

Want to Move a Worker to the U.S.? Good Luck

By [Elizabeth Dwoskin](#) on June 14, 2012

As director of Oracle's ([ORCL](#)) U.S. immigration program, Denise Rahmani arranges work papers for foreign employees the company wants to bring to the U.S. Last year, she says, the federal government denied 38 percent of Oracle's visa requests. "It used to be almost none of them got rejected," Rahmani says. Today, "it feels like the roll of the dice every time."

U.S. companies have griped for years about how hard it is to hire high-tech workers from abroad under the government's H1-B visa program. Now, they're upset with the Obama administration about the difficulty of getting visas for foreign workers already on their payrolls who are needed for key projects in the U.S. So intense is their frustration that Oracle, Microsoft ([MSFT](#)), Starwood Hotels ([HOT](#)), and some 50 other companies warned President Obama in a March letter that "American job growth and the U.S. economy are being harmed."

At issue are the L1-B visas used for transferring workers with "specialized knowledge," as defined by a 1970 federal immigration law. Getting these permits used to be routine: From 2003 through 2007, an average of about 8 percent of company requests were denied by the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). In 2008 the rejection rate tripled. Last year it hit 27 percent.

Corporations complain that Washington is inundating them with requests for more information about a foreign employee's expertise and then making seemingly arbitrary decisions. Rahmani says the administration denied one Oracle worker's request to extend his stay because he didn't know enough about one type of software—even though he'd written its training manual. Immigration officials are "suggesting that the workers are interchangeable," she says. "They don't seem qualified to judge and assess what we deem as the right resource to do a job or deliver a project."

The government's own manpower issues are partly to blame. The USCIS only has about 250 case workers to inspect the 423,000 petitions filed annually for all types of temporary work papers, including approximately 20,000 L1-B applications. The agency says workers sometimes resort to searching the Internet to figure out how specialized a field is and whether U.S. workers might be available to do the job. (After USCIS gives its OK, applicants have to pass a State Department interview.)

USCIS Director Alejandro Mayorkas says the criticism that his office is inconsistent in its decision-making is "in part warranted," and that he's working to fix the problem. Still, companies can't just "transfer without limitations," he says. Workers on L1-Bs can come to the U.S. for up to five years, bring their families, and even apply for a green card.

There's also no condition that companies pay L1-B workers a wage that's competitive with what a U.S. worker would make, as is the case with the H1-B, which applies to highly skilled new hires from abroad. The government only issues 85,000 of those visas a year. Some companies that lose out try their luck with the L1-B, which has no cap. "We are concerned that the L1-B program is harming American workers because some employers ... use L1-B visas to evade the restrictions on the H1-B program," Illinois Senator Dick Durbin, a Democrat, and Iowa Senator Chuck Grassley, a Republican, wrote to Mayorkas this year.

Brian Johnson, a lawyer for Castor Aviation, a New Zealand company that operates a helicopter maintenance business in Wasilla, Alaska, says his client applied for three types of visas for its president, an expert in helicopters that fly in harsh climates. "They've tried each different visa category that could be appropriate," Johnson says, to no avail. "They're doing everything to keep the company alive."

TWMA, a Scottish company whose Houston-based subsidiary handles waste for the natural gas and oil industries, says it's ready to hire 200 to 300 more Americans this year—if Washington approves work papers for six foreign engineers needed to train the U.S. staff. "You can't just hire a lot of people who don't know what the hell they're doing," says TWMA Vice President Ian Nicholson. "You'll start losing very fast."

The bottom line: Immigration officials rejected 27 percent of the visa requests companies made to transfer employees to the U.S. last year.

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