

H-1B HOGS SWINDLING 'AVERAGE' AMERICANS

Ilana Mercer May 14, 2010

The other day, John Miano of the Center for Immigration Studies pointed to the duplicity of "Microsoft's attempts to downplay layoffs while calling on newly elected President Obama to provide more foreign labor." Naturally, the man with the reverse-Midas touch can't make labor materialize magically, but he could issue more H-1B visas.

Touted as a means of trawling for the best and the brightest, the H-1B swindle is anything but. "Ordinary talent doing ordinary work" is Professor Norm Matloff's overall assessment of the H-1B crop. A longtime critic of the H-1B racket, Professor Matloff's analysis has been cited extensively.

The 65,000 yearly recipients of H-1B visas are mostly "average workers." H1-B recruits are supposed to possess at minimum a bachelor's degree, or "graduate equivalent" work experience. The master's is the exception within the H1-B visa category. In fact, twenty thousand additional H-1B visas are set aside for high-technology workers with the master's degree. This year, 5,600 such applications were received.

The Department of Labor uses four levels of classification. The first two require little or no higher-order thinking. They are entry-level positions, which is where the vast majority of H-1B workers are concentrated. Very few, only 11 percent, fall into the top category and "plan and conduct work-requiring judgment and independent evaluation"—DOL's words.

Three percent of a typical Microsoft H-1B visa intake are level four workers—i.e., do work that requires independent judgment. Among the companies that push the hardest for expanding the H-1B program, level-four workers entrusted with critical reasoning are rare. *The O-1 visa is the visa reserved for individuals with extraordinary abilities.*

Immigration lawyers have made it their business to navigate the labyrinth of visa programs. According to one such law firm, Houston-based Zhang & Associates, the O-1 visa:

...is a nonimmigrant status category for aliens of extraordinary ability in the sciences, the arts (including the television and motion picture industry), education, business, and athletics. This is an employment-related status that allows qualified aliens to live and work in the United States. An O-1 petition is sponsored by an American employer. *More significantly, there is no cap on the number of O-1 visa entrants allowed. Access to this limited pool of talent is unlimited.* Zhang confirms that "O-1 applicants are not subject to any cap or quota. Each case is considered on its individual merits; the total number of O-1 applicants that year does not affect one's chance of approval."

My point *vis-à-vis* the O-1 visa is this: The primary H-1B hogs—Infosys (and another eight, sister Indian firms), Microsoft, and Intel—are forever claiming that they are desperate for talent. But, in reality, they have unlimited access to individuals with unique abilities through the open-ended O-1 visa program — that is if they really wanted it.

Granted, the O-1 visa application process is not as easy to scam as the H-1B program. But immigration lawyers are doing their best to overcome this obstacle. Zhang boasts that in the case of a client it calls "Mr. Gao," a mere master's degree, one publication and an approved patent did the trick. And VDARE.COM's Rob Sanchez has reported a case in which an Argentine pin-up girl got an O-1.

A recently published investigation by The U.S. Citizenship and Immigration Services, which oversees [the H-1B program], found a fraud rate exceeding 20 percent, with violations ranging from nonexistent businesses being granted visas, to phony job descriptions. [Lou Dobbs, November 1, 2008]

Whether they are capable of complex conceptualization or not, recipients of the H-1B visa are, nevertheless, getting a good deal. Visa advocates perpetuate the tall tale this visa provides a steady supply of the super-smart; visa opponents, for their part, like to cry croc about exploitation and slave-labor. I guess they think that misplaced compassion adds force to their arguments.

H-1B visa holders are not paid inferior wages. From the fact that an oversupply of high-tech workers has lowered wages for all techies, it does not follow that these (average) men and women are being exploited. Rather, it is the glut of average worker bees—their abundance—that has depressed wages.

(Incidentally, the Bureau of Labor Statistics confirms that wages for computer programmers have been falling. All the while industry whines about labor shortages. Shouldn't a labor shortage be pushing wages up?)

Before dissolving in puddles of (misplaced) pity, remember: Voluntary exchanges are by definition advantageous to their participants. They involve giving up something one values less for something one values more and finding someone else with "opposite valuations."

The H-1B visa holder forfeits his (apparently unexceptional) labor for a salary many times the salary he'd get in India or China or Pakistan. If he were not incalculably better off than he was in his previous life, he would not have taken a calculated risk in a plush American office.

The benefits to "lazy" locals, left out of the decision-making loop, are less obvious—unless one considers the joys of a "diverse" work force. These can entail anything from critical communication glitches, to cries of "Allahu Akbar" from the company's "multidenominational" (curiously monopolized) prayer and meditation rooms, to

experiencing "Islamic toilet etiquette" (Jamal carrying a cup of water along to the john).

Theoretically, the H-1B program could be abolished and all needed Einsteins (and pin-up girls) imported through the O-1 program. They just need to demonstrate "extraordinary ability."

But industry lobbyists never suggest this. Funny thing.

The yearly quota of 65,000 H-1B visas is usually filled on April 1 of every year, which is the date the US Citizenship and Immigration Services begins accepting applications for the new yearly allotment. So far only about 13,500 such requests have been received, an indication of how bad the job market is (or how good the jobless recovery, if you follow establishment economists).

Of one thing you can be sure: There are a lot more than 13,500 unemployed, average but adequate American workers who'd jump at the opportunities being "outsourced."

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