

B-1 visa holders in demand on job portals

New Delhi, June 23 -- If offers on job portals such as www.naukri.com are an indication, then it is evident that companies are making specific job pitches to software personnel holding B-1 visas.

They require employees who already have B-1 visas to travel to the US on an "urgent basis". Many of the job postings for code writers and software engineers contain phrases like "stamped H-1B or a B-1 visa is must" and "candidates with valid B-1 visa will only be considered".

For instance, US Tech Solutions has more than 40 listings for jobs in the US on some leading job sites. One listing carries the title, "Multiple Java Positions for US-Should have stamped B-1 or H-1B visa." The advertisement elaborates: "We are looking for three senior net developers to work onsite for our financial client project. The resources will work from our office in Jersey city... This is a permanent opportunity to work in US."

The company advertises itself as a "Gold Certified Partner" to International Business Machines Corp. (IBM) and Microsoft Corp. on its website, and lists some American state governments and a number of large non-profits among its clients.

In an email reply, US Tech Solutions said the ads were posted by "offshore recruiters rather than US Tech Solutions", and that "at the present time US Tech Solutions does not have any outsourced client projects in India".

Hitesh Oberoi, chief operating officer of Info Edge India Ltd, which owns Naukri.com, said the job site is not aware about how candidates who fit the job and visa requirements will be employed by such companies.

Fidelity National Information Services Inc., which counts top banking, finance and insurance companies and several US state governments among its clients, has listed job ads for Net C# professionals adding that it "prefer(s) B-1 Visa holders". The company's ad also mentions "onsite travel of 3-5 months". A spokesperson for Fidelity, headquartered in Jacksonville, US, declined comment.

Another ad posted on SpanJobs.com looking for a consultant to work on Oracle software doesn't name the company, but claims its client is "one of the top 5 Indian IT major with revenues over \$5 billion". Applicant requirements elaborate that "H-1B visa or GC holders will fill with roles in the USA.

Candidates with B-1 visas can also apply."

A call to Fidelity National Information Services asking why their job posting required a B-1 visa elicited the following response: "Employee may have to travel to the US to do coding and implementation for the client; that's why a B-1 visa is important. The employee will work out of our offices in the US."

Donna Conroy, founder of Chicago-based Bright Future Jobs, a lobbying group dedicated to "counter claims that Americans can't cut it in science and technology", has gotten the attention of US senator Dick Durbin-who included a prohibition against such ads in bipartisan legislation to reform H-1B and L-1 visas he introduced with senator Chuck Grassley in 2009-and the department of justice with such job postings. "It's an open secret in the US tech industry that companies are using these visas to avoid hiring Americans," he has said.

During a recent interview, Mint showed some of these job ads to James Herman, minister counsellor for consular affairs at the US embassy in New Delhi, and he said he "believes something like this is happening for many companies; it's just because they don't know the limits, and a lot of the workers also just don't know." But he added that the scrutiny in such cases is very high. "In cases where somebody's just been recently hired by a company, we would have a lot of questions about why they were hired, what they were going to do in the States. And our refusal rates for things like this are much higher."

Despite how incriminating such ads may appear, Stephen Yale-Loehr, an immigration law professor at Cornell Law School who reviewed some of the advertisements, says that although some "looked suspicious" they did not necessarily indicate that applicants would be doing work that was prohibited on the visa. B-1 visa regulations are vague and often difficult for companies and immigration officials to interpret, he says.

"It is difficult even for immigration lawyers to know the proper parameters of a B-1 visa holder," he says. According to Yale-Loehr, US business visa regulations outline that foreign nationals on B-1 visas should fit certain parameters: they should be paid by the overseas company, not by the US company; their activities have to be incidental to work that will be primarily performed outside of the US; and they cannot displace a US worker. "But what that means in actuality can

be hard to determine," he says. "The two ends of the spectrum are clear, but there's a large gray area in the middle."