Lottery Used to Narrow Work Visa Petitions

By JULIA PRESTON

Swamped by petitions for work visas from highly educated or skilled foreigners, immigration authorities have conducted a lottery for the first time to determine which ones will be considered, federal officials announced yesterday.

A computer randomly selected 65,000 petitions from among the 123,480 that had passed a preliminary check for eligibility, said Shawn Saucier, a spokesman for the United States Citizenship and Immigration Services, the agency that oversees the visas.

The lottery, conducted Thursday, brought cries of pain from technology companies and immigration lawyers around the country. They lamented the limit that Congress has imposed on the high-skilled visas, known as H-1B, and the luck-of-the-draw method to make the cut.

"The people we need to contribute to our innovation economy are being subjected to a perverse form of 'Wheel of Fortune,' " said Robert Hoffman, vice president for government and public affairs at the Oracle Corporation, the information software giant based in Redwood Shores, Calif.

The immigration authorities resorted to the lottery after the annual ceiling for the visas was exceeded by the cascade of petitions it received on April 2, the first day of the application period. In all, the agency received 133,000 packages with visa petitions on April 2 and 3, more than double the 65,000 high-skilled visas that are available for the year beginning Oct. 1.

For the past three years, petitions for the visas have far exceeded the cap. But this year was the first time that the cap was surpassed on the first day, triggering the lottery, according to the agency's regulations.

The H-1B visas are three-year work visas for immigrants who have at least a bachelor's degree, either from an American or a foreign university. Immigrants seeking the visas generally are young adults who are software and computer engineers, construction engineers, doctors and nurses, mathematicians and scientists.

In 2005, the last year for which figures are available, about 40 percent of the visas went to immigrants from India. About 54 percent of the immigrants who received the visas that year had a master's degree, a doctorate or a professional degree. High-skilled visa holders can extend for another three years before they must return home. They can also apply to become permanent residents.

With about half of this year's applicants eliminated in the lottery, thousands of immigrants waiting overseas for jobs and foreign students graduating from American colleges have been left in limbo.

"Many members of the Class of 2007 effectively received deportation orders and lost their post-graduation jobs last week," said an April 9 editorial in The Harvard Crimson, the student newspaper. Harvard seniors would not be able to apply for this year's high-skilled visas until after they graduated in June.

For three years after 2001, the visa limit was raised by Congress to 195,000. It reverted to the 65,000 in 2003. The immigration agency is still accepting petitions for H-1B visas from those with advanced degrees from American universities, who do not fall under the limit of 65,000.

Some critics of the visas argue that American companies use them to hire foreign software programmers with unexceptional skills who may be willing to work for lower wages than Americans.

"If you wanted to find a labor shortage, you would look at the data and ask if there has been dramatic wage growth among those workers," said Steven Camarota, research director at the Center for Immigration Studies, which favors curbing immigration. "We just don't find evidence that wages are rising."

Corporate executives and lawyers said that employers seeking visas for immigrants must demonstrate to the Department of Labor that no American workers are available.

"There are penalties, and the Department of Labor really is enforcing these rules," said Angelo A. Paparelli, an immigration lawyer. "So where's the harm?"

Several lawyers warned that businesses that could not hire skilled foreign employees might move abroad.

Mr. Hoffman said Oracle hired 100 to 125 new H-1B visa workers each year, mainly software engineers, many of them foreign graduates of engineering programs in American colleges. "The competition for this talent is global," he said.

Mr. Saucier said Citizenship and Immigration Services would review the petitions to decide whether the applicants who survived the lottery met the requirements for approval.