



FAX TO: 202-272-xxxx

**March 20, 2008
USCIS**

Attention: Chris Bentley or Peter Vietti – 202-272-xxxx

In March 2007 the Programmers Guild recommended that USCIS use salary rather than a random lottery to determine which of the April 1st H-1b applications to approve. USCIS opted to use a random lottery. Almost immediately articles appeared profiling employers that were harmed because the “key personnel” that they needed to expand or maintain their business were denied an H-1b – and how this person had some set of specialized skills that no American possessed.

Last week Bill Gates told Congress how 1/3 of the H-1b applications that Microsoft had applied for had been denied – even though he claims that Microsoft pays their H-1b workers around \$100,000 salary.

This outcome could have been avoided if USCIS had simply used salary as a proxy for skill, and given preference to the most highly skilled applicants.

If there is some statutory basis mandating a lottery over a selection based on skill, can you please provide it to us as soon as possible? But if indeed, as we believe, the lottery is just one of many methods that USCIS choose from to select which April 1st applications to approve – can you please state the reasons why you believe that the lottery is the preferred selection method?

To us the lottery seems highly random and unfair: Some \$16/hour accountants get approved, while others don't. And likewise, some PhD advanced researchers earning over \$100,000 get approved, while others don't.

We have spelled our proposal out in more detail in a March 19, 2007 Press Release:

<http://tinyurl.com/39fzoa>

Our proposal is consistent with free market capitalism: Employers that believe an H-1b worker has exceptional value to their bottom line need only pay a salary sufficiently above the median of applicants in order to assure that their application is approved.

We look forward to your timely response, which we will likely share with Congress and the media.

Sincerely,
Mr. Kim Berry – President of Programmers Guild