



```
or, only value-test s have dependence  
oken-p tok)  
et ((obj (token-objective tok)))  
(if (and (objective-avail obj) (eq (ob  
(progn (objective-refc-decr obj)
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## 2009 Media Fact Sheet on H-1b Harm

In spite of the current economic downturn and massive bailouts to industry, Congress has failed to mitigate the harm they are inflicting upon U.S. tech workers through their liberal H-1b, L-1, PERM, OPT, and related programs that displace qualified Americans with foreign workers.

In December 2008 [Roy Beck of NumbersUSA](#) asked: "Isn't it time to stop the massive importation of foreign workers? Non-farm employers in the U.S. eliminated 533,000 jobs in November. At the same time, in a typical month the feds give out approximately 140,000 new work permits and green cards to foreign workers."

[President Elect Obama] and his advisers are [crafting a two-year economic stimulus plan that would create 2.5 million jobs](#). But, unless Congress suspends the prevailing "guest-worker" programs, many of these Americans jobs will be given to foreigners over that two year period.

Accordingly, the Programmers Guild calls for an **immediate, emergency suspension of all foreign worker programs** until the U.S. economy is again creating jobs faster than Americans can fill them.

### H-1B FACTS

#### 1. H-1b workers are directly competing against Americans for a diminishing number of job openings.

The Nov 26, 2008 Reuters article "[Silicon Valley starts to feel the sting of layoffs](#)" quoted unemployed H-1b business systems analyst Vivek Sharma who is seeking work in Silicon Valley: "*The job market is completely dead.*" In October 2008 another batch of H-1b workers flooded in. In November 2008 the [unemployment rate in Silicon Valley jumped from 6.2 to 6.9 percent](#).

#### 2. Congress allows H-1b workers to be hired regardless of whether qualified Americans are available.

Immigration and Nationality Act (INA) states: "Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined... that — (I) there are not sufficient workers who are able, willing, qualified ... and available at the time of application for a visa and admission to the United States..."

However this provision does not apply to H-1b workers, who are deemed "temporary," even though they can remain for six years and many obtain greencards during that period.

#### 3. H-1b workers are displacing U.S. workers

[eWeek reported in November 2008](#): "Pfizer's outsourcing contract with Infosys Technologies and Satyam Computer Services means job losses for IT workers in Connecticut. Many U.S.-based contractors are complaining that they are being asked to train H-1B workers who will soon replace them." Earlier this year the [Nielsen company laid off hundreds of workers and replaced them with H-1b workers](#).

#### 4. Foreign firms are the largest users of H-1b

The [largest users of H-1b are Indian consulting firms](#). They [admit that their competitive advantage is that they pay 25% below what they would have to pay to American workers](#).

### H-1B REFORMS

a) Reform the flawed "[prevailing wage](#)" calculation that allows employer to *legally* pay H-1b workers at the 17<sup>th</sup> percentile of what average-skilled Americans are paid within the same occupational classifications. Abolish the four DOL wage levels and mandate that H-1b be paid at least the average wage within the classification.

b) Reform the annual random "H-1b lottery" to instead give preference to the highest skilled foreign workers. We agree with industry on this point: It makes no sense to randomly deny visas for \$100k PhD Researchers while approving the visas for \$17/hour accountants and web developers.

c) Require employers make a good faith effort to [recruit American workers](#) before DOL approves Labor Condition Application (LCA) for an H-1b worker. This can be achieved by making the "H-1b dependent" provisions of the H-1b statutes apply in all cases.

d) Ban the remarketing of H-1b workers via "[bodyshops](#)." Any H-1b use should be as a direct hire by the employer that requires the skills. The growing use of H-1b by bodyshops, which first obtain H-1b workers and then aggressively shop their resumes against U.S. workers makes a sham of the entire program.