

# Bridge to Immigration or Cheap Temporary Labor?

## H-1B & L-1 Visas Are a Source of Both

Immigration Policy: Highly Skilled Workers and  
U.S. Competitiveness and Innovation

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# Key Points

- H-1B & L-1 visas are temporary work visas  $\neq$  legal permanent residence (greencards)
  - Dual-intent – *employers*, not workers, can apply for LPR
  - Some employers use H-1B & L-1 as a bridge to LPR while others use for labor mobility
- H-1B & L-1 account for ~1 million workers(?)
- Loopholes make visas attractive for cheaper indentured labor
- Loopholes are fueling offshoring
  - Top employers are offshore outsourcing firms

# Four Gaping Loopholes

- 1. No Labor Market Test
  - Employers do not have to look for Americans first
  - Can and do replace Americans with H-1Bs & L-1s (reportedly Pfizer, Nielsen, Bank of America, Wachovia, IBM, Siemens)
  - No shortage necessary
- 2. Can Legally Pay Below-Market Wages
  - H-1B Employers have told GAO they hire H-1Bs because they can legally pay below-market wages.
    - GAO found 54% are paid Skill Level 1 = ~17<sup>th</sup> percentile
    - Skill Level 1 - “job offer is for a research fellow, a worker in training, or an internship”
  - L-1 has no wage floor
    - Enormous wage arbitrage opportunities

# Four Gaping Loopholes

- 3. Employer Holds Visa & Controls LPR Opportunities
  - Imbalanced relationship - most power with employer
    - Terminated worker must leave country immediately
    - Worker being sponsored for greencard is unable to switch jobs without going to the end of the queue
- 4. Little Government Oversight
  - System integrity depends on whistleblowers
  - Dept. of Labor's H-1B involvement characterized by government as “perfunctory” and “rubber stamp”
    - No involvement with L-1s
  - DHS fraud study found 21% of H-1Bs were given out on false pretenses – fraud or technical violations
    - Stepped up site visits
  - Almost no scrutiny of L-1 visa program

<b>Top 10 H-1B Employers FY07-09</b> <b>7 of 10 Offshoring</b>			
<b>H-1B Rank</b>	<b>Company</b>	<b>H-1Bs FY07-09</b>	<b>Significant Offshoring</b>
1	Infosys	9,625	X
2	Wipro	7,216	X
3	Satyam	3,557	X
4	Microsoft	3,318	
5	Tata	2,368	X
6	Deloitte	1,896	
7	Cognizant	1,669	X
8	IBM	1,550	X
9	Intel	1,454	
10	Accenture	1,396	X

Source: DHS USCIS: Initial H-1B I-129 Petitions FY07-09

## Immigration Yield for Top 10 H-1B Employers FY07-09

H-1B Rank	Company	H-1Bs FY07-09	Greencard Apps FY07-09	Immigration Yield
5	Tata	2,368	0	0%
3	Satyam	3,557	37	1%
2	Wipro	7,216	125	2%
10	Accenture	1,396	28	2%
1	Infosys	9,625	476	5%
9	Intel	1,454	163	11%
8	IBM	1,550	382	25%
6	Deloitte	1,896	588	31%
7	Cognizant	1,669	702	42%
4	Microsoft	3,318	2,214	67%

Source: DHS USCIS: Initial H-1B I-129 Petitions FY07-09 & PERM Data FY07-09

# 2005 Emerging Global IT Services Business Model



<u>Name</u>	<u>HQ</u>	<u>Market Cap (mills)</u>	<u>2005 Sales (mills)</u>	<u>Profit Margin (5 yr Avg)</u>
Infosys	India	<b>\$19,877</b>	<b>\$1,592</b>	27.93%
Wipro	India	\$15,268	\$1,627	20.59%
Electronic Data Systems	US	<b>\$12,517</b>	<b>\$25,865</b>	2.74%
Computer Sciences Corp	US	\$10,015	\$14,059	3.23%

Dollar figures in millions; Retrieved from Reuters.com on November 13, 2005

# Offshoring High-Wage Jobs “Knowledge Transfer”

“Wipro has more than 4,000 employees in the United States, and roughly 2,500 are on H-1B visas. **About 1,000 new temporary workers come to the country each year, while 1,000 rotate back to India, with improved skills to serve clients”**

- Laxman Badiga, Wipro's chief information officer in an interview with BusinessWeek Feb 8, 2007

# Policies Disadvantage Companies Hiring American Workers

**“The widespread abuse of current work visa laws, be it B1, H-1B, or L-1 programs that allow companies to bring in cheap labor from other countries to replace an American labor pool is extremely damaging to our business, because it creates artificial pressure on prices, and consequently wages, of an equally qualified local workforce.** Not only does the H-1B visa allow companies to bring in cheap labor, the restrictions placed on H-1B resources from moving locations or jobs ensure that their sponsors are not subject to market pricing for these resources and, in effect, create additional artificial pressure on the local workforce.”

- Neeraj Gupta, CEO of Systems in Motion, a U.S. based rural-sourcing company, and past executive of a major offshore outsourcing company

# Wages for American Workers Undercut

By misusing the L-1 visa program ... “large foreign consulting companies are able to **undercut NACCB member client billing rates by 30% to 40%.**”

- Testimony of Beth Verman on behalf of the National Association of Computer Consulting Businesses before US Senate Subcommittee on Immigration and Border Security, 2003.

- Current System Harms American Workers, Students, & Companies as well as Foreign Workers
  - Incumbent U.S. STEM workers rightly believe government policy is undermining their careers and opportunities
    - Tell next gen students to shy away from STEM fields
- Close Four Loopholes for Both H-1B & L-1
  - Implement effective labor market tests
  - Pay at least market wages
  - Increased portability of visas and clear and rapid path to permanent residence
  - Conduct regular audits of the programs
- Need More Sunshine – Open Government
  - Especially L-1 data on wages, etc.

# Policy Reform

- Foreign Worker Adjustment Commission
  - As proposed by former Secretary of Labor Ray Marshall
- Trade Policy Should Not Circumvent Immigration Policy
  - India's comparative advantage is low-cost high-skilled labor
    - From India's point of view paying US market wages for H-1B & L-1 workers is a non-tariff barrier to mode 4 trade
    - Totalization agreement provides even greater arbitrage