

WebMemo



Published by The Heritage Foundation

No. 3455
January 10, 2012

Administrative Reforms Insufficient to Address Flawed White House Immigration and Border Security Policies

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Despite the announcement of reasonable administrative reforms, the Obama Administration continues to pursue a deeply flawed approach to solving America's immigration challenges. Its repeated attempts to deal with illegal immigrants here before securing the border, strengthening interior enforcement actions, and reforming the visa system remain counterproductive.

A Reasonable Act

The latest Administration policy announcement would streamline the wait for those unlawfully present in the United States—with family members here who are U.S. citizens—who have identified themselves to authorities and plan to leave the United States and reenter on a proper visa. The new proposal would let qualifying individuals apply for a provisional waiver in the U.S. before going to their countries for the visa.

The waiver offers a reasonable assurance that individuals would receive a visa in a timely manner, minimizing the amount of time families are separated. Under current law, these individuals would likely qualify for a visa to reenter the United States. This change is a reasonable and compassionate administrative reform to speed up a process that was always intended as a means to keep families together.

In addressing the needs of this unique subset of individuals who are unlawfully present, this change demonstrates that proposals for sweeping amnesty

are unnecessary and inappropriate. The U.S. should instead be crafting policies and strategies to deal appropriately with each segment of the unlawful population. The U.S. should, for example, be piloting more effective temporary worker programs that offer an alternative to illegal migrant labor.

Where the White House Is Wrong

The problem with this policy is that the White House has sold it as another down payment for amnesty and has failed to address immigration and border security in an effective manner in concert with Congress.

A general amnesty would cost billions to implement, subvert confidence in the enforcement of U.S. laws, encourage another wave of illegal immigration, and be a slap in the face of those immigrants who have played by the rules. The Obama Administration should work with Congress to develop a responsible reform package that fixes what is broken while restoring the credibility of the rule of law. The White House has done anything but that.

This paper, in its entirety, can be found at:
<http://report.heritage.org/wm3455>

Produced by the Douglas and Sarah Allison
Center for Foreign Policy Studies

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From its beginning, the Obama Administration has taken a unilateral stance on illegal immigration. It believes it can do whatever it wants to do to provide de facto amnesty without congressional consent. This belief first came to light with Homeland Security Secretary Janet Napolitano's decision in February 2009 to provide work visas to illegal immigrants arrested in a worksite raid in Bellingham, Washington, in return for prosecutorial cooperation.

Soon, the Department of Homeland Security (DHS) announced that it would no longer focus on worksite raids. Instead, it would conduct paper audits that would merely result in illegal immigrants being terminated from jobs but still remaining in America without any consequences.

Then the Obama Administration began its legal assault on state and local actions to curb illegal immigration. This legal assault occurred jointly with its weakening of the popular 287(g) program that allowed states and localities to enforce federal immigration law, as well as its movement toward the now-mandatory Secure Communities program that focuses more narrowly on illegal immigrants who have committed serious felonies.

More recently, DHS announced that it would cease deportation hearings for certain illegal immigrants and initiated a review of all pending cases with the aim of finding loopholes for as many illegal immigrants as possible that would allow those individuals to remain in the United States.

Just yesterday, the Obama Administration extended the temporary protected status of roughly 215,000 illegal immigrants from El Salvador due to that country's alleged inability to deal with the returning citizens because of earthquakes—in 2001! These actions, as well as other unilateral moves, do little to fix the immigration system and tend to exacerbate the tensions in communities across America. Such disregard for congressional involvement also makes it much more difficult to pass broad reforms.

Time to Get Smart on Immigration Reform

With the economy weak and the job market stagnant, there is no better time to fix our immigration system than now. Working with Congress, the Obama Administration should focus on the following key items:

Secure the border. The number of illegal border crossings has dropped due to a lack of jobs, but the flow will increase once the economy begins to show sustained strength. Our border is not secure. We need a responsible package of security measures and more effective cooperation with Mexico. We must act now to secure our border before the economy and lack of enforcement create incentives for more foreigners to cross illegally.

Reinvigorate interior enforcement actions. The number of illegal immigrants in the U.S. has come down a bit, but more can be done at all levels of government to identify and deport illegal immigrants and further encourage those who are here to return to their own countries voluntarily. Instead of attacking states and localities that disproportionately bear the cost of the failed immigration system, the federal government should support efforts to bring down the presence of and attendant costs associated with large illegal immigrant populations. To do its part properly, the federal government must stop spending resources to obviate the laws and take seriously its obligation to execute the laws that Congress has enacted.

Leverage effective deportation programs. Streamlining the deportation process to bring costs down and facilitate the deportation of illegal immigrants is vital. There simply will never be enough funding to build large deportation facilities to house those awaiting deportation, especially given how long it takes for individuals to get through the system. The federal government must leverage proven programs such as the Intensive Supervision Appearance Program (ISAP). For a fraction of the costs of

holding individuals in deportation centers, ISAP steers individuals through deportation proceedings and electronically monitors them to ensure that they leave the country when ordered. More should be done to identify the proper candidates for ISAP-like programs so that the number of absconders remains low. Other commonsense programs should be analyzed and, if effective, expanded.

Reform the visa system. Finally, despite the weak job market, thousands of technology jobs remain vacant due to the lack of qualified Americans and a visa system that limits foreign workers from coming legally or graduating foreigners from staying. America wants and needs the world's best and brightest to work for us, not against us. In an increasingly competitive global market, America's ability to remain a technology leader depends on

attracting the highest-qualified workers. We need to make it easier for those workers to come and experience the American Dream.

Reforms Are Overdue

It certainly will not get easier to fix America's immigration system when the economy is stronger and the job market again attracts risk takers from all over the world. The solutions identified above and in other Heritage Foundation reports should not be controversial. It is time to get past the endless political grandstanding and put a few key reforms in place.

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