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Visa Demand Jumps

Employers Set to Quickly Reach Cap on Skilled Foreign Workers

By MIRIAM JORDAN

For the first time since the financial crisis, U.S. employers are expected within days to reach a limit on the yearly allotment of applications for coveted skilled-worker visas, a sign of the strengthening economy that means some employers will rely on a lottery to fill key positions.

U.S. companies each year can sponsor a total of 65,000 foreigners with at least a bachelor's degree for a so-called H-1B visa, many of which go to programmers and other specialized workers. The program allocates an additional 20,000 visas each year to foreign nationals with advanced degrees from U.S. universities.

Government and company officials predict employers by Friday will exhaust the quota for this year's application season, which opened Monday for jobs starting in October or later. If that happens, the U.S. Citizenship and Immigration Services, the agency that runs the program, will randomly select applications that will then be considered for visas if any applications received before the cap are rejected.

The last time employers reached the congressionally mandated limit in less than a week was 2008. In subsequent years, the weak economy left thousands of H-1B spots unfilled until later in the season. Demand for the program has increased in the past two years as companies accelerated hiring overall.

The rising demand comes as the Senate moves closer to a broad immigration bill that would, among other things, revamp a series of work-visa programs. Last week, the AFL-CIO and U.S. Chamber of Commerce agreed on a new low-wage-visa program, a major breakthrough in talks. The Senate bill also includes a proposal to increase the number of H-1B visas granted each year. Companies apply for an H-1B with a job candidate in mind, a process that typically involves immigration attorneys and several thousand dollars per petition. The H-1Bs are granted for three years but can be renewed for a total of six years.

Mark Koestler, co-chairman of the business-immigration practice at Kramer Levin in New York, said the law firm is handling three times as many applications for H-1Bs as a year ago and more than before the recession.

"There is a dramatic upswing in hiring professionals at a high level," said the attorney, whose clients include media, banking and insurance companies. "This is a bellwether for the economy."

There is a misconception that the visas are used only by technology giants such as Microsoft Corp., MSFT +0.54%he said. In fact, many small companies also use them widely.

The lottery concerns employers like Pocket Gems Inc., a San Francisco mobile-games company that relies heavily on the visas. About 30 of its 150 employees hold the visas, including nationals of Brazil, Kenya, India, Indonesia and Russia. Among them are graduates of Stanford and Harvard universities.

The company said it filed several applications Monday for high-tech professionals.

"Having the talent can be the difference between success and failure," said Ben Liu, Pocket Gems' chief executive. "We made sure we were ready as soon as the window opened" for filing applications.

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U.S. high-tech companies for years have called on Congress to increase the cap on visas for skilled foreigners. Facebook Inc. Chief Executive Mark Zuckerberg is co-founding a political-advocacy group composed of technology leaders to push for federal immigration changes, among other issues.

But some critics of the visa program say it displaces qualified Americans and that companies hire foreign workers because they command lower salaries and fewer benefits than Americans.

Many H-1Bs are issued to offshore outsourcing companies, many of them from India, which critics say have a business model based on sending foreign workers to the U.S. to learn jobs and then moving them overseas.

"They are not using the visa to bring in the best and the brightest," said Daniel Costa, an immigration-policy analyst at the left-leaning Economic Policy Institute.

A 2011 Government Accountability Office report said the program lacks enough controls to ensure employers are abiding by the rules and that many H-1B visa holders earn less than local workers in comparable jobs.

"There is always going to be a huge demand for workers who can be legally underpaid compared to similarly situated American workers," Mr. Costa said. Thus, he said the speed at which the quota is being exhausted doesn't necessarily reflect true demand for workers.

Sen. Chuck Grassley (R., Iowa) last month introduced a measure designed to ensure American workers aren't harmed by visas like the H-1B. "The program was never meant to replace qualified American workers, but it was instead intended as a means to fill gaps in highly specialized areas of employment," he said in a statement.

Companies that use H-1B visas argue the market, rather than Congress, should dictate the number of visas issued. They also say they are hiring Americans for jobs but that the U.S. isn't producing enough professionals in science, technology, engineering or mathematics to spur innovation and growth.

Among companies lobbying Congress for more H-1B visas is Intel Corp. The company, which does three-quarters of its manufacturing, and research and development in the U.S., said it is bracing for the lottery. "We have needs for very specific skills," Intel spokeswoman Lisa Malloy said. "If you increase visas you are not displacing U.S. workers. We only hire individuals on a visa when there is an identified skill shortage." She said the majority of foreigners the company seeks to hire are already in the U.S. with advanced degrees from U.S. universities.

Doug Oberhelman, chief executive of Caterpillar Inc., CAT -0.22% called Monday on the government to issue more H-1Bs. He said that "gaps in our workforce" undermine the Peoria, Ill., heavy-equipment maker. "There are more than 100 Chinese companies looking to be the next Caterpillar," he said. "The number of H-1B visas is capped each year without regard to current market demand."

At a Duke University conference last week, a senior International Business Machines Corp. IBM +0.66% official said the company fills many important positions with foreign graduates of U.S. universities. Still, IBM struggles to secure visas for all the workers it requires, said Nicole Hedrick, global immigration chief. "We have all these positions we cannot fill," she said.

Amrita Mahale, who earned a master's in engineering from Stanford, is among employees on an H-1B visa at Pocket Gems, the California game company. The 28-year-old from India uses advanced analytics to develop the marketing budget and also helps the firm build features to attract users to its apps.

"I want to work on what's exciting," said Ms. Mahale, who hopes to remain in the U.S. "For now, I am very happy being here."

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