

## Backlash stirs in US against foreign worker visas (Update)

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Jay Palmer, a whistleblower against Infosys, an Indian firm that eventually paid a hefty fine for H1 B visa infractions, poses during a New York visit, Thursday July 3, 2014. Amid calls for expanding the nation's temporary skilled worker program, some Americans are pushing back. They argue the so-called H-1B program has been hijacked by staffing companies that import cheaper, lower-level workers to replace more expensive U.S. employees. (AP Photo/Bebeto Matthews)

Kelly Parker was thrilled when she landed her dream job in 2012

providing tech support for Harley-Davidson's Tomahawk, Wisconsin, plants. The divorced mother of three hoped it was the beginning of a new career with the motorcycle company.

The dream didn't last long. Parker claims she was laid off one year later after she trained her replacement, a newly arrived worker from India. Now she has joined a federal lawsuit alleging the global staffing firm that ran Harley-Davidson's tech support discriminated against American workers—in part by replacing them with temporary workers from South Asia.

The firm, India-based Infosys Ltd., denies wrongdoing and contends, as many companies do, that it has faced a shortage of talent and specialized skill sets in the U.S. Like other firms, Infosys wants Congress to allow even more of these temporary workers.

But amid calls for expanding the nation's so-called H-1B visa program, there is growing pushback from Americans who argue the program has been hijacked by staffing companies that import cheaper, lower-level workers to replace more expensive U.S. employees—or keep them from getting hired in the first place.

"It's getting pretty frustrating when you can't compete on salary for a skilled job," said Rich Hajinlian, a veteran computer programmer from the Boston area. "You hear references all the time that these big companies ... can't find skilled workers. I am a skilled worker."

Hajinlian, 56, who develops his own web applications on the side, said he applied for a job in April through a headhunter and that the potential client appeared interested, scheduling a longer interview. Then, said Hajinlian, the headhunter called back and said the client had gone with an H-1B worker whose annual salary was about \$10,000 less.

"I didn't even get a chance to negotiate down," he said.

The H-1B program allows employers to temporarily hire workers in specialty occupations. The government issues up to 85,000 H-1B visas to businesses every year, and recipients can stay up to six years. Although no one tracks exactly how many H-1B holders are in the U.S., experts estimate there are at least 600,000 at any one time. Skilled guest workers can also come in on other types of visas.

An immigration bill passed in the U.S. Senate last year would have increased the number of annually available H-1B visas to 180,000 while raising fees and increasing oversight, although language was removed that would have required all companies to consider qualified U.S. workers before foreign workers are hired.

The House of Representatives never acted on the measure. With immigration reform considered dead this year in Congress, President Barack Obama last week declared he will use executive actions to address some changes. It is not known whether the H-1B program will be on the agenda.

Facebook CEO Mark Zuckerberg is among the high-profile executives pushing for more H-1Bs. The argument has long been that there aren't enough qualified American workers to fill certain jobs, especially in science, engineering and technology. Advocates also assert that some visa holders will stay and become entrepreneurs.

Critics say there is no across-the-board shortage of American tech workers, and that if there were, wages would be rising rapidly. Instead, wage gains for software developers have been modest, while wages have fallen for programmers.

The liberal Economic Policy Institute reported last year that only half of

U.S. college graduates in science, engineering and technology found jobs in those fields and that at least one third of IT jobs were going to foreign guest workers.

The top users of H-1B visas aren't even tech companies like Google and Facebook. Eight of the 10 biggest H1-B users last year were outsourcing firms that hire out thousands of mostly lower- and mid-level tech workers to corporate clients, according to an analysis of federal data by Ron Hira, an associate professor of public policy at Rochester Institute of Technology. The top 10 firms accounted for about a third of the H-1Bs allotted last year.



In this Jan. 30, 2012 file photo, Jennifer Wedel of Fort Worth, Texas is photographed at her home after chatting with President Obama via Google. Wedel challenged President Obama on the H-1B visa issue in 2012, making headlines when she asked him via a public online chat about the number of foreign workers being hired, given that her husband, a semiconductor engineer, couldn't find work. (AP Photo/Star-Telegram, Khampha Bouaphanh, File)

The debate over whether foreign workers are taking jobs isn't new, but for years it centered on low-wage sectors like agriculture and construction. The high-skilled visas have thrust a new sector of American workers into the fray: the middle class.

Last month, three tech advocacy groups launched a labor boycott against Infosys, IBM and the global staffing and consulting company ManpowerGroup, citing a "pattern of excluding U.S. workers from job openings on U.S soil."

They say Manpower, for example, last year posted U.S. job openings in India but not in the United States.

"We have a shortage in the industry all right—a shortage of fair and ethical recruiting and hiring," said Donna Conroy, director of Bright Future Jobs, a group of tech professionals fighting to end what it calls "discriminatory hiring that is blocking us ... from competing for jobs we are qualified to do."

"U.S. workers should have the freedom to compete first for job openings," Conroy said.

Infosys spokesman Paul de Lara responded that the firm encourages "diversity recruitment," while spokesman Doug Shelton said IBM considers all qualified candidates "without regard to citizenship and immigration status." Manpower issued a statement saying it "adopts the highest ethical standards and complies with all applicable laws and regulations when hiring individuals."

Much of the backlash against the H-1B and other visa programs can be traced to whistleblower Jay Palmer, a former Infosys employee. In 2011, Palmer supplied federal investigators with information that helped lead to Infosys paying a record \$34 million settlement last year. Prosecutors

had accused the company of circumventing the law by bringing in lower-paid workers on short-term executive business visas instead of using H-1B visas.

Last year, IBM paid \$44,000 to the U.S. Justice Department to settle allegations its job postings expressed a preference for foreign workers. And a September trial is set against executives at the staffing company Dibon Solutions, accused of illegally bringing in foreign workers on H-1B visas without having jobs for them—a practice known as "benching."

In court papers, Parker claims that she was given positive reviews by supervisors, including at Infosys, which she maintains oversaw her work and the decision to let her go. The only complaint: Her desk was messy and she'd once been late.

Neither Parker nor other workers involved in similar lawsuits and contacted by The Associated Press would discuss their cases.

Parker's attorney, Dan Kotchen, noted that the case centers on discrimination based on national origin but said that "hiring visa workers is part of how they obtain their discriminatory objectives."

Infosys is seeking a dismissal, in part on grounds that it never hired or fired Parker. Parker was hired by a different subcontractor and kept on, initially, after Infosys began working with Harley-Davidson.





In this June 15, 2013 file photo, Infosys Executive Chairman N. R. Narayana Murthy reacts to a shareholders comment during the company's 32th Annual General Meeting in Bangalore, India. In 2013 Infosys was accused of bringing thousands of foreign workers to the United States using incorrect visas, but denied any allegations as part of the settlement reached with a \$34 million settlement in Texas. (AP Photo/Aijaz Rahi)

A company spokeswoman said Infosys has about 17,000 employees in the U.S., about 25 percent U.S. hires. In filings to the U.S. Securities and Exchange Commission, the company said it has more than 22,000 employees with valid temporary work visas, some not in the U.S.

Stanford University Law School fellow Vivek Wadwa, a startup adviser, said firms are so starved for talent they are buying up other companies to obtain skilled employees. If there's a bias against Americans, he said, it's an age bias based on the fact that older workers may not have the latest skills. More than 70 percent of H-1B petitions approved in 2012 were for workers between the ages of 25 and 34.

"If workers don't constantly retrain themselves, their skills become obsolete," he said.

Norm Matloff, a computer science professor at the University of California, Davis, agreed that age plays into it—not because older workers are less skilled but because they typically require higher pay. Temporary workers also tend to be cheaper because they don't require long-term health care for dependents and aren't around long enough to get significant raises, he said.

Because they can be deported if they lose their jobs, these employees are often loath to complain about working conditions. And even half the standard systems analyst salary in the U.S. is above what an H-1B holder would earn back home.

Such circumstances concern Americans searching for work in a still recovering economy.





In this April 22, 2013 file photo, the Senate Judiciary Committee holds a hearing on immigration reform after a bipartisan group of senators agreed on legislation that would dramatically remake the U.S. immigration system, on Capitol Hill in Washington. Amid calls for expanding the nation's temporary skilled worker program, some Americans are pushing back. They argue the so-called H-1B program has been hijacked by staffing companies that import cheaper, lower-level workers to replace more expensive U.S. employees. Witnesses, from left to right, Tamar Jacoby, president and CEO of Immigration Works USA, Rick Judson, chairman of the National Association of Home Builders, Brad Smith, executive vice president for legal and corporate affairs of Microsoft, Ron Hira, associate professor of public policy at Rochester Institute of Technology, Neeraj Gupta, CEO, Systems In Motion, and Fred Benjamin, chief operating officer, Medicalodges Inc. (AP Photo/J. Scott Applewhite, File)

Jennifer Wedel of Fort Worth, Texas, publicly challenged Obama on the visa issue in 2012, making headlines when she asked him via a public online chat about the number of foreign workers being hired—given that her husband, a semiconductor engineer, couldn't find work.

Wedel said her husband eventually found a job in the health care industry, taking a \$40,000 pay cut.

"It's a slap in the face to every American who worked hard to get their experience and degrees and has 10 or 15 years of experience," she said, adding that firms want that experience but don't want to pay for it.

To her, the issue isn't about a shortage of workers who have the right skills. Put simply, she said: "It's the money."

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