



```
ar, only value-test's have dependencies
oken-p tok)
et ((obj (token-objective tok)))
(if (and (objective-avail obj) (eq (ob
  (progn (objective-refc-decr obj)
```



## 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, over 2 million 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

**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](#).

**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 and certified to the Secretary of State and the Attorney General 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, in 1998 HR 3273 circumvented that INA mandate by treating "certain information technology occupations as if the Secretary of Labor had made a determination under section (a)(5)(A) of the Immigration and Nationality Act, to limit such determinations, and for other purposes."

### 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](#).

### H-1B REFORMS

a) Reform the flawed "[prevailing wage](#)" calculation that allows employer to 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 "[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 that employers first make a good faith effort to [recruit American workers](#) before DOL could approve a Labor Condition Application (LCA) for an H-1b worker. The most direct legislative means of implementing this is to make 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.