

Permanent Pinkslips

by DeAnne DeWitt

Almost every American IT worker I know is out of work, or has taken a non-IT job to pay the bills. From engineers to programmers to technical writers, editors, and support personnel, every one of them has been laid off in the last year, and they have no prospects for finding new gigs anytime in the future. At least not in a state that's been pillaged by Yahoo, Dell, Compaq, EDS, American Airlines/SABRE, Nortel, Texas Instruments, Motorola, Ericsson, Lucent, Alcatel, Fujitsu Ltd., JDS Uniphase, Cisco, Hewlett-Packard, Enron, Worldcom and IBM, all in one year. Those are just the big players that laid off more than 400 American workers at a time.

Whereas, all the H-1B visa holders I know are still employed. At serf wages, in horrid working conditions...but employed in IT nonetheless.

In fiscal year 2001, the IT work force in the United States shrank by 528,000 positions, according to a recent survey by the Information Technology Association of America. At the same time, the INS approved 163,200 H-1B visa applications, and approved 28,000 more employer requests for H-1B workers in the last three months of 2001, bringing the total number of H-1Bs in the US to 710,000. Each one of those H-1B workers is entitled to work here for 6 years before renewing their visa.

A report by Department of Labor Inspector General (IG) revealed that the system is often abused by unscrupulous employers, and does nothing to protect United States workers.

The IG report revealed that the process of an employer submitting a Labor Condition Application (LCA) to the Department of Labor is nothing more than a "rubber stamp" process. The only authority granted the Department of Labor is to "review such an application only for completeness and obvious inaccuracies."¹ Therefore, the DOL does not have the authority to check the validity of the applications, they can only check to see that the paperwork has been filled out correctly.

For example, as part of the LCA, employers must swear that the wages paid to the visa holder are equal to the "prevailing" wage for *that* job in *that* region. The IG report found that the DOL does not verify wage information when considering the LCA, because they have no authority to do so under current law.² Thus, more often than not, prevailing wages are not being paid to visa holders, which then drops the wages paid to American workers, or the more expensive American workers are replaced by considerably cheaper foreign labor. An audit by the California Employment Development Department discovered "substandard wages, tax cheating, and under the table payments."

1 OIG's Audit of ETA's Foreign Labor Programs, Final Report No. 06-96-002-03-321, pp 14-17

2 Ibid, pp 20-22.

In a test of the LCA procedures, the president of a professional association was able to receive approval to bring in 20 software programmers at a wage of \$5.00/hr – substantially less than U.S. workers would make.³

H-1B workers make 33% less than their American counterparts, according to a study by the University of California at Los Angeles. A similar Cornell University study found a 20% to 30% pay disparity.

Sun Microsystems, laid off 3900 American workers, while importing 5179 H-1B visa workers. Laid off workers are preparing a discrimination class action lawsuit.⁴

AT&T, when threatened with a worker strike, brought in hundreds of Indian workers for training as network technicians as part of a preemptive strike contingency plan.⁵

“But...” I can hear you saying, “It’s illegal to replace American workers with H-1B workers, isn’t it?” Well, not according to the Department of Labor, who states, “Except in certain very specific conditions, outlined in the American Competitiveness and Workforce Improvement Act of 1998, it’s perfectly legal to replace US workers with H-1Bs.” A review of documents at the DOL⁶ reveals that the politicians who wrote the most current H-1B visa laws inserted enormous loopholes which provide companies with the legal protection they need to fire “expensive” Americans and replace them with less expensive labor.

This was no congressional oversight. It would appear to be a quid pro quo for the vast sums of lobbying and PAC money spent to assure that IT companies would have these loopholes.

How much money was involved in this lobbying you ask? While the sheer volume of PACs and lobby groups are too vast to cover in a short article, let us look at one group, which touts on their website their power at getting H-1B visa law to work for them.

Technology Network, or TechNet⁷, comprises more than 300 chief executive officers and senior partners of companies in the fields of information technology, biotechnology, venture capital, investment banking and law and carries a tagline of “New Politics for a New Economy.” (That would be the new economy that has put more than half a million IT Americans out of work, by the way.)

It boasts an impressive collection of companies⁸ who support its political action committee. With \$300,000 dollars⁹ donated to “friendly” federal elected officials, and

3 Larry Richards, Software Professionals Political Action Committee.

4 <http://www.zazona.com/LCA-Data/SunLCA.html>

5 <http://www.nwlaborpress.org/4-19-02AT&T.html>

6 http://www.oalj.dol.gov/public/ina/refrnc/64_627.htm.

7 <http://www.technet.org/who/index.html>

8 <http://www.technet.org/who/list.alpha.html>

9 <http://www.opensecrets.org/pacs/lookup2.asp?strID=C00328369>

almost \$2 million in lobbying efforts between 1998 and 2000¹⁰, the TechNet PAC has been able to claim quite a few legislative wins. Not surprisingly, those same companies have laid off American workers while retaining their foreign workers.

This group and others have been able to keep shelved any prospective reforms to the H-1B visa laws by putting pressure on the Congress people who take their money. Politicians free of the taint of IT PAC money have had no luck getting bills to the floor for debate, much less getting them in for a vote.

For example, *The High-Tech Work Fairness and Economic Stimulus Act of 2001*, (H.R. 3222)¹¹ introduced by Representative Tom Tancredo (Colorado, R), would reduce the annual limit of H-1B visas from 195,000 to its pre-1998 levels of 65,000, and reduce it further by 10,000 for each quarter-point above a six percent unemployment rate.

Yet, while more and more Americans are being put out of work, and more foreign workers stay employed, that bill has been stalled by the House Subcommittee on Immigration and Claims¹², chaired by F. James Sensenbrenner, Jr. (Wisconsin, R)¹³. The bill is due to expire on September 20, without debate, without a vote, without ever even being seen by the members of Congress. Fortunately for out-of-work Americans, Representative Tancredo is a plucky politico and he plans on reintroducing the bill in the 108th Congressional session.

An even bigger concern to the future viability of the American IT market is the new trend of outsourcing jobs to lower-paid workers in other countries. Just as manufacturing jobs disappeared to sweatshops across the borders and overseas 20 years ago, so too are high tech jobs skating their way across national boundaries.

Says C-Cubed Solutions CEO Marc Haberman, in a corporate press release, "Companies are aware of the need to provide superior online customer service but often cannot expend the time and/or resources to create their own support center. We knew we could provide that service for North American businesses by linking the university-educated labor pool in India with these companies' respective online customers." With an impressive client list, including all of Sony's online sales help¹⁴, is this company riding the crest of the new wave? The list of companies whose entire support staff is now based in foreign countries includes, among others: Verette, Inc, Msource, 24/7 Customer.com, and CustomerAsset.com. These companies claim as one of their advantages that college graduates in India are willing and eager to work for just \$3000 to \$6000¹⁵ annually...a fraction of what is considered the poverty level in the United States.¹⁶

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<http://www.opensecrets.org/lobbyists/lookup2.asp?txtName=Technology+Network&C1=y&C2=y&C3=y>

11 http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:h3222ih.txt.pdf

12 <http://www.house.gov/judiciary/immigration.htm>

13 <http://www.house.gov/sensenbrenner/>

14 <http://sonystyle.custhelp.com/cgi-bin/sonystyle.cfg/php/enduser/live.php>

15 http://www.darwinmag.com/read/020102/money_sidebar1.html

16 <http://aspe.hhs.gov/poverty/02poverty.htm>

Reviewing the client lists of these companies might lead one to believe that the companies who use them would prefer to remain anonymous, as there are almost never names listed beside the marketing case studies.^{17, 18, 19, 20, 21} Finding an actual client list is almost as difficult as finding the true identity of Nixon's Deep Throat. However, diligent digging through press releases shows that large corporations such as Infosys, ALLDATA, ING, Conseco Corp, CitiCorp, Dell, General Electric Co, AltaVista, Net2Phone, Ritz Interactive, allpets.com, Koss AV, and several unnamed Fortune 100 companies including a large global telecom provider, a large financial services provider, a large car reservations company and a large hotel chain, all of whom have abandoned American workers for call centers using cheaper overseas labor.

So, what are we to do? I wish I could end this on an upbeat happy note and say that a solution was just around the corner, and that we'd all be back to work tomorrow. But I admit that I'm pessimistic about the future of American IT. Wages are getting lower, older workers are being made obsolete, the jobs are being filled by inexpensive H-1B imported labor or the jobs are going overseas.

Judging from what happened with the American manufacturing industry in the 1980s, we can almost guarantee that there is no relief in sight. The political system has proven itself to be more indebted to the CEO than the worker, as the Enron debacle and the burying of H.R. 3222²² has clearly shown. In an era where executives are awarded millions of dollars in bonuses in the same year they lay off 4000 workers²³, things look a little grim.

But hey, on the upside, reports say that many Americans are too obese...so, this time of belt tightening...that could be a good thing, no?

No...I guess not.

17 <http://www.ccubedsolutions.com/home1.html>

18 <http://www.msource.net/>

19 <http://www.customerasset.com/clients.asp>

20 <http://www.verette.com/>

21 <http://www.247customer.com/pages/customerpartners.html>

22 http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:h3222ih.txt.pdf

23 <http://www.dell.com/downloads/us/corporate/sec/10k-01.htm>