

## ***Fraud Concerns Grow Over Employment-Visa Program***

WASHINGTON -- The proposed employee from Casablanca was no Ingrid Bergman, but she did turn out to be playing a role.

Using a law designed to bring skilled, foreign workers to the U.S., a local business filed a petition to hire the worker from Morocco as "comptroller" to "direct the financial activities of the company." The Immigration and Naturalization Service dutifully approved the request for a H-1B temporary work visa for foreigners with knowledge in specialty occupations.

But when the visa application was forwarded to the U.S. consulate office in Casablanca, the office made a discovery: The company that referred to itself as the "corporate body" is a doughnut shop in Maryland, owned by the prospective worker's sister and brother-in-law. What's more, the 23-year-old worker speaks no English and has no prior work experience relevant to U.S. accounting standards.

What seemed like a routine visa request turned out to be another increasingly common attempt to skirt the law. Critics say such cases also help explain why a newly increased cap on the annual number of H-1B visas was reached in record time just six and a half months after Congress nearly doubled the yearly ceiling to 115,000 from 65,000.

Last month, the INS announced it would stop accepting applications for this fiscal year, shutting out employers who had hoped to bring in new employees. GOP Rep. Elton Gallegly of California, a member of the House immigration subcommittee, says the H-1B visa program should no longer be supported by the government "until we get a handle on identifying and aggressively mitigating the fraud and abuse."

Such efforts are politically sensitive, however. The program's corporate advocates, including high-technology companies in Silicon Valley, say the abuses are exaggerated. What's more, the deep-pocketed executives of these companies are being heavily courted by presidential hopefuls Vice President Al Gore and GOP front-runner Texas Gov. George W. Bush, both of whom support the visa program. Recently, while wooing high-tech executives in Palo Alto, Calif., Mr. Bush called for raising the visa cap, saying that companies facing worker shortages would otherwise be hurt.

While the cases of abuse sometime involve small businesses such as family-owned dry cleaners and mom-and-pop grocery stores, more often, officials say, the violators are larger, more-sophisticated front companies. These concerns, acting as foreign subsidiaries here but with little more than a U.S. post-office box, apply for visas for bogus employees who are unqualified workers desperate to live and work in America.

In other cases, companies secretly act as employment agencies, advertising their services abroad while petitioning for visas here on behalf of foreigners who have paid the concerns exorbitant fees. Once the visas are issued, the agencies then either attempt to find real jobs for the "workers" in the U.S. or let them fend for themselves once they arrive. Sometimes potential employees commit the fraud -- without a company's knowledge -- by applying for jobs even though they lack the requisite experience or education.

"Every fraudulent H-1B visa has real impact on U.S. companies filing legitimate applications," says GOP Rep. Lamar Smith of Texas, chairman of the House subcommittee on immigration. The phony applicants prevent legitimate foreign specialty workers -- mostly computer programmers and engineers -- from being employed here. The abuses also further aggravate a shortage of workers in the high-tech industry, which is highly dependent on H-1B visas.

As proof of their contentions of widespread fraud, critics point to India, where more H-1B visas are issued than anywhere in the world. Indian nationals account for more than 40% of all H-1B visa recipients. The U.S. consulate in Chennai (formerly Madras), India, issued more than 20,000 H-1B visas last fiscal year, more than any other post in India, according to Bill Yates, acting deputy executive associate commissioner of immigration services at the INS.

In May, Mr. Yates testified at a congressional hearing that as early as 1996 the State Department consulate in India determined that among visas issued there, a "significant percentage of H-1B petitioners, almost all of whom were computer programmers, were misrepresenting their academic or professional credentials."

As a result, the consulate and INS service centers last year began jointly investigating the education and work-experience claims on suspect applications submitted to the INS before the INS ruled on the petitions. By March 31 of this year, Mr. Yates said, the agencies determined that of 3,247 cases from India referred to the consulate's antifraud unit, 21% of the work-experience claims made to the INS were definitely not true and another 29% "were either probably or possibly fraudulent." In addition, the agencies couldn't verify the authenticity of close to 45% of the claims made on the H-1B petitions, he said.

Visa fraud isn't limited to H-1B visas. There are 10 different types of temporary work visas, and more than 400,000 of them were issued in 1996 alone. What makes H-1B visa fraud different is the volume of applications for such visas and the pressure it puts on thousands of U.S. employers who can't fill job openings. The fraud also forces legitimate H-1B visa applicants to wait months before they are approved, or until a fraudulent applicant is discovered and a slot made available.

But trade groups representing hightech companies and other businesses that aggressively lobbied Congress for the increase in the H-1B visa cap question the scope of the alleged fraud. Lynn Frendt Shotwell, legal counsel of the American Council on International Personnel Inc., says the 45% of claims that couldn't be verified in India was an inaccurate measurement since the claims were part of a group singled out precisely because they seemed suspicious.

"I don't think it's reflective of the program at large. I think the fraud numbers are overstated," she says, adding that she believes the level of fraud is under 5% overall.

Rep. Smith begs to differ. "The fraud number from the State Department speaks for itself," he replies.

Critics also argue that the lengthy and cumbersome application process hurts legitimate applicants and companies more than fraud. State Department administrators say they do try to avoid delaying legitimate businesses while they weed out suspect ones.

Sandy Boyd, assistant vice president for policy at the National Association of Manufacturers, an industry trade group, says there is no way to accurately determine the level of fraud because the INS doesn't keep detailed data on all H1-B visas issued. Knowing which companies are heavy users of the program, and may be more prone to abuse it, would better identify where to look for the fraud, she says.

"We'd like to know how the 115,000 visas are used," says Ms. Boyd, who also helps lead the American Business for Legal Immigration. "Who used them? What are the occupations? Where have those visas gone? Just basic data."

As required by law, the INS plans to begin compiling complete information on the occupations of H-1B beneficiaries, as well as their education and compensation, in the next fiscal year that begins in October.

Meantime, business groups say that companies with clean records should be given fast-track approval, bypassing the long delays and paperwork. "It seems to me it would help focus enforcement priorities where they ought to be focused," Ms. Boyd says.

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## A New Import for American Business

### Some Countries Benefit...

Countries with the highest percentage of total recipients of H-1B visas

India	46%
China	10%
Canada	4%
Philippines	3%

### ...As Do Some Companies

Companies with highest percentage of petitions for H-1B visas\* in fiscal 1998

Mastech	11%
Tata Consultancy	7
Computerpeople	6
Oracle	5
PriceWaterCoopers	4
Lucent Technologies	3

\*For Foreign Workers in Highly Skilled Occupations

Source: U.S. Department of Justice, Immigration and Naturalization