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## The Tech Story Within The Immigration Debate

Thankfully, both bills in Congress address issues of importance to CIOs

by Gregory A. Wald  
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The uproar over illegal immigrants and the resulting bills in Congress addressing immigration reform don't pertain just to the influx of blue-collar workers. Although this aspect doesn't get much press, the bills also work to address the challenge American corporations—particularly their IT departments—face when it comes to hiring qualified people who just happen to have been born overseas.

As Stuart Anderson, executive director for the National Foundation for American Policy, recently testified to Congress, "U.S. companies and their competitors are waging a global battle for talent. In some cases, this means hiring foreign-born individuals on H-1B temporary visas, many times from U.S. college campuses as part of the normal recruitment process." And few groups are more sensitive to worker-pipeline issues than CIOs.

From my years as an attorney with the Immigration and Naturalization Service and representing corporations for their immigration matters, I am not surprised at the current debate on immigration or about client response. As Congress took up immigration reform, our clients—ranging from start-ups, IT industry and Fortune 100 companies—began calling or emailing us asking how professionals here on H-1B visas will be impacted and how workforce planning could change.

In 2005 U.S. universities awarded 55 percent of their master's degrees and 67 percent of their Ph.D.s in electrical engineering to foreign nationals, according to the American Association of Engineering Societies. Setting aside the much debated premise that H-1B foreign nationals "take away" jobs from U.S. workers, isn't it in our country's and economy's best interest to have an open, available pool of the best talent to meet the hiring needs of growing companies? If so, then why stymie the availability of talent with a quota on visa availability for the best and brightest from abroad who desire to enter the U.S. to work and contribute to our economy?

In the past eight years, Congress has tinkered with this limit and temporarily raised the cap on H-1Bs. In October 2000, responding to businesses' cries for high-tech workers, Congress significantly upped the number of H-1B visas for the fiscal years 2000 to 2002. When the economy slowed in 2002 and 2003, 230,000 H-1B visas went unused. But now that the economy has improved, H-1B workers are in demand again. CIOs have been hampered in staffing positions from the foreign-national talent pool, despite market demand. For fiscal year 2005, H-1B visas were gone by September 30, 2004. For 2006, employers had exhausted the quota by August 2005.

It's the equivalent of an H-1B blackout. If these U.S.-based positions could not be staffed by workers within the U.S. or through alternative work visas, then the jobs were not filled. In many instances, the jobs went overseas or the would-be high-tech workers were hired away by a foreign competitor. No matter where you stand on the issue, keeping highly skilled IT workers out of the U.S. contributes to our brain drain.

Many H-1B workers apply for permanent residency or green cards. Yet, the current 140,000 annual quota for green cards is inadequate. Workers in H-1B status that are applying for a green card will not move to other jobs and thus are often stagnated in career growth while waiting for the green card process to be completed. Employers end up spending more money maintaining the worker's nonimmigrant status (i.e., H-1B) while waiting for an immigrant visa to become available—monies that could be spent elsewhere.

Despite the intense focus on the 11-to-12 million undocumented immigrants in the U.S., Congress's next move on the immigration issue will no doubt impact CIOs long-term and short-term workforce planning, because parts of the bills do deal with H-1B visas. Just prior to the Senate's April recess, two major bills were before the Senate that addressed immigration reform: the Senate Judiciary Committee's "Comprehensive Immigration Reform Act of 2006" (CIR) and Senate Majority Leader Bill Frist's "Securing America's Borders Act" (SABA). Both bills contained similar provisions that would go a long way toward alleviating the H-1B and immigrant visa backlogs. The CIR and SABA bills especially acknowledge the importance of allowing foreign-national professionals to work, and foreign-born students to attend U.S. universities focusing on the fields of science, technology, engineering, and mathematics.

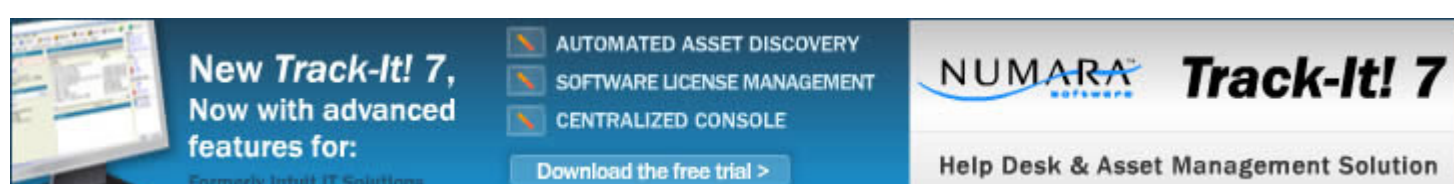
As for the H-1B quota, the CIR would increase the annual cap from 65,000 to 115,000 available visas. Even more important, both the CIR and SABA bills would add a market-based escalator mechanism so that the number of visas available annually would fluctuate in response to the demand in the preceding fiscal year. In addition, both bills would exempt from the H-1B quota foreign nationals who have earned advanced degrees in science, technology, engineering, or math. For CIOs that means support and security in pursuing the best and brightest coming out of our universities—no matter where that talent is from.

In recognition of the importance of attracting the world's best and brightest to our universities, both bills would create a new "F-4" student visa for students pursuing an advanced degree in math, engineering, technology, or the physical sciences. The new visa would allow eligible students, after graduation, to remain in the United States for up to one year and seek employment in the field they studied. Once such a student received an offer of employment, the individual would be allowed a status adjustment to that of a legal permanent resident after paying a fee (\$1,000 in SABA or \$2000 in CIR). Of this fee, 80% would be deposited into a fund for job training and scholarships for U.S. workers and 20% would go toward fraud prevention.

U.S. CIOs want to hire the best and the brightest and want to see the U.S. remain the center of technical innovation. Under these bills, U.S. employers will be able to staff their high-tech and related professional positions with the best-qualified candidates, free from government-imposed quotas and lengthy delays. As Stuart Anderson concluded in his recent testimony, "The costs of Congress' failing to increase both the H-1B cap and employment-based immigrant quotas, unfortunately, will be measured by the job creation, innovation, and research that do not take place in the United States. And these costs will be felt beyond the immediate future."

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