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http://seattletimes.nwsources.com/html/microsoft/2008665300_microsoft24.html

Lawmaker asks Microsoft about keeping American workers

By Benjamin J. Romano

Seattle Times technology reporter

U.S. Sen. Chuck Grassley, R-Iowa, has sent a letter to Microsoft Chief Executive Steve Ballmer expressing concern over how the company may go about its layoffs.

"I am concerned that Microsoft will be retaining foreign guest workers rather than similarly qualified American employees when it implements its layoff plan," Grassley said in the letter, posted to his Web site on Friday.

The company announced plans Thursday to cut a net 2,000 to 3,000 jobs over the next 18 months, its first companywide layoff. An initial wave of 1,400 job cuts were effective Friday.

The senator asked Ballmer for details on the jobs to be eliminated; how many are held by H-1B or other work-visa-program employees; how many are held by Americans and, of those positions, how many similar positions held by foreign guest workers are being retained; and how many H-1B or other work-visa-program workers Microsoft will retain when the layoff is complete.

"My point is that during a layoff, companies should not be retaining H-1B or other work-visa-program employees over qualified American workers," Grassley wrote.

"Our immigration policy is not intended to harm the American work force. ... Microsoft has a moral obligation to protect these American workers by putting them first during these difficult economic times."

In response to a query about Grassley's letter, Microsoft said the initial layoffs include foreigners working here on visas.

"The initial reductions we announced affect employees in a number of business units, and a significant number of the affected employees are foreign citizens working in this country on a visa," said company spokesman Lou Gellos. " ... For many of the employees here on a visa, being laid off means that they have to leave the country on very short notice, in many cases uprooting families and children."

Cletus Weber, co-founder and partner with Mercer Island-based immigration law firm Peng & Weber, said determining layoffs by nationality or immigration status could violate anti-discrimination laws.

"I know of no immigration law that would require Microsoft or any other U.S. company to lay off its lawfully employed foreign workers first," Weber wrote in an e-mail.

"To the contrary, I believe arbitrarily laying off lawfully employed foreign workers first would subject these companies to potential legal liability under federal anti-discrimination laws."

Grassley pointed out that Microsoft has lobbied Congress for an expansion of the H-1B program.

The program allows American employers and institutions to temporarily hire foreign guest workers with at least the equivalent of a U.S. bachelor's degree in a job category considered a "specialty occupation."

In 2007, Microsoft said that about one-third of its 46,000 U.S.-based employees at the time had work visas or were legal permanent residents with green cards.

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Article 2:

Deccan Herald » Business » Detailed Story

<http://www.deccanherald.com/Content/Jan252009/business20090125114566.asp?section=updatenews>

Fire foreign workers: Republican Senator to Microsoft

Washington, PTI:

"During a layoff, companies should not be retaining H-1B or other work visa programme employees over qualified American workers," Grassley said in a letter to Microsoft Chief Executive, Steve Ballmer.

As Microsoft announced plans to axe 5,000 employees, an influential Republican Senator has asked the software giant to fire foreign workers hired on visas -- including Indians -- first and "protect" the jobs of Americans amid the global economic downturn.

Dashing off a letter to the company after it recently announced its intention to slash the workforce by 5,000 over the next 18 months, the Senator from Iowa, Chuck Grassley, voiced concern that this would result in American workers losing jobs and not the foreigners hired on H-1B or L visas.

"During a layoff, companies should not be retaining H-1B or other work visa programme employees over qualified American workers," Grassley said in a letter to Microsoft Chief Executive, Steve Ballmer.

Microsoft is one of the major beneficiaries of H-1B work visa programme, which is mainly for overseas professionals. Majority of the 60,000 professionals given H-1B visa every year are from India.

"Microsoft has a moral obligation to protect these American workers by putting them first during these difficult economic times," the Senator said.

"I am concerned that Microsoft will be retaining foreign guest workers rather than similarly qualified American employees when it implements its layoff plan," Grassley said.

"I want to make sure employers recruit qualified American workers first before hiring foreign guest workers," he wrote in his letter.

The Senator had co-sponsored a Congressional legislation to overhaul the H-1B and L-1 visa programmes to give priority to American workers and to crack down on 'unscrupulous' employers who deprive qualified Americans of high-skilled jobs

"Fraud and abuse is rampant in these programs, and we need more transparency to protect the integrity of our immigration system," said Grassley, who supported the legislation which would strengthen educational opportunities for US students and workers so that Americans can compete successfully globally.

In his letter, he asked Microsoft to provide a breakdown of the employees being axed by it as per its latest decision.

"What is the breakdown in the jobs that are being eliminated? What kind of jobs are they? How many employees in each area will be cut? Are any of these jobs being cut held by H-1B or other work visa programme employees? If so, how many?" he asked.

"How many of the jobs being eliminated are filled by Americans? Of those positions, is Microsoft retaining similar ones filled by foreign guest workers? If so how many? How many H-1B or other work visa programme workers will Microsoft be retaining when the planned layoff is completed?" the Senator asked.

February 2, 2009 6:12 AM

Microsoft lobbied Obama transition team on high-skilled immigration weeks before announcing layoffs

Posted by Benjamin J. Romano

Microsoft urged the government to "remove caps that bar entry into the U.S. by high-skilled immigrants," about three weeks before announcing its first companywide layoff, according to a report in BusinessWeek.

The request, part of a policy brief written in June 2008 and posted to the Obama-Biden Transition Project Web site in early January, does not represent a new stance for the company, which has long lobbied for changes in U.S. immigration policy around high-skilled workers. But its posting on the new administration's transition Web site came at a sensitive time, against the backdrop of layoffs -- which hit a "significant number" of guest workers at the company -- and pressure on Microsoft by Sen. Chuck Grassley to retain U.S. citizens over similarly qualified guest workers.

The Obama Administration's transition Web site is no longer active, but here's a PDF (2 pages) of the brief, which also asks for changes in the student visa policy to encourage foreign students educated here to stay and an increase in green cards.

Microsoft argues that allowing more people to enter the country on H-1B visas would "enable U.S. employers to maintain development work and other critical projects here in the U.S. This can also drive domestic job growth as companies work to fill related management, design, and business positions in the U.S."

Further, the company argues that people working in this country on H-1B visas should not be considered temporary.

"The reality for Microsoft and many other U.S. employers is that the H-1B visa program is temporary only in the sense that it is the visa used while efforts are undertaken to make our H-1B holders -- whether educated in the U.S. or abroad -- permanent U.S. residents. Rather than pretend that we want these highly skilled, well trained innovators to remain for only a temporary period, we should accept and indeed embrace the fact that we want them to become permanent U.S. residents, so that they can drive innovation and economic growth alongside America's native born talent."

Update, 10:02 a.m.: The San Jose Mercury News takes a look at the unique challenge laid-off H-1B workers face. While everyone feels the financial pressure to find a new job, people here on H-1B visas have to find a job within a few weeks or must leave the country under the rules of their visa.



Legal & Corporate Affairs

Developing, Attracting, and Retaining the World's Best and Brightest

- *H-1B visa and employment-based green card reform is essential if the United States is to attract and retain the best and brightest.*
- *Microsoft supports legislation to expedite permanent residence for highly-skilled workers in order to drive innovation and economic growth.*

For generations, America has prospered largely by attracting the world's best and brightest to study, work and live permanently in the United States. Our success at attracting the greatest talent has helped us become a global innovation leader, enriched our culture, and created economic opportunities for all Americans.

Microsoft supports policies designed to support innovation by ensuring that America's students and workers have the skills necessary to compete in a digital economy and by attracting and retaining the brightest, most talented people from around the world. This requires significant reform of our immigration policies for highly skilled workers. It makes no sense to tell well-trained, highly skilled individuals – many of whom are educated at our top colleges and universities – that the United States does not welcome or value them.

H-1B Visa Reform. Under the current system, the number of H-1B visas available runs out more quickly each year. The current base cap of 65,000 is arbitrarily set and bears no relation to U.S. industry's demand for skilled professionals. For both Fiscal Years 2008 and 2009, the supply lasted one day into the filing period, running out six months before that fiscal year even began and leaving none available for nearly 18-months.

Microsoft supports legislation that would encourage the best students from abroad to enroll in our colleges and universities, and to remain in the United States when their studies are completed if they choose to do so. Today, we take exactly the opposite approach. Foreign students who apply for a student visa to the United States today must prove that they *do not* intend to remain here once they receive their degrees. The U.S. should do all it can to ensure those students remain in the country to help drive innovation and job growth. It should likewise remove caps that bar entry into the U.S. by high-skilled immigrants. Doing so would enable U.S. employers to maintain development work and other critical projects here in the U.S. This can also drive domestic job growth as companies work to fill related management, design, and business positions in the U.S.

Encouraging Permanent Residence for Highly Skilled Workers. As with H-1B visas, the demand for green cards far exceeds the supply. Today, only 140,000 permanent employment-based visas are available each year, which must cover both key employees and their families. There is a massive backlog in many of the employment-based green card categories, and wait times routinely reach five years. Ironically, waiting periods are even longer for nationals of India and China – the very countries that are key recruiting grounds for the professionals desperately needed in many innovative fields.



Microsoft supports legislation that would expedite the path to Permanent Resident status for highly skilled workers. The reality for Microsoft and many other U.S. employers is that the H-1B visa program is temporary only in the sense that it is the visa used while efforts are undertaken to make our H-1B holders – whether educated in the U.S. or abroad – permanent U.S. residents. Rather than pretend that we want these highly skilled, well trained innovators to remain for only a temporary period, we should accept and indeed embrace the fact that we want them to become permanent U.S. residents, so that they can drive innovation and economic growth alongside America's native born talent.

June 2008

The Mercury News

MercuryNews.com

Layoffs mean more than lost wages for H-1B visa holders

By Pete Carey
Mercury News

Posted: 02/01/2009 05:00:00 PM PST

Economic crisis

- Full coverage of the economic crisis, plus databases showing bank and credit union rankings

Databases

- See if your California company is planning layoffs in 2009
- Unemployment rate by county

For the two out-of-work engineers, it's a race against time. They've lost their Silicon Valley jobs and need to quickly find others at a time when companies everywhere are tightening their belts.

Both are Indians whose advanced degrees were earned at American universities. And both are facing the inflexible rules of their H-1B work visas.

Technically, as soon as they lost their jobs, they were required to leave the country. In reality, they can probably wing it for a week or two, but not much longer.

This stark dilemma is being repeated with increasing frequency across Silicon Valley, according to immigration specialists, as companies downsize to weather a punishing downturn. It's a small number compared with the layoffs of H-1B visa

holders during the dot-com crash. But the downturn has sent a wave of concern through the community of immigrant workers who hold the visa, which companies use to hire skilled noncitizens.

Though there is no official tally of visa holders who have been laid off, "It's happening every day," said San Jose immigration lawyer Indu Liladhar-Hathi.

"If they don't have work, they're in trouble," said Gabriel Jack, also a San Jose immigration lawyer. "They've got to get out" of the country, he said. "That's the toughest part about being an H-1B."

The H-1B program was forged in 1990 in a tug-of-war between labor, which has tried to limit its use in favor of American workers, and business, which would like to see it expanded beyond the 65,000 visas currently allowed each year. For American companies it plays at least two roles — as a pool of workers furnished by contracting firms, and as a means of hiring the smaller number of foreign students with advanced degrees from American universities. In technology, H-1B visa holders must have at least a college degree.

A perennially contentious issue, the H-1B visa has drawn fire in recent weeks as layoffs have multiplied. Sen. Charles Grassley, R-Iowa, told Microsoft it should lay off guest workers before "similarly qualified American employees." Grassley has co-sponsored legislation to give priority in hiring to American workers.

But Silicon Valley companies have long lobbied for a change in the rules that force U.S.-educated foreign students to leave if they can't quickly find work. Workers brought here by labor contracting firms can remain if they're not working only as long as the contracting firm continues paying them.

Backlash against visa

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The Mercury News

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"It's a sad situation because politicians cannot distinguish a guy with skills so badly needed in this country from people whose skills are really not needed," said Vish Mishra, president of the Silicon Valley networking group The Indus Entrepreneur. "The entire business community has been talking about it, but this is something that Congress can't come to grips with."

Mishra says most of those losing jobs have a good shot at landing new ones because of a shortage of technical personnel, even now. But if they have to return home, he advises them to "go back proud rather than going back complaining."

The backlash against the visa has sparked concern in India. "The H-1B route that brought tens of thousands of Indians to America is facing opposition that may prove terminal for the program," The Telegraph of India reported last week.

The two out-of-work engineers, Prasad and Jay — who asked that their real names not be used — came here to study, earned advanced technical degrees from top American universities and found jobs after graduating.

Prasad, 28, comes from a business family in Manipur and is the only one of his siblings with a computer science degree. A graduate of the Indian School of Mines, he came here in 2004 for advanced study, first at Stanford and then at MIT, where he earned a master's degree in electrical engineering.

He landed a job with a Silicon Valley startup, but the downturn claimed his position in December. The company kept him on for two months so he could look for a new one. Now time is running out.

"I just need to find a new job" soon, he said recently. "There's a distinct possibility that I will have to leave. The downturn has come, companies

have frozen hiring, I'm in the wrong company and I got laid off."

"There's a lot of panic everywhere," said the immigration lawyer representing Prasad, Jacob Sapochnick of San Diego. "Everybody's worried."

Somber reunion

Prasad says he learned he wasn't alone at a reunion of MIT graduates last week. "I met a whole bunch of people in the same situation," he said. Last week, things were looking up for him. A major computer company was close to offering him a job.

While Prasad was scouring the valley for work, Jay was probably knocking on a few of the same doors.

Jay, 32, came to Silicon Valley to work in 2005, after obtaining a doctorate from Cornell in electrical engineering. After four years in the valley, his green card was in process, his job seemed secure, and then "... The Crunch.

Laid off this month from the solid-state-device company where he had worked for 20 months, Jay consulted San Jose lawyer Liladhar-Hathi.

"I have a very limited time within which to find work before my status becomes illegal in the United States," Jay said. "In this kind of market, it's too short a time within which to land a new job," he said.

Late last week, he was still looking. There was some interest from a university research group, but nothing concrete. A German company might make him an offer but was still checking its financing to make sure it could afford to hire him. If he is forced to return to India, Jay said, he will try to find work in the valley again someday.

Contact Pete Carey at pcarey@mercurynews.com.

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