Romel Khan
84-14, 260 Street
Floral Park, NY 11001
August 14, 1998

Julie Fernandes
Special Assistant to the President for Domestic Policy
Domestic Policy Council
The White House
Old Executive Office Building
Washington, DC 20502

Dear Ms. Fernandes:

Recently, it was brought to our attention that U.S. consular officers overseas seem to arbitrarily deny visitor visa applications from spouses and children of U.S. Citizens (USCs) and Legal Permanent Residents (LPRs). We am/are very concerned about these policies and practices of our consular officers abroad and hope to resolve this issue fairly and expeditiously.

As We understand, over one million U.S. Citizens and Legal Permanent Residents are separated for months and even years from their spouses and children who are waiting overseas for their permanent visas. During this long separation, spouses and children of USCs and LPRs are hardly ever granted tourist visas for brief and occasional visits with their loved ones here in the United States. We learned that U.S. consular officers very often arbitrarily deny visitor visas because of automatic presumptions that these future Americans - spouses and children of U.S. Citizens and Legal Permanent Residents already here - will violate our laws if allowed to visit and stay here while they wait years for permanent visas.

We know that U.S. immigration laws allow for people with pending immigration petitions to obtain tourist visas. However, it seems that the prevailing atmosphere in U.S. consulates is filled with suspicion especially toward spouses and children of USCs and LPRs with pending immigrant visa applications that they will not return to their home country after their temporary stay here. We am/are concerned with reports that consular officers seldom award these applicants the opportunity to argue their cases in an interview or present evidence to show that they will return to their home country after their visit to the U.S. We am/are also troubled that consular officers' decisions are most often based on their subjective evaluation of the applicant and that they are neither examined by judicial review nor does the applicant have the right to appeal adverse judgments.

We believe that consular officers should seriously weigh the deterring power of new immigration laws that impose severe sanctions on those who overstay their temporary visas when they make their decision to approve or deny visitor visa applications from spouses and children of USCs and LPRs. For spouses and children of U.S. Citizens and Legal Permanent Residents, the threat of a three to ten year or possibly even permanent bar from the country is reason

enough not to risk overstaying a tourist visa. It makes no sense for spouses and children of U.S. Citizens and Legal Permanent Residents - future Americans - to jeopardize their plans to one day reunite their families in the U.S.
We also know that non-immigrants can no longer adjust their status in the United States once their permanent visa applications have been approved, eliminating that option for spouses and children of USCs and LPRs.

We hope that you will inquire at the Department of State why U.S. consular officers abroad continue to arbitrarily deny visitor visas to spouses and children of U.S. Citizens and Legal Permanent Residents despite these new immigration laws that strongly deter these future Americans from overstaying their visas. We also ask you to urge the Department of State to change its consular policies and practices for processing visitor visa applications from these spouses and children waiting abroad for permanent visas. We hope that you will join us in urging the Department of State and its consulates around the world to offer these families a fair chance to bridge their many years of separation with visits to the United States. We hope that you will request the Department of State to make any changes in their policies and procedures to facilitate a just and humane decision-making process for visitor visa applications from spouses and children of U.S. Citizens and Legal Permanent Residents waiting abroad.

Thank you very much.

Respectfully yours,

RKhan

Romel Khan

THE WHITE HOUSE

WASHINGTON

From the Office of:

The Domestic Policy Council

Elena Kagan
Deputy Assistant to the President
for Domestic Policy

TO: Cynthia

FAX: 67431

PHONE:

PAGES: 3

MESSAGE:

Please call (202) 456-5584 if there are any problems with the transmission.

ETHNIC OUTREACH

- **Middle East Peace Process:** The Arab American community is extremely upset over the lack of movement in the peace process. They encourage you to make one last effort to get the peace process back on track.

- **Deportation of Liberian citizens residing in the U.S:** The Liberian Association of Metropolitan Atlanta sent you a letter informing you of concern that Liberia is not safe enough for return of Liberian citizens residing in the U.S. Approximately 15,000 Liberian citizens living in the United States are facing automatic deportation after September 28, 1998, due to the Temporary Protected Status (6 months TPS) granted by the Attorney General in March 1998. The Liberian Ambassador approached Ben Johnson in Atlanta requesting that you issue a stay on the deportation.

HEALTH CARE OUTREACH

- **Praise for your announcement on the initiative to improve the quality of nursing homes:** Your announcement was met with a favorable reaction, both from senior citizen's groups and the nursing care community.

- **Henney Nomination:** Dr. Jane Henney, the nominee for Commissioner of the FDA, was very well received when she met with 24 key women leaders from health organizations. In a round table discussion hosted by OPL, these leaders expressed that they very much want to help us with Dr. Henney's nomination.

HISPANIC OUTREACH

- **Puerto Ricans March on July 25th to mark the 100th Anniversary of the U.S. Invasion of Puerto Rico:** A series of marches will be held on July 25th to commemorate the 100th anniversary of the invasion of Puerto Rico by U.S. military forces. The marches will focus primarily on Puerto Rico's unresolved political status. The Administration's Interagency on Puerto Rico has recommended the White House release a Presidential Message that reiterates your position regarding the ability of the Puerto Rican people to choose their status. Some of the demonstrations will also address the issue of the release of the 15 Puerto Rican political prisoners. White House Counsel's office has been working with the Justice Department to determine whether anything can be done regarding their release.

Question — what is this? Gene

- **Concerns over Spouse Reunification:** OPL hosted a meeting with the DPC for the Association of Americans for Spouse Reunification to discuss the organization's concerns over the denial of visitor's visas for spouses of legal residents. Spouses, who currently have applications for permanent residency pending, have been denied visitor's visas at consular offices because of the presumption that they will remain in the U.S. illegally when their visas expire. The DPC will follow up with the State Department to determine whether or not any department policy directives exist regarding this matter.

- **The First Lady Delivered Keynote Address to the National Council of La Raza (NCLR):** NCLR was honored and delighted to have the First Lady deliver the keynote address to their conference participants this week. She was very well received by the conference participants.

RELIGIOUS OUTREACH

Tom — What is this? Elena

- **Religious Liberties Protection Act:** Bill Marshall in Counsel's office has worked successfully with the Justice Department to craft compromise language that is also satisfactory to the coalition working on this bill. The language has been sent to Rep. Charles Canady, who is expected to include it in his bill. While local governments may question the zoning exemptions, we do not anticipate any other issues at this time.

WOMEN'S OFFICE OUTREACH

- **At the Table:** The Women's Office hosted an At the Table event with Kellogg Foundation Fellows on June 24. The event, which featured Lynn Cutler and Stacie Spector, was a great success, and we anticipate that this program will move ahead fully after Labor Day.

July 30, 1998

Dear Ms. Fernandez:

I would like to express my sincere appreciation for meeting with me and other members of the Association of Americans for Spouse Reunification (AASR) on July 20 regarding the separation of Legal Permanent Residents (LPRs) from their spouses and children due to the current immigration law and policies.

Our long and painful separation from our spouses and children can be greatly alleviated if the State Department can issue visitor visas to our family so that they can visit us in the United States temporarily while they are waiting abroad for their permanent immigrant visas. However the State Department routinely denies our families' visa application even though they are eligible for such visas under the current law.

We were very gratified by your sympathetic understanding of our plight and entreat you to urge the President to persuade the State Department to revise its consular practice with respect to visitor visa applications from spouses and minor children of LPRs.

Thank you.

Sincerely,

L L Raj

Lawrence Lourduraj

845 Mowry Ave #149
Fremont CA 94536-4122

(650) 506-1473 (day)
(510) 713-8604 (evening)

e-mail : llraj@yahoo.com

Lawrence Lourdunay
845 MOWRY AVE #149
FREMONT CA 94536

TO,

MS. JULIE FERNANDES
SPECIAL ASST. TO THE PRESIDENT FOR DOMESTIC POLICY
THE WHITE HOUSE
OLD EXECUTIVE OFFICE BLDG.
WASHING

National Immigration Forum

PRESS RELEASE

FOR IMMEDIATE RELEASE
August 5, 1998

Contact: Judy Mark
(202) 544-0004, ext. 14

PRO-IMMIGRANT ORGANIZATIONS CALL ON HOUSE MEMBERS AND THE WHITE HOUSE TO REFRAIN FROM BASHING LEGAL IMMIGRANTS IN COMING DEBATE OVER H-1B VISAS

The following is a statement issued by the National Immigration Forum, The National Asian Pacific American Legal Consortium, and Immigration and Refugee Services of America

The House of Representatives is likely to take up legislation later this week that would increase the availability of H-1B visas, a category of temporary legal immigration in which high technology and other companies can sponsor talented foreign-born employees. In addition, the proposed bill would toughen enforcement, introduce new protections for U.S. workers, and increase training and educational opportunities for Americans.

We understand this bill will generate a heated debate on the House floor. Most immigration-related issues do. We also understand and respect the fact that many of our friends in the House of Representatives disagree with our support for this legislation. However, our differences on this particular piece of legislation should not obscure the fact that we all agree that America is and should remain a nation of immigrants.

Consequently, it would be unfortunate if during the course of the coming debate opponents of this legislation made statements that inadvertently stereotype and stigmatize immigrants as harmful to the nation. Simplistically asserting that these immigrants take jobs from Americans, or cause unemployment, or deprive those born here of opportunities is not only untrue, it matches up with the rhetoric of extreme anti-immigrant groups as they aggressively seek to pit immigrants against the native-born.

Individuals who come here on H-1B visas are not a threat to U.S. workers. Much like legal immigrants sponsored by families or those admitted as refugees, they come from diverse ethnic backgrounds, make important contributions to our society and our economy, and many go on to become U.S. citizens. Many of these skilled workers are top graduates of America's finest universities. They fill important positions at high tech companies, universities, and in a variety of other fields. Rather than harming native-born Americans, these immigrants strengthen America. We ask all of our leaders, both in the White House and the House of Representatives, to bear this in mind as we proceed with this important debate.

# # # #

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

LEGISLATIVE REFERENCE DIVISION

ECONOMICS, SCIENCE, AND GENERAL GOVERNMENT BRANCH

TO:
State - Elizabeth Sayster / John Caulfield
Justice - Patty first / Greg Jones
Joe Pipan
Steve Mertens
Julie Fernandes - DPC
Ellen Balis
Scott Busby - NSC

FROM: INGRID SCHROEDER
phone: (202) 395-3883
FAX: (202) 395-3109

DATE: 10/14/98

NUMBER OF PAGES (including this cover sheet): 5

COMMENTS:

Attached is HR 4821 - it is on the suspension list in the House for 10/15/98.

Please let me know ASAP if you have any objections.

*State recently sent to Congress a similar proposal

Please call (202) 395-3454 to report any difficulties with transmission of this fax.

105TH CONGRESS
2D SESSION

H. R. 4821

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Texas introduced the following bill; which was referred to the Committee on ______________

A BILL

To extend into fiscal year 1999 the visa processing period for diversity applicants whose visa processing was suspended during fiscal year 1998 due to embassy bombings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION INTO FISCAL YEAR 1999 OF VISA PROCESSING PERIOD FOR DIVERSITY APPLICANTS WHOSE VISA PROCESSING WAS SUSPENDED DURING FISCAL YEAR 1998 DUE TO EMBASSY BOMBINGS.

(a) EXTENSION OF PERIOD.—

(1) IN GENERAL.—Notwithstanding clause (ii)(II) of section 204(a)(1)(G) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(G)), in the case of an alien described in paragraph (1) or (2) of subsection (b)—

(A) the petition filed for classification under section 203(c) of such Act (8 U.S.C. 1153(c)) for fiscal year 1998 is deemed approved for processing for fiscal year 1999, without the payment of an additional $75 filing fee; and

(B) the priority rank for such an alien for such classification for fiscal year 1999 is the earliest priority rank established for such classification for such fiscal year.

(2) VISAS CHARGED TO FISCAL YEAR 1999.—Immigrant visas made available pursuant paragraph (1) shall be charged to fiscal year 1999.

(b) ALIENS ELIGIBLE FOR BENEFITS.—

(1) PETITIONING ALIEN.—An alien described in this paragraph is an alien who—

(A) had a petition approved for processing under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) for fiscal year 1998; and

(B)(i) had been scheduled for an immigrant visa interview on or after August 6, 1998, and before October 1, 1998, at the United States embassy in Nairobi, Kenya, at the United States embassy in Dar Es Salaam, Tanzania, or at any other United States visa processing post designated by the Secretary of State as a post at which immigrant visa services were suspended in fiscal year 1998 as a result of events related to the August 7, 1998, bombing of those embassies; or

(ii) had been interviewed for such a visa but refused issuance under section 221(g) of such Act (8 U.S.C. 1201(g)) during fiscal year 1998 at such an embassy or post,

(2) FAMILY MEMBERS.—An alien described in this paragraph is an alien who—

(A) is a family member described in section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)) of an alien described in paragraph (1); or

(B)(i) is a family member described in such section of an alien described in paragraph (1)(A); and

(ii) meets the requirement of clause (i) or (ii) of paragraph (1)(B).

Jun Wu
Association of Americans for Spouse Reunification
7009 La Cosa Dr., #1098
Dallas, TX75248
Tel:972-479-2713(o) 972-458-1462(h)

Honorable Julie Fernandes
Special Assistant to the President for Domestic Policy
Domestic Policy Council
The White House
Old Executive Office Building
Washington, DC 20502

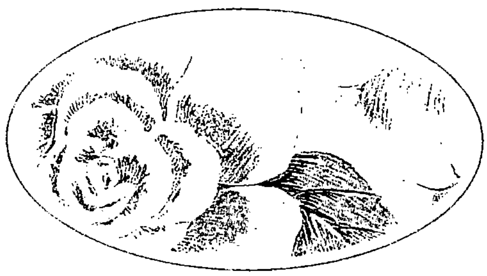
Dear Ms. Julie Fernandes:

I would like in this letter to sincerely thank you for giving us the opportunity of meeting you on Monday July 20, 98 in connection with the prolonged plight of family fragmentation of families of US citizens and permanent residents. I had great pleasure in having such an open and cooperative discussions with yourself regarding this issue. I greatly appreciate your consideration of inquiry to the State Department about the unfair and unwritten consular policy of denying routinely visa applications by spouses of US citizens and permanent residents. I hope the White House can request a change in this consular practice. We have also contacted several congress members of subcommittee on international relation for their support.

As many families continue to be separated, we are looking forward for a resolution to their plight.

Sincerely yours

Jun Wu



FORGET ME NOT
AMERICAN GREETINGS

FCTY 2-30G

AMERICAN GREETINGS
CLEVELAND, OH 44144

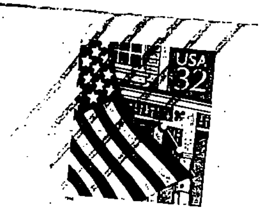
CARLTON CARDS
TORONTO, ONTARIO M8Z 1S7

Dear Ms. Julie Fernandes:

It was my greate pleasure to meet you. Wish you and your family the best.

7/28/98

Jim Wu
7009 La Cosa Dr., #1098
Dallas, TX 75248



To Ms. Julie Fernandes
Special Assistant to the
President for Domestic Policy
Domestic Policy Council
The White House
Old Executive Office Building
Washington DC 20502

VISA (work)
High Tech
Professionals

To: mailing list

A high-tech battle over immigrants

Firms seek to import more professionals

By Marcus Stern
COPLEY NEWS SERVICE

June 8, 1998

WASHINGTON -- The biggest immigration battle of the year is coming to a head this month, but the focus isn't on fences, farm workers or food stamps.

Instead, it's on computer programs and the people who write them.

For the past year, American high-tech companies have been working with Congress to expand an 8-year-old program that brings in 65,000 foreign professionals each year. The companies want the limit raised to 115,000.

Because the visas are good for up to six years, the increase would mean that -- under this program alone -- as many as 690,000 foreign workers eventually could be employed in the United States at any given time.

The lobbying has continued at a time when some of these companies have laid off American workers or imposed hiring freezes. Last month, Intel, one of the driving forces behind the program's expansion, said it would cut 3,000 positions because of slow computer sales.

One crucial question is at the center of the upcoming congressional vote: Should lawmakers add protections to help American programmers and engineers who compete for these coveted jobs?

Most of the foreign workers come from India and China, where they likely earned about $2,500 a year. In the United States, they stand to make almost 15 times that amount.

U.S. employers say safeguards aren't needed. They say they hire foreign workers only when they can't find skilled Americans to do the job.

"If we had rampant problems with the program, I probably wouldn't even be proposing an increase," said Sen. Spencer Abraham, R-Mich., chairman of the Senate immigration subcommittee and the high-tech industry's champion on this issue.

"We don't have problems with the program, because we have very responsible employers who are truly playing by the rules."

But the rules in this high-stakes game are extraordinarily loose:

[INLINE] Some of the top users of the program, which requires an H-1B visa, are foreign-owned firms that don't consider hiring American engineers or programmers. They recruit only from abroad.

[INLINE] Current safeguards, designed to make sure employers can't bring in H-1B workers at low wages, don't work because "prevailing wage" figures are often misleading.

[INLINE] Labor Department officials say their hands are tied and their eyes blindfolded under the current regulations. They've asked Congress for either a meaningful oversight role or no role at all.

[INLINE] The Immigration and Naturalization Service has so completely abdicated its H-1B responsibilities that it doesn't bother to check if the foreign workers go home when their visas expire.

[INLINE] Many of the most active H-1B importers are temporary staffing agencies that recruit foreign workers simply to lease them to U.S. companies. The U.S. companies like the arrangement, because they can hire for specific projects and then let workers go when the projects are over. This lowers their overall labor costs.

High-tech companies were delighted last month when the Senate passed a bill that would increase the number of guest workers without tightening the regulations.

But they reacted angrily to the bill that's now moving through the House.

It would require employers to attest that they at least tried to find American workers, and that they hadn't laid off anyone to make room for an H-1B worker.

The regulation would add two checkoff boxes to the current one-page Labor Department form. But some high-tech employers say that is too much. They'd scrap the H-1B increase entirely, rather than put up with new regulations.

The final shape of the law that Congress passes in the coming weeks could determine the value of tomorrow's U.S. high-tech jobs.

If companies continue their growing reliance on temporary foreign workers, will these prized jobs of the 1990s retain their luster in the 21st century?

Or will wages and working conditions erode as the high-tech work force fills with foreign programmers willing to work longer hours for less money?

[INLINE] [INLINE] [INLINE]

Saju James sits nattily attired in a double-breasted blazer in the conference room of Tata Consultancy Services in the Washington suburb of Rockville, Md.

Tata is an international technology firm based in India and one of the biggest users of the H-1B program. With its corporate cousin, Tata Infotech, it was the second-biggest recipient of H-1B visas last year at 1,128.

Tata Consultancy, the larger of the cousins, has about 1,500 people working in the United States. The programmers are paid by Tata, but they actually work under contract for some of America's biggest and best-known technology firms.

James' job is to obtain their H-1B visas.

Upon request, he brings out files on 13 Tata employees working in San Diego on a project with UCSD. The H-1B law requires employers to make the files available for public inspection.

All 13 were top graduates of India's premier technical institutes, he said, and each had 18 months of specialized on-the-job training in India before coming to the United States.

The group at UCSD is working on a multimedia project that requires many of today's "hot skills." They are precisely the kinds of programmers in demand in today's labor market.

Tata pays them an average of $35,300 a year.

Although entry-level salaries in the high-tech industry fluctuate, that figure appears to be low.

At a Senate hearing earlier this year, a CEO said his company gave a new car to one engineering graduate as a signing bonus. A University of Michigan dean told of a prevailing wage of $66,851 for someone with an applications programmer degree.

Yet the Tata engineers, who have equivalent degrees, make only about half that much.

The H-1B program's loose regulations, which the computer industry helped shape, make the wide range in salaries possible.

Employers are required to pay their H-1B workers at least the "prevailing wage," a figure drawn from salary surveys of local businesses.

But employers are allowed to pick and choose from a wide range of salary surveys, including some that are outdated or flawed. Naturally, they tend to pick the lowest prevailing wage available.

The prevailing wage listed for the Tata employees at UCSD is $33,370. The source is the Economic Research Institute.

An official with the institute freely admitted that its survey shows a higher prevailing wage -- $37,700. But, he said, a government survey lists a prevailing wage of $33,176.

The rate is artificially low, he said, because it is based on 2-year-old data and lumps professionals with paraprofessionals.

Tata's James concedes that $35,300 may seem low in today's hot job market. Especially when you're talking about people as highly skilled as the Tata engineers.

But by Indian standards, $35,300 is a phenomenal salary, he said. At home, these programmers would make about $2,500 a year.

"With the money they save here, they can go back to India and build a house," he said.

As James sits surrounded by bare walls in Tata's sparsely furnished office in Rockville, he wonders aloud how the main safeguards in the

House bill would affect Tata.

The one requiring Tata to attest that it hadn't laid off any American workers would be no problem. Tata doesn't have any American programmers or engineers to lay off. It simply doesn't hire American.

But the requirement that companies recruit American workers could spell trouble.

All of Tata's recruiting is done in India.

Of the 1,500 Tata employees working in the United States, James can think of only one, a vice president, who is American.

[INLINE] [INLINE] [INLINE]

Tata Consultancy isn't the only H-1B user without American engineers.

Tata Infotech, its corporate cousin, has about 500 employees in the United States, also under contract with U.S. firms. About 95 percent of them are here on H-1Bs, a company official said. Most of the rest are here on L-1 visas, which are temporary visas for support staff.

Another top user of H-1Bs, Mastech Systems of Oakdale, Pa., reports that the overwhelming majority of its engineers and programmers, also on contract to U.S. technology firms, are in the United States on temporary work visas.

Mastech was the single-largest H-1B user last year, with 1,689.

Rep. Bruce Morrison, a Connecticut Democrat who was chairman of the House immigration subcommittee when the H-1B program was created in 1990 and takes fatherly pride in the program, says the practices of companies like Tata Consultancy, Tata Infotech and Mastech raise questions beyond immigration law -- questions of hiring discrimination.

"This isn't an H-1B problem, it's a Title VII problem," he said.

[INLINE] [INLINE] [INLINE]

Sen. Abraham and industry representatives are fond of saying the H-1B program is "totally transparent." Anybody can go to a workplace and see how much an H-1B worker earns. Theoretically, this ensures they're not paid less than other workers, thereby undermining the U.S. wage structure.

That may be the law, but it's not how it works.

When Qualcomm's Daniel L. Sullivan, senior vice president for human resources, appeared before the House immigration subcommittee to push for an expanded H-1B program, he also said that the program was well-regulated and that the proposed employee protections were unnecessary.

San Diego-based Qualcomm has 10,600 employees in the United States. Of those, 572 -- about 5.5 percent of the company's work force -- are on temporary work visas.

"Current regulations require Qualcomm and every other business to pay H-1B employees at the same rate we pay nonimmigrant personnel in the same job categories," Sullivan said, adding that he has seen "no evidence that employers are attempting to evade the prevailing wage regulation."

Several weeks later, in an office at Qualcomm's headquarters, a company administrator opened an accordion file packed with information on all the company's H-1B employees.

Last year, the telecommunications company brought in 122 H-1B workers. For many, the listed prevailing wage was $33,200. The source was the Radford Survey.

Steve Radford is head of the Radford Division of Aon Consulting. He has been surveying high-tech compensation practices for 23 years. He said the "effective" prevailing wage range for an entry-level programmer in San Diego is between $38,000 and $45,000.

Qualcomm's Bill Bold, who has lobbied in Washington to expand the H-1B program, said Qualcomm pays its foreign professionals more than the prevailing wage listed on the Labor Department forms stuffed into the accordion file. But he wouldn't say how much.

He said the company "as a rule" doesn't pay less than $42,000 for entry-level programmers like the ones hired under the H-1B program and often offers a signing bonus and company stock.

But he refused to disclose the actual wages of the H-1B workers. Initially, company officials had promised to, but after weeks of delays decided against it.

Without knowing the actual wages, it is impossible to determine whether Qualcomm is paying foreign workers the same as its other entry-level programmers, or if the workers are lumped at the bottom of the company's salary ladder.

[INLINE] [INLINE] [INLINE]

Sen. Abraham may have confidence in the way the H-1B program is being run, but the officials who run it don't.

Labor Department officials complain that regulations force them to rubber-stamp H-1B applications.

They can reject the applications only when they aren't completely filled out and signed, or if the forms contain information that's clearly incorrect. Otherwise, approval comes within seven days.

At the INS, spokesman Russ Bergeron said his agency's only role in the H-1B program is to count the number of visas approved and make sure it doesn't exceed the legal limit.

Actually, the agency must approve each H-1B visa. But the process is so perfunctory that it's easy to see how Bergeron could overlook it. All the INS has to do is make sure the applicant's occupation qualifies under the program.

Although employers must fill out a three-page form for the INS, only a small portion of the information is entered into a database. Most of it remains on the application form, stored in one of four INS service centers nationwide.

The agency keeps track of how many visas are approved, but not of how many are actually issued. Nor does it keep track of when temporary workers arrive in the country, when they are supposed to leave, where they will be working, or what they will be doing while they're here.

And who makes sure the workers eventually go home?

"That's the responsibility of the employers," Bergeron said.

Gohl Earl

From: Gohl Earl
Sent: Tuesday, July 21, 1998 6:22 PM
To: Beach Benjamin; Flournoy David (Todd); Fraser John,ESA; Brown-Palast Geri; Luna David; Hubb Gail,ESA; Reed Gary; Harris Seth; Uhalde Raymond; Kamela William,ETA; Meftah Yvette
Subject: H-1B...fyi

High Tech Trying Hard to Keep `Temporary Workers' Bill Alive
An odd alliance may have sunk quota increase

TOM ABATE
San Francisco Chronicle, Tuesday, July 21, 1998, page B1

Suddenly, the high-tech lobby is fighting to keep alive one of its top legislative priorities: a congressional bill to increase the number of ``temporary" skilled workers from overseas who can fill jobs in the United States. In May, when SB1723 sailed through the Senate on a 78-to-20 vote, it looked like high tech was going to get the increase it sought in the quota of workers who could be brought here under the controversial H-1B visa program. Now, however, the odd alliance of an anti-immigration Republican leader in the House of Representative and the labor-friendly Clinton administration has H-1B legislation listing badly -- if not sunk.

Two Silicon Valley lawmakers, Representatives Tom Campbell, R-Campbell, and Zoe Lofgren, D- San Jose, are trying to broker a compromise between the Senate bill, which the tech industry likes, and the current House version, which it hates.

But with only 24 days before Congress goes out of session, the clock is ticking on an issue that has tempers running high.

``As divided as the two sides are, I'd be the most surprised person in the world if they manage to pull off a compromise," said Carl Shusterman, an immigration lawyer in Los Angeles. Ironically, the debate began favorably for the tech lobby, which created headlines earlier this year by warning of a dramatic shortage of high-tech workers, especially programmers. With industry blessing, Senator Spencer Abraham, R-Mich., drafted a bill to increase the quota of foreign workers -- now 65,000 -- who can come here each year on six-year work permits. Three quarters of the Senate, including both California members, voted to raise that quota to a high of 115,000. Then the bill landed in the House Judiciary Subcommittee on Immigration, where Representative Lamar Smith, R-Texas, a bulwark of anti-immigration sentiment, added two innocuous- sounding riders that made the tech lobby draw a collective gasp.

Smith's HR3736 would require that companies seeking to import H-1B workers make two ``attestations" -- that they have tried and failed to hire qualified Americans, and that no U.S. workers were laid off to create vacancies for foreigners.

Pro-industry lawyer Susanna Igleheart Bogue said those provisions would enable disgruntled workers to get the Department of Labor to investigate any firm that hired H-1B staff -- leading to expensive administrative law proceedings.

``High-tech firms would rather leave the H-1B quotas alone than accept attestation," Bogue said.

House Republican Campbell is supporting Smith's attestations in principle, while looking for language that doesn't make the industry gag. He's asked lobbyists Mary DeBeal of Hewlett-Packard, Tom Gann of Sun Microsystems and Mike Maibach of Intel to negotiate with Smith directly.

Lofgren, meanwhile, is reportedly trying to get the White House to reverse or at least soften its threat to veto any H-1B bill that lacks attestations. But a Senate source says Lofgren's out of luck, because Clinton's mind is made up. The weakness of industry's position is laid out in a July 7 e-mail -- which found its way to me -- in which Intel lobbyist Jenifer Eisen lays out the facts: By industry's count, Smith then had 240-to-270 votes for his bill, attestations and all. Passage requires 218 yeas. Against this backdrop, House Majority Leader Dick Armey, R-Texas, will reportedly get Abraham and Smith together later this week to bang out a compromise in which the attestations would not apply to the first 65,000 workers admitted under H-1B visas, but would be required for workers who come in under the new, higher quotas.

Through it all, William Archey, president of the American Electronics Association, insisted yesterday that a bill palatable to industry would emerge from the House and make it to the president's desk.

``We're on the right side of the angels on this," Archey said confidently.

By which I think he meant he'll be spending a lot of time on his knees in the next few weeks.

****

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UNITED STATES DEPARTMENT OF LABOR

FACSIMILE TRANSMISSION

OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS

200 Constitution Avenue,
N.W.
Room S-1325
Washington, DC 20210

Confirmation:
202/219-6141

July 21, 1998/6:44pm

TO: CECE/JULIA/PETER

DEPARTMENT/COMPANY:

FACSIMILE NUMBER:

FROM: EARL GOHL

NUMBER OF PAGES INCLUDING COVER:

FACSIMILE REPLIES:	CONGRESSIONAL AFFAIRS	202/219-5120
	INTERGOVERNMENTAL AFFAIRS	202/219-5736
	IMMEDIATE OFFICE OF THE ASSISTANT SECRETARY	202/219-5288

MESSAGE:

Immigrat.

Visas

Exchange program

MACK MCLARTY

February 17, 1998

To: Julie Fernandez
From: Patty McHugh pmc

Mack McLarty asked me to forward the attached to you for your information only. He understands that we can have no involvement in this particular case, but wanted you to be aware of the general issue raised by Moore Stephens. Thank you for your attention.

Attachment

MOORE STEPHENS FROST

CERTIFIED PUBLIC ACCOUNTANTS

A Professional Association

MEMORANDUM

TO: Mack McLarty

FROM: Steve Humphries

DATE: February 12, 1998

RE: Immigration Issues

Attached is a letter from Moore Stephens in New Jersey to the Immigration Department. Moore Stephens in New York had established an exchange of staff with the Australian firm in Sydney whereas three of the younger accountants would go to Sydney and work during their busy season and, conversely, three of the Australians would come to New Jersey and New York to work during our busy season. This is a program we are trying to establish where we can exchange staff with other affiliates around the world mainly for the education and experience of the younger staff (normally senior to manager level people who are from 25-33 years old).

It appears because of the U.S. Government's infinite wisdom we will not be able to do this, although I know that every other corporation or entity of any size does it on a day to day basis. I don't want you spend a lot of time or energy on this issue, but I would think someone in the White House handles a lot of items such as this and if they could at least review it for me I would appreciate it.

SBH/krc

425 West Capitol, Suite 3300 • Little Rock, Arkansas 72201 • (501) 376-9241 • (800) 766-9241 • Fax (501) 376-6256

MOORE STEPHENS, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

JOSEPH J. CORCORAN, CPA
(N.J., N.Y.)

Mr. Todd Reader
Director- Business Section
Immigration and Naturalization Service
Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479-0001

Dear Mr. Reader,

Please accept this letter as further documentation to the visa applications of Clark Jarrold, Robert Mackay and Anthony O'Reilly ; all three of these applicants are Australian Chartered Accountants, the equivalent of a Certified Public Accountant in the United States.

While we feel all of our reasons for seeking visas for these applicants are important, we believe the following are the most pertinent:

1) ***Increased Service to Existing Clients:***

Our firm currently provides accounting and business consulting services to an American company doing business in Australia and an Australian company that is trying to increase its business in The United States, the applicants provide services to these companies in Australia. The American company is in the fast food franchising business and the Australian company is in the medical research and development industry. The managerial skills the applicants bring to the accounting and consulting aspects of these very specific opportunities is quite unique and allows us a much quicker response time then we might otherwise be able to supply. Additionally, melding the international experience in the medical R & D area will providing us with at least one and maybe multiple opportunities to expand our business both at home and internationally.

2) ***Expansion of International Network:***

In July of 1997 we met with representatives of the Moore Stephens International network to start the formation of an international financial and consulting services group, the plan is to present a working program to the representatives from the various parts of the world (Moore Stephens International has member firms in 63 countries) at the International Moore Stephens meeting this coming September in San Francisco. The Australian Group that the applicants represent encompass Australia, New Zealand and the Pacific Rim Countries, their input to our September presentation is critical.

3)***Continuity of Exchange Program:***

This past August we sent two of our staff people to the Sydney office of one of the Australian Group firms. They immediately assumed managerial responsibilities and worked for three months with the clients of the Australian firm. The experience and relationships they established will benefit them personally and the respective firms for decades. In order for this investment of our time and energy to be successful it is incumbent on us to provide a similar experience to the applicants. We have been informed that it is a concern of the Service that "exchange programs" are glorified vacation trips, we can assure you that nothing could be further from our minds. We have planned a full schedule of specific audit and accounting assignments that will employ the management skills and International Accounting Standards expertise that the applicants possess.

We respectfully submit this letter in an attempt to inform the Service as to our intentions and the intentions of the applicants. It has been a costly learning experience for us in that we have arraigned for living accommodations for the applicants in advance of securing the visas. Our experience in sending our people to Australia gave us a false sense of ease. However, we have come to understand the important role played by the Immigration and Naturalization Service, we appreciate the conscientious and thorough screening that takes place. While we certainly hope that you will rule favorably on these applications, we have come to the realization that your decision will be based on what you consider to be the best interest of the United States of America and its citizens, and we certainly cannot argue with that kind of motivation.

Thank you for your consideration to our request.

Very truly yours,

Joseph J. Corcoran
Managing Principal

U.S. Department of Justice

Immigration and Naturalization Service

JAN 02 1998

Vermont Service Center
75 Lower Welden Street
St. Albans, VT 05479-0001

A FILE NUMBER:
EAC FILE NUMBER: EAC9803653280

BENEFICIARY(IES):
MACKAY, Robert

ATTN KATHLEEN M CLAYTON
MOORE STEPHENS PC
340 NORTH AVENUE E
CRANFORD NJ 07016

Dear Kathleen M. Clayton:

On November 15, 1997, you filed a petition to classify the beneficiary under section 101(a)(15)(L) of the Immigration and Nationality Act.

Section 101(a)(15)(L) defines an "intracompany transferee" as:

> ...an alien who, within 3 years preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him or following to join him...

You contend that the beneficiary has been, and will be, employed in a specialized knowledge capacity, and therefore qualifies as an intracompany transferee.

Title 8, Code of Federal Regulations, part 214.2(l)(1)(ii)(D) provides that:

> (D) *Specialized knowledge* means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

On December 2, 1997, you were requested to submit the following:

> Submit additional evidence to establish that the beneficiary has been employed abroad, by a qualifying organization, in a(n) ~~specialized knowledge~~ capacity for one continuous year of full-time employment within the three years prior to November 15, 1997, the filing date of the petition.
>
> Submit additional evidence showing the management structure and personnel structure of your entity outside the United States, including the number of employees and the duties performed by each employee. This request is to assist us in determining whether the beneficiary was employed in a qualifying managerial or executive capacity abroad.

> Submit additional evidence to establish that the beneficiary will be employed in a(n) specialized knowledge capacity in the United States firm.
>
> Submit a breakdown of the number of hours devoted to each of the beneficiary's proposed job duties on a weekly basis.

On response, you submitted a letter stating the beneficiary started his employment with the firm March 2, 1992, along with a copy of his employment declaration form. None of these documents address the issue of the beneficiary being employed in a specialized knowledge capacity abroad for one continuous year with the three years prior to November 15, 1997, the filing date of this petition. Also, they do not indicate that he will be employed in a specialized knowledge capacity in the United States firm.

The record does not establish that the beneficiary has been employed in a specialized knowledge capacity.

On December 2, 1997, you were also requested to submit additional evidence to establish that there exists a qualifying L-1 relationship between Moore Stephen, P.C., and Williams, Hatchman, and Kean. In response you submitted stock certificate number 12 and failed to submit 1 through 11 stock certificates and/or any other documents to establish the relationship between the U.S. company and the foreign company.

Therefore, the beneficiary does not qualify for classification under section 101(a)(15)(L) of the Act.

Your petition is hereby denied.

If you desire to appeal this decision, you may do so. Your notice of appeal must be filed within 30 days from the date of this notice, (33 days if this notice was received by mail). If no appeal is filed within the time allowed, this decision is final. Appeal in your case may be made to the Commissioner on the enclosed Form I-290B. (A fee of $110.00 is required).

If an appeal is desired, the Notice of Appeal shall be executed and filed with this office, together with the required fee. A brief or other written statement in support of your appeal may be submitted with the Notice of Appeal.

There is no provision in the regulations to extend the time to file an appeal. Therefore it must be submitted by the date noted on **Form I-290B**. An extension of time to file a brief may be granted if good cause is shown.

Sincerely,

Paul E. Novak Jr.

for William R. Yates
Center Director

Enclosure(s)