

## Long wait for scarce visas

High-tech American employers, foreign workers in suspense

By Kelly Brewington | Sun reporter

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Shibu Jose has placed ad after ad in area newspapers and on Web sites seeking tech-savvy workers for his Ellicott City software consulting company.

But the resumes he receives are thin. Too often, applicants lack fluency in the complex software-speak he needs to keep his business competitive.

So, like tens of thousands of employers nationwide, he seeks foreign talent through the U.S. Citizenship and Immigration Services' visa program for highly skilled professionals. And like his fellow employers, he waits.

The U.S. Citizenship and Immigration Service makes 65,000 such visas available each April. That's about half the allocation of five years ago, and for each of the past five years demand for the program, H-1B, has vastly outstripped supply.

This year, USCIS received 163,000 applications during the five days that began April 1. The visa allocation is for the start of the fiscal year in October. Because the agency has been inundated with requests, it will decide who receives the visas through a lottery, notifying applicants by June 2.

The random computer selection process leaves employers and workers in professional limbo, anxious to learn whether they will make the cut. Immigrant advocates and technology firms are clamoring for the government to raise its cap on such visas, saying American companies must import talent to stay competitive globally. [Microsoft's Bill Gates](#), testifying before Congress last month, urged lawmakers to raise the visa limit.



**Shibu Jose, head of the Saxon Infotech software consulting company in Ellicott City, is seeking highly skilled professional employees abroad.** (Sun photo by Chiaki Kawajiri / April 22, 2008)

But critics argue that the program displaces U.S.-born workers and keeps wages low. They maintain that technology companies have started to rely on foreigners, creating a disincentive for American students to study math and engineering to pursue high-tech professions.

For Jose, the H-1B debate is a question of simple business competition. Without the visas, his company cannot thrive, he said.

With 15 years of software engineering experience under his belt working for such giants as [IBM](#) and Lockheed Martin, Jose decided in 2006 to start his firm, Saxon Infotech Inc.

Seven of Jose's staff of 12 are from India or Sri Lanka, hired through the H-1B program. Jose said he has little choice but to cast a global net to find the brightest candidates in such a highly specialized field.

"The problem with this industry is that there are tons of computer languages; you cannot master everything," he said.

"So companies are looking for particular experience. And the question becomes, 'Where do I find these people?' This is the toughest part."

Although he has had luck with the visa program in the past, he said he worries that the program has become so swamped with requests that winning the lottery might be nearly impossible.

"If I am relying on this rate to grow my business, I might have better luck playing the Maryland Lottery," he said.

Employers and their would-be workers spend thousands of dollars in application and attorney fees hoping to improve their chances.

Towson immigration attorney Sheela Murthy receives frantic phone calls from clients about this time every year. Many are students who have completed master's degrees in this country, worried that if their visa application is denied, they will be forced to return to their home countries.

"Some will call and e-mail daily. They so are nervous; this is their whole life," said Murthy, an India native who represents clients nationwide. "I was once a foreign student myself, and I completely relate to them. Many have sunk their whole savings into this process."

Worse still, said Murthy, is the option of a \$1,000 fee that USCIS offers for "premium processing," allowing an applicant to bypass the lottery and learn the result of his or her application within 15 days.

Murthy and other immigrant advocates have called the option unfair, allowing those who can afford it to "pay their way to the front of the line." Murthy said some of her clients who forgo the pricier alternative have waited as long as six months for an answer.

Chris Rhatigan, a USCIS spokeswoman, defended the expedited option as streamlined service. Applicants bypass the regular channels, sending forms to a separate address and communicating to agency workers about their application status through a separate phone number and e-mail address.

"It's improving our services to our customers, and it also accommodates the needs of the businesses," she said. "We strive to provide fast service. With the premium response, they know sooner."

Other critics say the problem with the program is more basic - too few visas allowed.

The immigration agency's cap was 65,000 for years, until 1999, when Congress increased it to 115,000. Reacting to the 1990s technology boom, the government increased the cap again, to 195,000 in 2001, 2002 and 2003, then reduced it to 65,000 in 2004, where it remains.

In addition, the agency sets aside 20,000 visas a year for immigrants with master's degrees or higher from U.S. universities.

"It's troubling because our economy now is much more dynamic, much more diverse and much more highly skilled than during the tech boom of the 1990s," said Robert Hoffman, vice president of government and public affairs at Oracle and co-chairman of Compete America, which pushes for higher visa caps. "Back in the early 1990s, there wasn't a [Google](#), an [eBay](#) or an Amazon.com. We are operating under a 1990s immigration system, and that's absurd."

But groups favoring limited immigration argue that technology companies have begun to see outsourcing as their only means to grow, displacing American workers in the process.

"The program basically operates to supply U.S. employers with cheap workers, and the beneficiaries are these multinational corporations," said Bob Dane, a spokesman for Federation for American Immigration Reform, or FAIR.

"U.S. residents have become a last resort, and frankly it's hard to say if the number is even too high."

Although federal law states that employers must pay their H-1B workers the prevailing wage or risk fines and expulsion from the program, Dane argues that the regulations are loosely enforced.

There is little agreement on this issue; some studies show H-1B workers decrease wages while others reveal the opposite.

Still, Hoffman notes that employers, who file the applications on behalf of a worker, must prove they intend to hire in

such specialized occupations as lawyers, physicians, college professors, engineers and computer programmers. Many employers must also show they have tried to hire U.S.-born workers for the jobs, seeking foreigners only as a last resort.

Workers must have at least a bachelor's degree to be eligible for the three-year visa, which can be renewed once.

Many view the visa as a steppingstone to becoming a legal permanent resident. Employers may sponsor these employees to apply for a green card, which for many is a step toward citizenship.

But Hoffman maintains that the green-card process is also arduous, fraught with paperwork, legal fees and waits that can last several years.

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