’s vision for a 21st century immigration system.

The United States reaps numerous and significant economic rewards because we remain a magnet for the best, brightest, and most hardworking from across the globe. Many travel here in the hopes of being a part of an American culture of entrepreneurship and ingenuity, and by doing so strengthen and enrich that culture and in turn create jobs for American workers. From U.S. Steel to Google, Inc., immigrants have long helped America lead the world.



Immigrants also proudly and honorably defended the nation in our armed forces from the Revolutionary War to our current conflicts. Today, there are more than 114,000 foreign-born active-duty service members, representing nearly 8 percent of all military personnel. People like Perla Ramos, who came to America in those first terrible days after 9/11 and joined the U.S. Navy, are helping to write the next chapter of our history. It was during that same period of national mourning that we set a goal of rebuilding the Pentagon in less than a year. Thousands of workers, many Hispanic immigrants who escaped civil strife in their home countries, worked to show the world, "If you knock America down, we will get right back up." They rebuilt the Pentagon ahead of our ambitious schedule.

In his State of the Union Address, the President laid out his vision for winning the future. To secure prosperity for all Americans, we must out-innovate, out-educate, and out-build the rest of the world, and fixing our broken immigration system plays an important part in our plan. As we work to rebuild the economy, our ability to thrive depends, in part, on restoring responsibility and accountability to our immigration system.

The President takes seriously his responsibility to enforce our immigration laws. Over the last two years, the Obama Administration has dedicated unprecedented resources to secure our borders, taken important steps to make our interior and worksite enforcement smarter and more effective, and made improvements to the legal immigration system. But we cannot solve the problems with our broken immigration system through enforcement alone.

Over the years, many have attempted to confront this challenge, but passions are great and disagreements run deep. The President knows that this work will not be easy, but the American people demand and deserve a solution. They deserve a 21st century immigration system that meets our economic and national security imperatives and that upholds America's proud tradition as a nation of laws and a nation of immigrants. They need Democrats, Republicans and Independents to come together to accomplish this critical task.

Today, President Obama reiterated his deep commitment to fixing the broken immigration system and outlined his vision for a 21st century immigration policy:

- **Responsibility by the federal government to secure our borders:** Today, our borders are more secure than at any time in the past several decades and the Administration continues to refine and strengthen its strategy. Enforcement resources should be focused on preventing those who would do our nation harm from entering our country.
- **Accountability for businesses that break the law by undermining American workers and exploiting undocumented workers:** Employers who deliberately hire and exploit undocumented workers must be held accountable. At the same time, we must give employers who want to play by the rules a reliable way to verify that their employees are here legally.
- **Strengthening our economic competitiveness by creating a legal immigration system that reflects our values and diverse needs:** Our immigration laws should continue to reunify families and encourage individuals we train in our world-class institutions to stay and develop new technologies and industries in the United States rather than abroad. The law should stop punishing innocent young people whose parents brought them here illegally and give those young men and women a chance to stay in this country if they serve in the military or pursue higher education. A smart 21st century system should also provide farmers a legal way to hire the workers they rely on year after year, and it should improve procedures for employers who seek to hire foreign workers for jobs if U.S. workers are not available.
- **Responsibility from people who are living in the United States illegally:** Those people living here illegally must also be held accountable for their actions and get on the right side of the law by registering and undergoing national security and criminal background checks, paying taxes and a penalty, and learning English before they can get in line to become eligible for citizenship. Being a citizen of this country comes not only with rights but also with fundamental responsibilities. We can create a pathway for legal status that is fair and reflects our values.

What follows is an update on the progress we have made in securing our borders, enforcing our laws, and improving our immigration system, a summary of the economic benefits of our proposed immigration reforms, and an outline of the challenges we must tackle and the solutions we must implement if we are to build a 21st century immigration system.



II. Building on Progress



Over the last two years, the Obama Administration has dedicated unprecedented resources to secure the border, taken important steps to make the enforcement of our interior and worksite immigration laws smarter and more effective, and made improvements to the legal immigration system. Our efforts have been enormously successful, but we need comprehensive reform that demands responsibility and accountability from the government, businesses, and immigrants themselves. We cannot solve this problem through enforcement alone; in fact, many important improvements to our immigration system can only be accomplished through legislative action.

Dedicating Unprecedented Resources to Secure the Border

The Obama Administration has dedicated [unprecedented resources](#) to securing our borders, which is important for the safety and security of our nation as well as legitimate trade and tourism.

- **Putting more “boots on the ground”:** Today, the Border Patrol is better staffed than at any time in its 87-year history, having doubled the number of agents from approximately 10,000 in 2004 to more than 20,700 in 2010.
- **Increasing investigative resources:** Immigration and Customs Enforcement (ICE), the Department of Homeland Security’s (DHS) investigative arm, has increased the number of federal agents deployed on the Southwest border. Currently a quarter of all ICE personnel are in the Southwest border region—the most ever. These additional personnel are working alongside the Department of Justice (DOJ) to identify, disrupt, and dismantle criminal organizations, to

facilitate cooperation between U.S. and Mexican law enforcement authorities on investigations and enforcement operations, and to track and prevent cartel violence.

- **Stepping up surveillance:** For the first time, DHS unmanned aerial capabilities now cover the Southwest border all the way from California to Texas providing critical aerial surveillance assistance to personnel on the ground. DHS has also completed 649 miles of fencing out of nearly 652 miles planned, including 299 miles of vehicle barriers and 350 miles of pedestrian fence, with the remaining 3 miles scheduled to be completed.
- **Working with Mexico:** The Administration is working with the Government of Mexico to disrupt the transnational criminal organizations that traffic illicit drugs, weapons, and bulk cash, and the interdiction of illicit weapons. These unparalleled efforts have yielded real results. Over the past two and a half years, DHS seized 75 percent more currency, 31 percent more drugs, and 64 percent more weapons along the Southwest border compared to two and a half years of the previous administration.
- **Working with Canada:** The Administration is working with Canada to enhance joint law enforcement efforts and bolster cross-border security operations. Through the Shiprider Agreement the Royal Canadian Mounted Police, the U.S. Coast Guard, CBP, and ICE are able to cross-train, share resources and personnel, and utilize each others' vessels in the waters of both countries. These organizations and other federal partners have also continued to collaborate through Integrated Border Enforcement Teams, which work to identify, investigate, and interdict individuals and organizations that may pose a threat to national security or are engaged in organized criminal activity along the Northern border.
- **Improvements to the Northern Border:** Over the past two years, we have invested in additional Border Patrol agents, technology, and infrastructure. More than 2,200 Border Patrol agents man the Northern border, a 700 percent increase since 9/11. Nearly 3,800 CBP Officers manage the flow of people and goods across Northern ports of entry and crossings. We are modernizing more than 35 land ports of entry to meet our security and operational needs. We have also deployed new technology, including thermal camera systems, mobile surveillance systems, and remote video surveillance systems.
- **Promoting economic prosperity along the border:** The Obama Administration has made great strides in ensuring that legal trade and travel flows across our borders as quickly as possible by updating infrastructure, reducing wait times, and increasing security. The Administration has expanded the Customs-Trade Partnership Against Terrorism (C-TPAT) trusted shipper program to speed up trade while ensuring national security. These efforts have proven effective: in FY 10 U.S. exports of goods to Mexico totaled \$163.3 billion, an increase of 27 percent over FY 09.

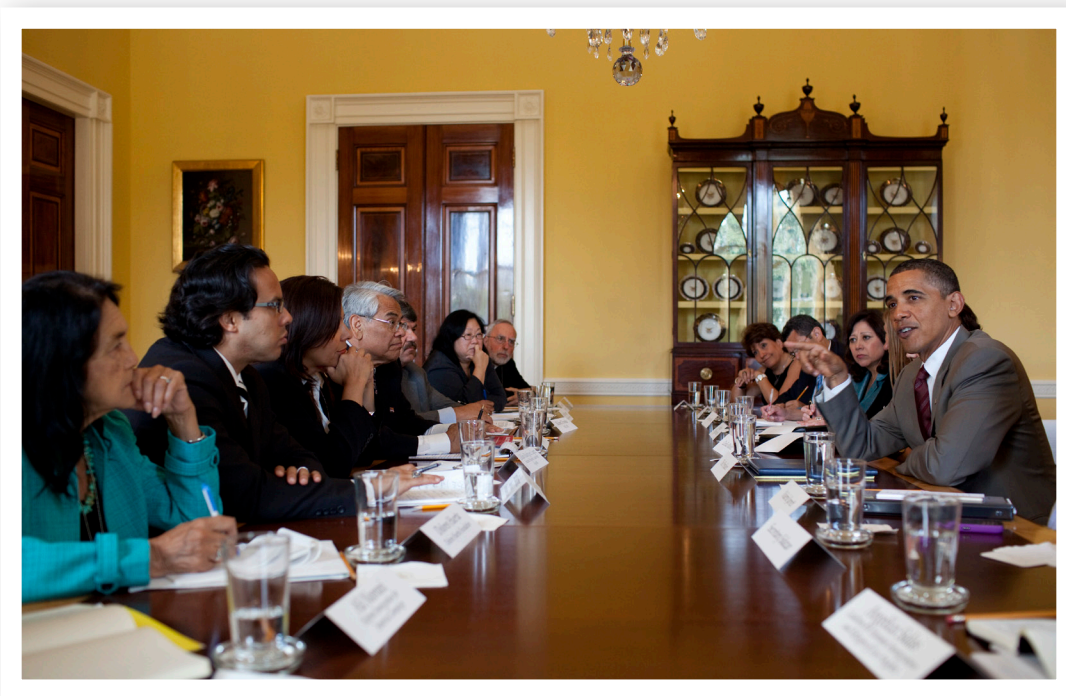


- **Increasing community outreach:** CBP is implementing a national Border Community Liaison Program in each of the 20 Border Patrol Sectors and the Border Patrol Academy. These liaisons will focus primarily on outreach with community groups and will help law enforcement understand the views and concerns of individuals living in border towns.
- **Fewer people attempt to illegally cross our borders:** Apprehensions of illegal aliens decreased from nearly 724,000 in FY 08 to approximately 463,000 in FY 10, a 36 percent reduction, indicating fewer people are attempting to illegally cross the border. We must continue our efforts to secure the border and protect communities in the Southwest so that these trends continue.

Making Interior and Worksite Enforcement Smarter and More Effective

The Obama Administration has [taken critical steps](#) to make interior and worksite enforcement smarter, more effective, and more consistent with our country's best values by prioritizing the removal of immigrants convicted of crimes and penalizing employers who abuse or exploit workers.

- **Setting immigration enforcement priorities:** Under the Obama Administration, ICE has developed for the first time since its establishment [priorities](#) for immigration enforcement in the interior. In August 2010, ICE issued clear guidance on its civil enforcement priorities, which reflect a focus on the removal of individuals who pose a danger to national security or public safety, with a particular focus on convicted criminals, as well as the removal of recent border violators, those who have been previously deported, and fugitives. As a result, the deportation of aliens with criminal records increased by more than 70 percent in 2010 as compared to 2008.



- **Creating a more humane detention system:** DHS has also invested in implementing [critical reforms](#) to the detention system that enhance security and efficiency while prioritizing the health and safety of detainees. A concrete example is the [Online Detainee Locator System](#), a public, Internet-based tool designed to assist family members, attorneys, and other interested parties in locating individuals in DHS custody.
- **Victims of crimes:** DHS is working to ensure that victims of trafficking and other crimes have access to immigration relief in the form of T and U visas. These visas are available to victims who aid federal, state, and local law enforcement officials in criminal investigations. In FY 10, DHS approved 796 T visas for trafficking victims and their family members—the highest number to date and a 36 percent increase over the prior fiscal year. In FY 10, the 10,000 statutory cap on U visas was reached for the first time- in part because of DHS's work actively promoting awareness and appropriate use of these visas. The [Department of Labor](#) will also be using the U visa program for immigrants who assist in their investigations of abusive employers.
- **New worksite enforcement strategy:** In April 2009, DHS launched a [new worksite enforcement strategy](#) designed to penalize employers who knowingly hire illegal workers and who are involved in related crimes such as trafficking, smuggling, harboring, document fraud, and money laundering. DHS has implemented this strategy through robust use of audits of employment verification records, civil fines and debarment, and by promoting compliance tools. Since January 2009, ICE has audited more than 4,600 employers suspected of hiring illegal labor, debarred 317 companies and individuals, and imposed approximately \$61 million in financial sanctions—more than the total amount of audits and debarments than during the entire previous administration.

- **Making compliance clearer:** The Obama Administration has taken steps to make the employment eligibility program clearer and make it simpler for employers to comply with the law. For example, the Administration has made it quicker and easier for employers to confirm a document's authenticity by issuing [final guidance](#) on which documents employers can accept to verify employment eligibility. DHS has also issued a [new handbook](#) that walks employers through the I-9 employment verification system and provides clear guidance to ensure they comply with the law and protect their employee's civil rights.
- **Piloting programs for workers to correct their records:** The Administration has piloted a new voluntary, free, fast, and secure [E-Verify Self Check Program](#) which allows individuals in the United States to access their employment eligibility status and make corrections to their records, if necessary, before applying for jobs.
- **Proactively protecting workers and their civil rights:** DHS has produced [training videos](#) to help inform employees of their rights and responsibilities and established a hotline for employees to file complaints about E-Verify misuse or discrimination, which is accessible in 34 languages. In addition, to address potential concerns, DHS has entered into a [new agreement](#) with DOJ to streamline the process for addressing potential cases of discrimination and misuse of the E-Verify program.

Improving Our Legal Immigration System

- **Better serving legal immigrants, employers, and others:** United States Citizenship and Immigration Service (USCIS) has improved its responsiveness to the individuals and families who rely on it for information and services. In 2009, USCIS launched an [updated website](#) that includes a new Spanish version and [an online tool](#) that allows individuals, for the first time ever, to get updates on their citizenship and other applications online or via text message. USCIS has also made progress in improving processing times and clearing backlogs of pending applications. In addition, USCIS has partnered with DOJ to fully eliminate the backlog for the FBI National Name Check Program.
- **Citizenship for military families:** Since January 2009, USCIS has also worked with the Armed Forces to naturalize over 20,000 military personnel. DHS is working to ensure that the [military community](#) has accurate and up-to-date information about immigration services and benefits, and USCIS has established a military assistance team to carry out this goal.
- **Reducing barriers for high-skilled immigrants:** Within DHS, USCIS has already begun initial steps to reduce barriers for high-skilled immigrants by identifying and reducing undue immigration barriers faced by foreign-born entrepreneurs. USCIS has committed to [improving reviews of visa applications for self-funded entrepreneurs](#) using the EB-5 visa. USCIS has also [proposed changes](#) to the H-1B program that could save U.S. businesses more than \$23 million over the next 10 years by establishing an advance registration process for U.S. employers seeking to file H-1B petitions for foreign workers in specialty occupations.

- **Providing new tools to prepare applicants for citizenship:** USCIS launched a new [Citizenship Resource Center](#) that centralizes citizenship resources for immigrants, educators, and organizations to help users better understand the naturalization process. In 2010, USCIS launched quarterly public engagements in multiple languages, focusing on specific immigration and citizenship topics and including live question-and-answer sessions with USCIS officials.
- **Supporting efforts to integrate immigrants:** The President has devoted critical funding to support citizenship preparation and integration programs in communities throughout the country. In 2010, USCIS awarded close to \$8 million in new grant funding to organizations in 27 states, and expects to [award grant funding](#) to additional communities in 2011.
- **Improving customer service:** USCIS has improved customer service by implementing a new [Secure Mail Initiative](#) to improve their delivery of immigration documents in a safe, secure, and timely manner. This allows customers to stay up-to-date on the delivery status of their documents and allows USCIS to confirm that these essential documents were delivered to the proper address.
- **Improving the immigration courts:** DOJ has taken significant steps to improve the [immigration adjudication system](#). For example, DOJ has invested in increasing the number of immigration judges and support staff to manage the increasing caseload. DOJ also improved training and mentoring programs to ensure judges are ready to hear cases fairly and promptly. Furthermore, DOJ has expanded the Legal Orientation Program to more locations in order to provide more assistance to immigrants in removal proceedings. Finally, DOJ, together with other agencies, is exploring ways to improve the quality of legal representation for immigrants facing removal from the United States, by both taking steps against unscrupulous persons who seek to defraud immigrants and expanding the capacity of legitimate organizations to fill the demand for legal services.
- **Helping refugees:** The Obama Administration is committed to maintaining a robust refugee admissions program—a longstanding and important component of America’s overall effort to support vulnerable people around the world. The Administration has moved to address the unique challenges and barriers that refugees face by:
 - Improving refugee health by increasing medical screening, providing new mental health resources, updating the manual for refugees with disabilities, and ensuring that refugees are eligible for coverage under the Affordable Care Act,
 - Conducting comprehensive on-going reviews of the United States Refugee Admissions, Refugee Social Service, and Targeted Assistance Formula Grant Programs in order to better serve refugees and the communities in which they resettle; and
 - Meeting regularly with stakeholders and service providers to understand refugee needs and supporting federal grant programs that help local organizations serve refugee communities.



III. The Economic Imperative for Immigration Reform



According to recent estimates, immigrants now comprise [more than 12 percent of the American population](#). Like every generation that came before them, today's immigrants bring an entrepreneurial spirit and have unique and important skills that can provide significant benefits to the U.S. economy.

Immigrants are Job Creators

Immigrants are entrepreneurial and create jobs in the United States. Immigrants started [25 percent of the highest-growth companies](#) between 1990 and 2005, and these companies directly employ an estimated 220,000 people inside the United States. These immigrant-founded companies include Intel, Google, Yahoo, and eBay, which have all helped drive American leadership in the computer and Internet revolutions and have stimulated business and job creation throughout our economy. These immigrants give the U.S. workforce an important competitive advantage.

Research shows that immigrants are more likely than U.S. born workers to start new businesses and are among the most prolific inventors in the American economy, generating ideas that lead to new products and more jobs in many sectors including pharmaceuticals and information technology. It is in our national interest to encourage people with great ideas to create new businesses, industries, and quality jobs in the United States.

Immigrants are [nearly 30 percent more likely to start a business](#) than are non-immigrants, and they [represent 16.7 percent of all new business owners](#) in the United States. Immigrant business owners [make significant contributions](#) to business income. According to the latest estimates by the Small Business Administration, immigrant business owners [generate \\$67 billion of the \\$577 billion](#) in U.S. business income. In addition, immigrants' contributions through job creation span different sectors of the economy. In fact, immigrants own a large share- more than one-fifth- of businesses in our arts, entertainments, and recreation industries. They also make significant contributions to our transportation, wholesale trade, and retail trade industries.

A [Duke University study](#) estimated that from 1998 to 2006, the share of patent applications from foreign born nationals residing in the U.S. rose from 7.3 percent to 24.2 percent. Recent research highlights that in the 1990s alone, skilled immigrants helped [boost GDP per capita](#) by between 1.4 percent and 2.4 percent. Currently, immigrants represent 24 percent of U.S. scientists and 47 percent of U.S. engineers with bachelor or doctorate degrees. These workers are already making important contributions to the economy. Moreover, foreign-born students studying in our universities have the potential to make significant contributions to our future economic growth if they could stay and work in the U.S. after they graduate. Exporting this talent to other countries is not in our economic interest.

Immigrants are Tax Contributors

Immigrants help address other fiscal challenges by paying their fair share of taxes. Studies consistently suggest that immigrants contribute more in tax revenue than they use in services.

- In 2010, the [Congressional Budget Office \(CBO\)](#) estimated that last year's DREAM Act, which would help keep educated young people in the U.S. who were brought here by their parents as children, grew up in our country, and who know no other home, would reduce the deficit by \$1.4 billion over the next 10 years, because of increased tax revenues.
- A 2007 cost estimate by the [CBO](#) found that a path to legalization for unauthorized immigrants would increase federal revenues by \$48 billion but would only incur \$23 billion in increased costs from public services, producing a surplus of \$25 billion for government coffers.
- In 2006, the [CBO](#) estimated that immigration reform would cause more money to be collected in new revenues than would be spent on social programs like Social Security, Medicare, Medicaid, and food stamps. The increase in tax revenues would outweigh the costs in social spending by more than \$12 billion dollars over a 10-year period. The positive effects would likely continue past the 10 year budget window, making \$12 billion a lower-bound estimate of the total long-term gain from immigration. Under the high investment assumption, CBO estimates that enacting the bill would increase GDP by 0.4 percent, on average, from 2007 through 2011, and by 1.3 percent from 2012 through 2016. Under the low investment assumption, CBO estimates that enacting the bill would increase GDP by 0.3 percent, on average, from 2007 through 2011, and by 0.8 percent from 2012 through 2016.

[The new immigrant population is, on average, younger](#) than the native born population. Thus, foreign-born workers increase the number of workers per retiree in the U.S., helping counter the fiscal effects of an aging population.

In addition, the Internal Revenue Service (IRS) estimates that undocumented immigrants paid [almost \\$50 billion in federal taxes between 1996-2003](#). These taxes include payroll and Social Security (about \$8.5 billion per year), property (directly, or as part of rental payments), and sales taxes. Nonetheless, about [40 percent of undocumented immigrants currently work off the books](#) and consequently pay lower taxes. Getting these undocumented workers on the books will increase both the taxes paid by these workers and the taxes paid by their employers.



IV. Responsibility of the Federal Government to Secure our Borders



“The southern border is more secure today than at any time in the past 20 years. That doesn’t mean we don’t have more work to do. We have to do that work. But our borders are just too vast for us to be able to solve the problem only with fences and border patrols. That won’t work.”

—President Obama, July 1, 2010

The Challenge

Our borders are vast and expansive. As a result, we face significant challenges in developing and maintaining the infrastructure, technology, and manpower necessary to secure them. In the last two years, the Obama Administration has made historic deployments of manpower, technology and infrastructure to help secure our Southwest border. These efforts—along with the heroic work of our Border Patrol, CBP, ICE, and other federal agents—are paying off and yielding important results.

Statistics also show that border communities are [among the safest cities in America](#). Crime rates in border communities including Nogales, Douglas, Yuma and other Arizona border towns have either remained

flat or fallen in the past decade, even as drug-related violence has dramatically increased in Mexico. In addition, according to FBI Crime Index Statistics, the top four big cities in America with the lowest rates of violent crime are all in border states—San Diego, Phoenix, El Paso, and Austin.

But despite our progress in combating transnational criminal organizations, we still have much work to do to prevent these sophisticated criminal enterprises from smuggling drugs, guns, cash, and people across our borders. Every day we are able to prevent some but not all of their efforts. Every year there are still hundreds who perish from heat and lack of water or who suffer abuse at the hands of human trafficking organizations.

Our borders are critical focal points and vibrant centers of international commerce and trade. From San Diego, CA to Brownsville, TX, the hundreds of billions of dollars of commerce crossing through the Southwest border region each year support hundreds of thousands of good jobs at the border and throughout the country. During 2010, U.S. exports of goods to Mexico totaled \$163.3 billion, an increase of 27 percent over 2009. Those exports are tied directly to American jobs.

El Paso provides an example of the economic opportunities that exist in the Southwest border region as a result of increased security. El Paso now has one of the lowest crime rates among big American cities, and the value of U.S. merchandise exports passing through its ports amounted to \$29.2 billion during 2010—48 percent higher than the previous year. We are seeing similar increases in trade in other places across the border, including at major ports near San Diego and Nogales.

We must have a true border security strategy. It's what we owe cities like El Paso. It's what we owe border communities who find themselves on the front lines of this challenge. And it's what we owe the American people.

Principles for Moving Forward

We must continue to maintain and enhance infrastructure, technology, and resources that increase border safety and security. Providing orderly entry at our borders will enhance our ability to apprehend illegal border crossers and dismantle drug trafficking and human smuggling operations.

Law enforcement must also have the tools it needs to continue effectively identifying and removing individuals who pose a threat to public safety or national security. Prosecuting those who engage in immigration fraud and swiftly identifying and removing visa overstayers and immigration violators will encourage lawful compliance with the new rules.

New ideas must be incorporated and should include tough but fair procedures to crack down on illegal border crossers, traffickers, smugglers and criminals, employers who hire illegal workers, and those who overstay their visas. Removing obsolete provisions in the criminal law that have served as barriers to prosecution and restructuring penalties and sanctions will allow for maximum deterrent effect.

We must maintain strong partnerships and cooperation with our partners in Mexico in order to work together to secure both sides of the border and reduce crime and illegal activity. This means building border enforcement teams that include federal—U.S. and Mexican—state, local, and tribal enforcement agents working together on both sides of the border to crack down on smuggling and illegal trade.

We must also reduce the incentives for people to cross the border illegally by increasing interior and workplace enforcement. In addition, reforming our legal immigration system to work more efficiently will allow people more avenues to enter the U.S. legally.

Proposals for Change

In order to meet our responsibility to secure our borders, the President supports:

- Continuing to invest in technological assets along the border, including unmanned aerial vehicles and surveillance technology programs;
- Cracking down on misuse of passports and visas to commit fraud, and significantly expanding criminal penalties associated with such offenses;
- Increasing existing penalties and sanctions, with particular emphasis paid to immigration-related criminal prosecution efforts;
- Continuing to support border relief grants to help fund state, local, and tribal agencies grappling with border issues;
- Mandating increased civil rights and civil liberties training for Border Patrol officers;
- Modifying immigration processes so that DHS can quickly remove individuals who are willing to voluntarily leave the country; and
- Addressing critical detention issues, including expanding the use of alternatives to detention programs.



V. Accountability for Businesses that Break the Law by Undermining American Workers and Exploiting Undocumented Workers



“We cannot continue just to look the other way as a significant portion of our economy operates outside the law. It breeds abuse and bad practices. It punishes employers who act responsibly and undercuts American workers.”

—President Obama, July 1, 2010

The Challenge

Creating an effective electronic employer verification system that ensures that only individuals who are legally authorized to work are hired for jobs in the United States is a critical part of building a 21st century immigration system. An effective system will allow us to hold businesses accountable for having a legal workforce and ultimately decrease the job magnet that attracts most illegal immigration.



The vast majority of employers want to comply with our immigration laws; however, many find the existing I-9 employment verification process confusing and difficult to navigate. Today, our immigration laws require employers to sift through a maze of documents and assess whether those documents are valid. Furthermore, the I-9 employment verification process has spawned a flourishing market of fraudulent documents. In fact, it is estimated that about [three-quarters of unauthorized workers](#) rely on fraudulent documents to obtain employment.

The E-Verify program, a voluntary internet-based system that compares employee information with federal records to verify a worker's identity and eligibility, helps to prevent fraud when information on these documents cannot be matched against federal databases. Despite dramatic improvements in the system's accuracy, E-Verify sometimes incorrectly identifies authorized workers as ineligible to work and fails to detect fraud since it cannot confirm whether the name and social security number actually belong to the hired worker.

Some unscrupulous employers capitalize on this uncertainty. They go through the motions of compliance without intending to obey the rules. It is difficult to hold them accountable because under the law they are not liable if their employees use realistic-looking false documents. When we are able to bring them to justice, many are willing to pay the small fines for violating the law, and some even factor it into their cost of business.

The uncertainty has also led some employers to discriminate against workers who they believe may be illegal immigrants by either not hiring them or requiring them to go above and beyond legal work authorization requirements. At best, these businesses are trying to avoid trouble; but some employers may use this confusion to deliberately discriminate against individuals. At a time when workers are

struggling to make ends meet, this hurts those immigrants who are legally able to work and American citizens who get caught up in these unlawful practices. Immigrants are mothers and fathers, sons and daughters. They are our grandfathers and were our founding fathers. They deserve the full measure of dignity and respect owed to all workers. Allowing bad actors to exploit them also undermines American workers and those businesses that are trying to play by the rules.

Employers should not have to sift through dozens of documents; they need a reliable way to verify their employees are here legally. Workers who are seeking job opportunities should not have to worry about facing discrimination during the hiring process. Most importantly, unscrupulous employers should not be permitted to break the law and must be held accountable.

Principles for Moving Forward

Successful immigration reform demands that only individuals who are legally authorized to work be hired for jobs in the United States. Effective worksite enforcement measures must result in swift action against those who hire illegal labor and exploit workers, including more stringent penalties for those who violate the law.

Employers must be equipped with reliable tools, such as mandatory electronic employment verification that builds off of the existing E-Verify system with improved fraud detection to ensure that their employees are eligible to work in the United States. Such a system will transform hiring practices for the 7.7 million employers across the country. The E-Verify program has grown significantly in the past several years, but is currently only used by 11 percent of American businesses.

The program should be phased-in to give smaller businesses the opportunity to invest in the equipment and training they need to participate. This approach will also give legal workers the opportunity to correct their records. Most importantly, this change must be accompanied by a legalization program that allows unauthorized workers to get right with the law by registering and obtaining proper documentation if they meet rigorous criteria such as undergoing background checks, including submitting fingerprints to be checked against criminal and national security databases.

Just as employers need certainty, legal workers need a clearer process for quickly addressing errors that result in their work authorization not being confirmed. Finally, a 21st century employment verification system must vigilantly work to protect against discriminatory hiring practices.

Proposals for Change

In order to hold businesses accountable that break the law by undermining American workers and exploiting undocumented workers, the President supports:

- Phasing in mandatory use of the E-Verify system over a multi-year period in conjunction with a program that requires the undocumented population to get right with the law. Employers with more than 1000 employees would be required to join the system first, with additional phases that add more employers in succeeding years. Some small businesses could be exempt from using E-Verify system;

- Establishing a standardized process for efficiently reviewing cases when the E-Verify system is unable to confirm a worker's authorization status, giving employees prompt notice of the problem and adequate time to correct their records. During this time, a worker would be allowed to continue working until federal agencies have confirmed their work eligibility or until they go through the entire administrative appeals process in cases where federal agencies have initially stated the worker is unable to work. These workers would have to the right to seek judicial review of their case;
- Revising and expanding anti-discrimination provisions of immigration law and providing more comprehensive anti-retaliation protections;
- Increasing civil penalties for employers who knowingly hire unauthorized workers, violate anti-discrimination provisions, and engage in retaliation against employees;
- Providing a "safe harbor" for employers who employ undocumented workers, if the E-Verify system inaccurately confirmed their work authorization;
- Improving administration and coordination between the Social Security Administration (SSA) and DHS, the two federal agencies managing the E-Verify system;
- Providing clearer criminal provisions and more comprehensive penalties for fraudulent use or acquisition of a Social Security card;
- Continuing to improve Social Security cards to make them fraud or wear-resistant. SSA would need sufficient resources and time to prepare for a multi-year phased-in approach given the additional work caused by expansion of the program. Additionally, any changes should not be paid for by drawing from SSA trust or benefit funds; and
- Piloting the development of a biometric identifier that could be potentially used for employment verification in the future.



VI . Strengthening Our Economic Competitiveness by Creating a Legal Immigration System that Reflects Our Values and Meets Our Diverse Needs



“We need an immigration policy that works—a policy that meets the needs of families and businesses while honoring our tradition as a nation of immigrants and a nation of laws. We need it for the sake of our economy, we need it for our security, and we need it for our future.”

—President Obama, September 15, 2010

The Challenge

Throughout our history the United States has been enriched by a steady stream of hardworking and talented people from all over the world. These generations of immigrants with unique and important skills have helped make America the engine of the global economy. Yet our existing policies provide

limited avenues for talented and industrious individuals to work and reside in the U.S. For example, each year, we provide approximately 400,000 visas to foreign-born students seeking to enroll in U.S. colleges and universities, but then force them to leave the country to compete against us when they graduate. In addition, it is difficult for talented entrepreneurs who wish to start companies and create jobs in the U.S. to enter and remain in the country.

Moreover, every year, [some 65,000 high school students](#)—many who are star students and leaders in their communities—are unable to go to college or join the military because they do not have legal status. It makes no sense to punish innocent young people for the actions of their parents by expelling them from our country. Many were brought here as young children and only discovered the truth about their legal status as adults. They grew up as Americans. They pledge allegiance to our flag. If they are trying to serve in our military or earn a degree, they are contributing to our future. We should welcome their contributions.

Today, there are very limited employment visas available to foreign workers needed in some vocations where there are not U.S. workers available. With so few legal channels, the current employment visa system virtually guarantees an illegal flow of undocumented workers. Both American and immigrant workers suffer from this broken system. For example, too many of our nation's farmers are not sure they will have enough farmworkers to harvest their next crop. If American agriculture lost access to adequate farm labor, it could [cost the industry](#) as much as \$9 billion each year. Given the increasing uncertainty of their workforce, some American producers are closing their farms and opening up operations abroad. Farmers and other employers need a system that will reward them for playing by the rules, not punish them for it. Family unity has always been a fundamental cornerstone of America's immigration policy, yet current immigration laws undermine this cherished value. Because of outdated family-based immigration policies, American citizens and legal permanent residents must wait years to be reunited with their closest family members. The gaps in our family-based immigration visa system are clear and apparent; they hamper the successes of immigrant families. Our laws must respect families following the rules instead of splitting them apart. Crucial reforms are needed to reunify families, streamline our processes and reduce the unnecessary paperwork, backlogs, and lack of transparency that hobble our current system.

There are also limited means for successful foreign high-skilled workers to stay permanently and fully integrate into the U.S. as legal permanent residents, and eventually citizens. Recent research highlights that in the 1990s alone, skilled immigrants [helped boost GDP](#) by between 1.4 percent and 2.4 percent. We should allow these workers to stay and contribute to our economy.

Principles for Moving Forward

We must make changes to our legal immigration system to meet our diverse needs. We should be encouraging top foreign talent in priority fields to stay in the U.S. after their post-graduate study at American universities by allowing select graduate students to obtain a green card so they can contribute to the American economy, and become Americans over time, rather than compete against us. We must also stop punishing innocent young people for the actions of their parents by denying them the chance to contribute their talents to build the country where they have grown up. The DREAM Act gives some of

our nation's best and brightest students a chance to earn their legal status if they meet certain requirements, such as pursuing higher education or serving in the military. It should become the law of the land.

We should make it easier for the best and the brightest to come to the United States to start companies and create jobs by providing a visa for immigrant entrepreneurs. These foreign-born entrepreneurs would be eligible for a visa if a qualified U.S. investor invests in their start-up company and eligible for a permanent green card if their company creates jobs and generates additional investment or revenue. Further, by addressing the backlogs in the employment based immigration system and reforming country caps, we can better enable immigrants to contribute to our future growth and competitiveness. Other critical reforms include targeted administrative actions to streamline access to visas for companies and expanding opportunities for entrepreneurs and talented workers.

Our other employment visa programs must also be reformed so they will contribute to the vitality of our economy. We must design a better system that provides legal channels for U.S. employers to hire needed foreign workers. At the same time, this system must protect the wages and working conditions of U.S. workers. Employers must be required to pay foreign workers fair wages and abide by our labor, health, and safety laws, and only use them when U.S. workers are not available. Both native-born and foreign workers deserve to compete on a level playing field so that they do not undermine local economies and American workers. All workers deserve the right to work with dignity under the full protection of our labor laws.

One case in point is the agricultural sector. We need to reform our current agriculture worker program by passing and implementing the AgJOBS Act, which would provide farms a legal way to hire the workers they rely on and a path for those workers to earn legal status.

And finally, we must reform our family-based immigration system to reunite families in a timely and humane manner that is consistent with our treasured values.

Proposals for Change

To strengthen our economic competitiveness and create a legal immigration system that meets our diverse needs, the President supports:

- Encouraging foreign students to stay in the U.S. and contribute to our economy by stapling a green card to the diplomas of science, technology, engineering and mathematics (STEM), PhDs and select STEM Masters Degrees students so that they will stay, contribute to the American economy, and become Americans over time;
- Passing targeted legislation, like the DREAM Act, that will allow the best and brightest young people who were brought to the U.S. as minors through no fault of their own and who know no other home, to earn a legal status after a rigorous and lengthy process that includes serving in the U.S. armed forces or pursuing a higher education for at least two years;
- Creating a Start-Up Visa that would allow foreign entrepreneurs who receive financing from U.S. investors to come to the U.S. to start their businesses, and remain permanently if their companies create jobs for American workers and generate revenue;

- Making reforms to the existing employment- and family-based immigration system, including exempting immediate relatives of U.S. citizens from annual caps placed on legal immigration, and changing the categories and per country caps put in place to ensure successful high-skilled immigrants are able to remain in the U.S. permanently and U.S. citizens and legal permanent residents are able to reunite with their families more quickly;
- Making changes to the H-2A temporary agriculture worker program that carefully balances the needs of businesses and worker rights, which are encompassed in the AgJOBS bill;
- Strengthening the H-1B visa program to fill the need for high-skilled workers when American employees are not available, increase worker protections, and improve enforcement mechanisms, among other changes; and
- Establishing a new, small, and targeted temporary worker program for lower skilled, non-seasonal, non-agricultural workers to be hired when no American worker is available. Employers will have to go through a rigorous process to demonstrate their needs and workers would be afforded important labor protections, portability, and the ability to seek permanent residence. The program would need to have an initial annual limit.



VII. Responsibility from People who are Living in the United States Illegally



“People who are in America illegally have a responsibility—to pay their back taxes and admit responsibility for breaking the law, pay a penalty, learn English, pass criminal background checks, and get right with the law—or face removal—before they can get in line and eventually earn their citizenship.”

—President Obama, April 23, 2010

The Challenge

Our national security and economic prosperity depend on knowing who resides in our country and creating opportunities for them to join the legal economy. If millions of people lack legal status, all our other enforcement efforts will be undermined.

Today, there are an estimated [10.8 million](#) people living in the U.S. with no legal status. The overwhelming majority of these men and women are simply seeking a better life for themselves and their children.

They work hard, they save, and they stay out of trouble. But because they live in the shadows, they're vulnerable to unscrupulous businesses that pay them less than the minimum wage or violate worker safety rules. This puts companies who follow those rules—and American workers who rightly demand the minimum wage or overtime pay—at an unfair disadvantage.

These vulnerable immigrants are also more susceptible to crime, and often fail to report crimes committed against them or others for fear that coming forward will lead to their deportation. This makes it harder for law enforcement officials to catch and punish violent criminals and keep neighborhoods safe. Moreover, about 40 percent of undocumented immigrants currently work off the books and consequently pay lower taxes. Billions of dollars in tax revenue are lost each year because many undocumented workers are paid under the table.

Principles for Moving Forward

Fixing our broken immigration system requires that we hold those living here illegally responsible for their actions. They must be required to register and undergo national security and criminal background checks. They must also pay their taxes, pay a fine, and fully integrate into the United States by learning English.

They must get right with the law before they can get in line and earn their citizenship—not just because it is fair, not just because it will make clear to those who might wish to come to America they must do so inside the bounds of the law, but because this is how we demonstrate what being an American means. Being a citizen of this country comes not only with rights but also with certain fundamental responsibilities. We can create a pathway for legal status that is fair, reflective of our values, and works.

Proposals for Change

In order to hold accountable people who are living in the United States illegally, the President supports the establishment of a legalization program that includes the following:

- Requiring illegal immigrants to register and submit to rigorous security check and verification of eligibility, including submitting their fingerprints for criminal and national security background checks;
- Individuals convicted of crimes or otherwise deemed to be national security threats would not be eligible to continue in the process;
- Individuals will be required to pay a registration fee and a series of fines;
- In order to move forward, individuals will have to learn English and basic American civics and demonstrate that they paid any back taxes;
- After eight years, individuals will be allowed to become legal permanent residents, and could eventually become citizens five years after this;
- Applicants currently waiting outside the country to become legal permanent residents, as is legally required, would be eligible to receive their visas before individuals in the legalization program could apply for permanent residence. That is, illegal immigrants who complete all the requirements of the legalization program will have to go to the back of the line.



VIII. Call to Action

“Our task then is to make our national laws actually work—to shape a system that reflects our values as a nation of laws and a nation of immigrants. And that means being honest about the problem, and getting past the false debates that divide the country rather than bring it together.”

Winning the future demands that our economy be built on an immigration system that works for our 21st century economic and security needs. We need meaningful immigration reform that demands responsibility and accountability from the government, businesses, and immigrants themselves.

The President has reiterated his deep commitment to building a 21st century immigration system. He has called on Democrats and Republicans to come together and pass the reforms necessary for our national security and our global competitiveness. He has announced that the Administration will be meeting with diverse leaders across the country to talk about the importance of this issue if we are going to out educate, out innovate and out build the rest of the world. But the Administration’s voice is not enough.

The President called on all Americans to work together to foster a constructive national conversation on immigration reform that builds a bipartisan consensus and leads to legislative reform. Today, the Administration launched this call to action and announced a series of events that will be taking place around the country that bring together Administration officials and leaders from business, faith, labor, law enforcement, and immigrant communities:

- **May 11:** Business, labor, law enforcement, and faith leaders join Senior Administration officials for a conference call to recap the President’s speech and next steps.
- **May 12:** Business leaders join U.S. Chief Technology Officer Aneesh Chopra and Administration officials in Omaha, Nebraska for a roundtable community conversation.
- **May 12:** Steve Case, Founder and former CEO of AOL and chair of the Startup America Partnership joins Senior Administration officials in a community conversation in Silicon Valley.
- **May 19:** Asian American and Pacific Islander (AAPI) leaders join Secretary Solis on a national conference call.
- **May 31:** The Albuquerque Hispano Chamber of Commerce hosts a roundtable with Secretary of Labor Hilda Solis in Albuquerque, New Mexico.

We encourage you, as community leaders, business leaders, faith leaders, and law enforcement officials, to take action and join this conversation. Elevate the debate and share your story about why we need to fix the broken immigration system for the 21st century economy. Please visit: www.whitehouse.gov/immigrationaction to learn more.

