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Working around shortage of visas

By Jim Puzzanghera and Michelle Quinn

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Driven crazy by U.S. immigration policy, **Microsoft** Corp. executives decided to drive some of their employees north.

Unable to land enough visas for a third of the foreign-born engineers and computer scientists it wanted to hire – many of them newly minted graduates of U.S. universities – the Redmond, Wash., company opened a software development center just over the Canadian border last year. About 150 people now work in Vancouver.

“Our immigration system makes it very difficult for U.S. firms to hire highly skilled foreign workers,” Microsoft Chairman Bill Gates told the House Science and Technology Committee this month as he pleaded for more visas. “At a time when talent is the key to economic success, it makes no sense to educate people in our universities, often subsidized by U.S. taxpayers, and then insist that they return home.”

Frustrated by the limited number of these so-called H-1B visas awarded each spring in a random lottery to highly skilled foreigners, U.S. technology executives have tried to find ways around the problem while lobbying aggressively to increase the annual cap.

Microsoft, **Cisco Systems** Inc., **Intel** Corp. and other large companies have opened or expanded research facilities outside the United States. And some companies have resorted to gaming the system: filing multiple applications, along with the \$1,570 to \$3,320 filing fee, for each potential hire to boost the odds of winning one of the coveted visas. The fee is higher for large companies and for expedited filings.

“You can imagine our frustration,” said Robert Hoffman, vice president of government affairs at **Oracle** Corp., which, like Microsoft, insisted it has not filed duplicate applications. “We have 1,000 job openings at Oracle we can’t fill because of the arbitrary nature of visas and the arbitrary way they are selected.”

Efforts to increase the annual allotment of visas have become entangled in the even more volatile debate over border security and immigration reform that is stalled in Congress as well as by some

lawmakers' belief that jobs are being taken from U.S. workers.

"This is an outsourcing visa," said Kim Berry, president of the Programmers Guild, a Summit, N.J.-based advocacy group that opposes more H-1B visas. Berry said it's cheaper for companies to hire new foreign college graduates than older U.S. workers.

Last year, U.S. immigration officials received about 150,000 applications for the 65,000 visas on the first day companies could file, forcing them to pick winners in a random annual lottery. The flood is expected to be worse Tuesday when U.S. Customs and Immigration Services offices open their doors to applications for 2009's batch of visas.

California technology companies, as well as financial institutions, culinary institutes, and healthcare providers, have pushed Congress to raise the annual limit on the visas. Temporarily increased to as high as 195,000 during the Internet boom, the cap dropped to its original 65,000 level in 2004 as job demand declined. Companies apply for the visas for prospective employees who have at least a bachelor's degree in a variety of specialized fields. The visas are good for three years and can be renewed for another three. Recipients often apply for permanent residency during that time.

While companies scramble to try to fill their jobs, potential workers are left in limbo.

"I've invested so much money into my degree, I should be given a fair chance to work here for some time," said Akbar Hajiani, 28, a graphic artist from India who recently earned his bachelor's degree from the School of Visual Arts in New York. He has been working for a Virginia graphic and production design company under a one-year extension of his student visa, and the company plans to apply for an H-1B to keep him in the U.S.

Microsoft's Gates cited a recent study by the National Foundation for American Policy that estimated 140,000 jobs were vacant at Standard & Poor's 500 companies and that for each H-1B visa requested, technology firms hire five additional employees.

With little hope for more visas for the fiscal year starting Oct. 1, U.S. officials have closed the duplicate application loophole. The immigration service received at least 500 duplicate applications last year, said spokesman Peter Vietti.

"If I were a Fortune 500 company and I wanted to make certain that one of my workers, or how about several, were able to obtain an H-1B, it would be a drop in the bucket for me to file 15 to 20 applications on behalf of one person to put the numbers in my favor," he said.

Last year, some companies waited until June to apply, after prospective employees earned their degrees. But the visas were long gone by then. Intel doesn't take any chances. When it finds a doctoral student it wants to hire, it files the application early under the applicant's earlier degrees.

Intel expects to submit about 400 applications Tuesday, said Jenifer Verdery, the company's director of workforce policy. Last year a majority of its applicants received visas. Intel offered jobs to those people it wanted to hire but did not get visas for at facilities in Ireland, Israel, India or China.

This year is anybody's guess.

"We could get all or none," she said.

jim.puzzanghera

@latimes.com

michelle.quinn@latimes.com

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