

Reports, Studies Shatter Myth that H-1B Visa Holders are Paid Same Wages as U.S. Citizens

WASHINGTON (6 September 2006) – U.S. industry spokespeople say repeatedly that H-1B visa holders are paid the same wages as similarly qualified American citizens. Numerous studies and reports, however, have found this to be untrue.

Tata Consultancy Services (TCS) Vice President Phiroz Vandrevala even admitted that his company enjoys a competitive advantage because of its extensive use of foreign workers in the United States on H-1B and L-1 visas.

"Our wage per employee is 20-25 percent lesser than US wage for a similar employee," Vandrevala said. "Typically, for a TCS employee with five years experience, the annual cost to the company is \$60,000-70,000, while a local American employee might cost \$80,000-100,000. This (labour arbitrage) is a fact of doing work onsite. It's a fact that Indian IT companies have an advantage here and there's nothing wrong in that. ... The issue is that of getting workers in the U.S. on wages far lower than local wage rate." ("U.S. visas are not a TCS-specific issue," *Businessworld* (India) magazine, June 2003)

IEEE-USA President Ralph W. Wyndrum, Jr. said proposals now before Congress to raise the H-1B visa cap should be scrapped until significant workforce protections for U.S. and H-1B employees are instituted.

"Not paying market wages to H-1B holders is unfair to both foreign and domestic high-tech workers," Wyndrum said. "H-1B employees are being taken advantage of, and some U.S. workers' salaries are likely suppressed by the influx of thousands of additional job competitors. The wage problem is one symptom of how deeply flawed the H-1B program is."

Findings showing H-1B holders earning less than the market wages paid to U.S. technology workers include:

1. "Immigrant engineers with H-1B visas may be earning up to 23 percent less on average than American engineers with similar jobs, according to documents filed with the U.S. Department of Labor (DOL). Salary data from Labor Condition Applications (LCAs) lends credence to arguments that lower compensation paid to H-1B workers suppresses the wages of other electronics professionals." – *EE Times* (June 2006), which calculated average H-1B salaries from LCAs and compared them to the Bureau of Labor Statistics' Occupational Employment Statistics survey of employers. See www.eetimes.com/news/latest/showArticle.jhtml?articleID=189401976.
2. "In spite of the requirement that H-1B workers be paid the prevailing wage, H-1B workers earn significantly less than their American counterparts. On average, applications for H-1B workers in computer occupations were for wages \$13,000 less than Americans in the same occupation and state."

"Applications for 47 percent of H-1B computer programming workers were for wages below even the prevailing wage claimed by their employers." – Center for Immigration Studies report (Dec. 2005). See www.cis.org/articles/2005/back1305.html (under Key Findings).
3. "Some [H-1B] employers said that they hired H-1B workers in part because these workers would often accept lower salaries than similarly qualified U.S. workers; however, these employers said they never paid H-1B workers less than the required

wage." Government Accountability Office report (September 2003). See www.gao.gov/new.items/d03883.pdf (p. 4).

According to IEEE-USA Vice President Ron Hira, the concept of "prevailing wages" is worthless as a safeguard for U.S. and H-1B workers.

"Proponents of the H-1B program say that by law H-1B workers must receive prevailing wages, but this is a legal façade so full of loopholes that it is frequently gamed by employers to pay below-market wages," Hira said. "This is another myth of the H-1B program, that prevailing wages are the same as market wages."

A review of the DOL's LCA database for FY 2005 shows some of the well-below-market wages employers have been certified to pay H-1B workers. For example, Teja Technologies received permission to pay a software engineer \$10,900. Infosys Technologies was authorized to pay a programmer analyst \$20,030. TCS was certified to pay a computer programmer \$20,571, and Syntel, Inc., was permitted to pay a computer programmer \$31,304.

Under law, U.S. employers have three options for determining an H-1B employee's prevailing wage. According to the DOL, an employer can request a "prevailing wage determination from the appropriate State Workforce Agency;" use a "survey conducted by an independent authoritative source;" or use "another legitimate source of information."

Despite the law's intent, Hira enumerated a few ways companies circumvent the law's prevailing wage requirements when hiring H-1B workers:

1. By selecting a survey source with the lowest salaries
2. By misclassifying an experienced worker as entry level
3. By giving the person a lower-paying job title than one reflective of the work to be performed
4. By citing wages for a low-cost area of the country, then sending an employee to a higher-cost area

One reason it is so easy for employers to underpay H-1B holders is because they know how to exploit the loopholes and have almost no chance of ever being investigated. Even if they were investigated, the loopholes are so large most of the employers would likely be found following the letter of the law. First, DOL's automated review of LCAs is limited to looking for missing information or obvious inaccuracies; no human looks at the applications. Second, if a Department of Homeland Security (DHS) review finds that an H-1B worker's income on the W-2 form is less than the wage on the original LCA, DHS does not have a way to report the discrepancy to DOL.

"It's a self-policing system that is never actually checked," Hira said. "The law itself is written in a way to invite exploitation. It should be no surprise that firms take advantage of the loopholes."

IEEE-USA advances the public good and promotes the careers and public policy interests of more than 220,000 engineers, scientists and allied professionals who are U.S. members of the IEEE. IEEE-USA is part of the IEEE, the world's largest technical professional society with 360,000 members in 150 countries. For more information, go to www.ieeeusa.org.

++++
Contact: Chris McManes
IEEE-USA Senior Public Relations Coordinator
Phone: + 1 202 530-8356
++++

Last Update: 06 September 2006
Staff Contact: Pender M. McCarter, p.mccarter@ieee.org

