

Another Wave of H-1Bs on the Way

With visas set to max out quickly again, tech companies want more. Amid rising joblessness, does America need more skilled foreign workers?

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U.S. unemployment may be a concern, but tech companies are telling Congress they need more skilled workers from overseas. With the Apr. 1 application deadline for H-1B specialty worker visas looming, tech giants like Microsoft (MSFT), Oracle (ORCL), and Google (GOOG) are stepping up efforts to raise the cap on the number of visa workers they can have access to each year. Microsoft's Bill Gates argued in Congress [BusinessWeek.com, 3/12/08] for the second straight year that there's a severe shortfall in U.S. science and engineering talent, and predicted that for the fifth straight year the cap for worker visas would be reached in only one day. Days later, bills to aggressively raise the visa cap reached the House floor.

With concerns about a recession growing, the call for more visas has provoked an outcry from U.S. tech worker advocate groups and other longstanding critics of the H-1B program. They say issuing more visas would dampen U.S. workers' wages by bringing in cheaper workers, and facilitate outsourcing as trained workers return to their home countries [BusinessWeek.com, 2/8/08]. Moreover, critics say boosting visa numbers without issuing more green cards for permanent residency will only lengthen the years-long queue for visa workers already here [BusinessWeek.com, 7/18/07].

"The new bills would be an open holiday for firms to exploit the loopholes in the H-1B program," said Ron Hira, assistant professor of public policy at Rochester [N.Y.] Institute of Technology. "[A cap] increase without reform would further undercut American workers' wages, speed the transfer of work overseas, and swell the green-card backlog."

Bipartisan Support -- For and Against

It's the latest flareup in a long and bitter debate about the H-1B visa program. Since proposals for comprehensive immigration changes died in the Senate last June, advocates for more visas have been looking for ways to separate the H-1B issue from the more contentious debate over the nation's approximately 12 million undocumented workers. Proponents have managed to win bipartisan support for expanding the visa program -- notably from Rep. Zoe Lofgren [D-Calif.], chair of the House subcommittee on immigration, and Rep. Lamar Smith [R-Tex.] -- but any immigration legislation remains a hot-button issue. U.S. tech worker advocate groups -- as well as Senator Chuck

Grassley [R-Iowa] and Senator Richard Durbin [D-Ill.] -- argue that an economic downturn is a bad time to call for more work visas.

But tech executives say the faltering economy creates the need for more, not fewer, H-1B visas. Without access to more workers in the global labor pool, U.S. companies will be less competitive. "We live in an economy that depends on the ability of innovative companies to attract and retain the very best talent, regardless of nationality or citizenship," Gates told the U.S. House Committee on Science and Technology on Mar. 12. "[But] the U.S. immigration system makes it hard to attract and retain high-skilled immigrants." Gates added that if U.S. firms aren't able to secure more visas in the U.S., they will have to look at opportunities in countries with more favorable visa programs, such as Canada [BusinessWeek.com, 3/12/08].

Days after Gates testified, two new bills to raise the cap reached the House floor. Rep. Gabrielle Giffords' [D-Ariz.] Innovation Employment Act [H.R. 5630] would double the annual H-1B visa cap to 130,000. A second bill, the SUSTAIN Act [Strengthening United States Technology And INnovation Act], sponsored by Rep. Smith, would triple the H-1B cap in 2008 and 2009, to 195,000. A third bill, the New American Innovators Act, proposes to lift the separate 20,000 cap on visas for applicants that have earned U.S. graduate degrees, exempting them from any limit.

Growing Green-Card Queues

Critics point to a number of potential problems with raising the H-1B cap. For one, making more H-1B visas available without doing the same for green cards will only add to the number of visa holders currently waiting for permanent residence. The queue for green cards is swelling into the hundreds of thousands because only 9,800 green cards are allotted to each country each year. Tens of thousands of H-1B visa holders from countries including India and China are left waiting for years in a legal limbo that limits their ability to change employers or get a promotion.

Still, some immigrant advocates are willing to back legislation calling only for an H-1B visa increase. Aman Kapoor, president of the skilled immigrant advocate group Immigration Voice, says, "We're behind any bill that can move and can be a vehicle for our issues."

Outsourcing Worries

Another problem with raising the visa cap without reform, say critics, is that the H-1B program remains open to abuse. RIT professor Hira, for example, says employers often pay visa workers below-market wages, dragging down wages for U.S. tech workers. Department of Labor investigations have also uncovered the underpayment of some visa workers [BusinessWeek, 1/31/08]. None of the bills proposing to raise the cap would strengthen rules to ensure visa workers are paid fair market wages.

In addition, there is concern that the companies benefiting from more H-1B visas [BusinessWeek, 3/6/08] would be not only U.S. tech firms like Microsoft but, increasingly, Indian outsourcing firms like Infosys (INFY) and Wipro (WIT). Data just released by the federal government show that Indian outsourcers accounted for nearly 80% of the visa petitions approved in 2007 for the top 10 participants in the program. U.S. tech worker advocates say these companies allow low-level tech workers from other countries to train in the U.S. and help create a pool of cheaper labor when they return home, facilitating outsourcing.

"Raising the cap would be a boon for Indian bodyshops," says Kim Berry, president of the Programmers Guild. "These firms produce nothing of value while they undercut U.S. wages," he adds. "They are corrupting the supply and demand of the tech labor market and dissuading future generations from entering the field. An apparent quick fix will cause long-term consequences."

The H-1B debate will continue in the coming months, with Senators Durbin and Grassley pressing U.S. companies and Indian outsourcing firms to answer to the program's critics. As the heat turns up on both sides -- and as the economy possibly sinks into a recession -- it's unlikely to be a quiet battle.