

IT Services

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Business Report™

Immigration policies

Another visa for foreign professionals stirs up debate in the IT services industry

There's yet another visa controversy brewing in the IT services industry these days. A few years ago, the H1-B visa made headlines. Now, it's the L-1 visa. Many in the IT services field claim that large multinational consulting companies are misusing the L-1 visa to bring low-cost employees into the United States from other countries.

WHAT IS L-1 VISA?

The L-1 visa allows companies with an international presence to bring in people from their overseas offices to work in their U.S. offices, if they fit in one of two categories: managers or employees who possess specialized, proprietary knowledge relevant to the company's operations. The law sets time limits for their stay in the country, but not any minimum wage limits.

This intracompany transfer of employees has generated a furor, with some companies accusing others of sending workers funneled in through this route to work at client sites – instead of within their organizations – at low rates that local companies, with no international presence, cannot compete with.

BREWING DISCONTENT

Critics of the L-1 program say that this is happening because the term "specialized knowledge" is ambiguously defined, and provides the loophole many companies are choosing to exploit.

"Specialized knowledge was originally proprietary knowledge of a company's [product] formula or business processes. But it's being abused," said Mark Roberts, CEO of the National Association of Computer Consultant Businesses (NACCB). "The L-1 is being used for staff augmentation purposes. Rather than utilizing the H1-B, companies bring employees in on the L-1."

"What [immigration officials] want it to be and what it is are two different things. There needs to be a better enforcement of the law."

–Matt Moore, Team Information Services Inc.

The many restrictions imposed on the H1-B visa category in recent years have made it increasingly difficult for companies to use it to employ foreign nationals in the United States, some say. "The H1-B is more and more regulated as time goes on," said Carl Shusterman, a private immigration attorney, formerly a trial attorney with the now-defunct Immigration and

News Briefs

Technology Solutions Co. (TSC) is slashing jobs and reducing the number of offices. The company will take a charge of about \$2.5 million in the second quarter. TSC also is looking for strategic alternatives including a sale of the company, a merger or a joint venture. The company revealed it recently terminated negotiations with a party that had expressed an interest in acquiring TSC at a price substantially below recent trading prices for TSC's stock.

TSC attributed the continuing depressed demand for IT, delays in the decision-making process by clients and increasing regulatory costs of being public as the reasons for the move. TSC's preliminary revenue forecast for the second quarter was in the range of \$9 million to \$12 million. The company now expects revenue to be more than \$9 million with a net loss of about 8¢ to 10¢ per share.

Judge Group Inc.'s management team successfully completed its tender offer at a price of \$1.05 per share in cash, without interest, less any required withholding taxes. The tendered shares, together with the shares already owned by the management and the continuing shareholders, represent about 88% company's common stock. Judge Group will no longer be listed on the Nasdaq SmallCap Market. ■

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Naturalization Service. "It ends up being a disincentive for employers to bring people over on that type of visa."

ALPHABET SOUP: H-1B, L-1A AND L-1B

The H-1B visa, a better-known route of bringing professionals to work in the United States, is subject to an annual cap, and requires companies to pay their employees at market rates. Employers hiring IT professionals with H-1B visas also need to prove that they attempted to recruit U.S. workers before deciding to hire a worker from another country.

However, the L-1 visa, being an intracompany, short-term visa, is free from all such restrictions. It is, however, time-bound. The L-1A visa, which applies to managers and executives, limits an employee's total stay to seven years, while the L-1B, the category that is the subject of the controversy, gives the worker five years in the United States.

THE DEBATE CONTINUES

Some say that given the stringent rules imposed by the Bureau of Homeland Security, it's not possible to misuse this visa category on a large scale.

"I suspect that most companies are playing by the rules and using it as intended," said Harris Miller, president of the Information Technology Association of America, a not-for-profit organization that researches and promotes the IT sector. "On the other hand, I'm not naive enough to believe that there aren't some companies pushing the limits."

Others, such as Matt Moore, who owns Orlando FL-based Team Information Services Inc., say that their business has been affected by the influx of L-1 visa holders from Europe.

Team Information's revenue has declined 20% from a year ago. "We've lost business because of this," Moore said. "What [immigration officials] want it to be and what it is are two different things. There needs to be a better enforcement of the law."

There hasn't been any investigation into the issue as yet, and no one has any numbers that could give an idea of the gravity of the situation, which, given the recession, seems more serious than it might be in better times. "Any immigration issue right now is very sensitive, because of the high unemployment among IT workers, and because of more global competition," Miller said.

Many executives blame the alleged abuse of L-1 visas, coupled with off-shore outsourcing, for the sluggish pace of recovery in this sector. "We're just not seeing any of the demand we were expecting to see," Moore said.

THE SOLUTION?

For some, the answer lies in re-wording the regulation to make it clearer, without making it too restrictive. For others, such as NACCB's Roberts, legislation is the only way out. U.S. Rep. John Mica, R-FL, introduced a bill in Congress last month that, if passed, would mandate that employers not outsource their L-1 visa workers to any third party (clients). Mica placed the number of L-1 visa holders in the country at 325,000.

Dissatisfied with Mica's bill, the NACCB is working on its own stronger bill. The association expects hearings on this issue in front of a House sub-committee by mid-August.

However, as the storm continues, it is important to step back, and maintain perspective, some observers say. "The [L-1] program is very critical to global competition," Miller said. "It's very necessary; it shouldn't collapse because of abusers." **IT**

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-Harris Miller, ITAA

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