

High-tech's use of H-1Bs Drops

By Patrick Thibodeau

SEPTEMBER 15, 2003

WASHINGTON --

Companies will likely move quickly to gobble up H-1B visas next month, to ensure that they get the workers they need before the new, sharply reduced cap of 65,000 is reached, immigration experts said last week.

The cap will decline from 195,000 on Oct. 1, the start of the new federal fiscal year, and that's almost certain to bring pressure from high-tech groups for Congress to raise it. The groups argue that the cap needs to be kept at the higher level as the economy improves.

They also stress that the cap isn't being abused, and to bolster that argument, they're likely to cite a U.S. Department of Homeland Security (DHS) report released Thursday that shows a sharp decline in H-1B visa use by companies that hire foreign workers with IT skills.

The DHS report, which breaks down H-1B usage by industry, says that in the "computer systems design and related services" category, which is the largest group, the number of approved H-1B petitions fell from 141,267 in 2001 to 50,776 in 2002.

"This kind of puts to rest the idea that we are throwing

Americans out in the street and hiring H-1Bs to replace them," said Thom Stohler, a vice president of the American Electronics Association, a trade group representing the high-tech industry that has advocated a higher H-1B cap. The decline "is reflective of the downturn in the industry," he said. But an improving economy will be hurt by restrictions, supporters argue.

Additional Limits

The U.S. Senate Judiciary Immigration Subcommittee is scheduled to hold a hearing tomorrow on the H-1B cap, but there's no legislation pending to prevent the cap from falling. In fact, the opposite is occurring. Legislation introduced in Congress so far would limit some visa programs, such as the L-1, which is used by multinational firms to transfer employees. One bill would set a cap on the L-1 to 35,000 annually; there is now no cap on it.

Opponents have long argued that U.S. workers have lost jobs because of the H-1B visa program. But it's unclear whether U.S. workers will be helped by the cap reduction.

Some may benefit. "It's going to put a premium on U.S.-based IT professionals who have the ability to manage distributed projects," said Sam Sliman, executive vice president at Optimal Solutions Integration Inc. in Irving, Texas.

But Kiran Karnik, president of the National Association of Software and Service Companies, a New Delhi-based

IT trade group, maintained that in the long run, a cap reduction could prompt U.S. companies to move a larger percentage of work offshore.

According to some immigration experts, businesses may move quickly to apply for H-1B visas for recent computer science graduates, especially those in the U.S. on student visas, which remain valid for a year after graduation.

But if they wait, "there is the possibility that employers will find themselves in a situation where the H-1B cap is exhausted," said Jo Anne Adlerstein, an immigration lawyer at Proskauer Rose LLP in New York.

George McClure, who heads the career policy committee of the Institute of Electrical and Electronics Engineers Inc., said he hopes the cap reduction improves job prospects for U.S. workers. He estimated that U.S. jobs are lost to offshore workers at a rate of about 3% per year.