



L-1 visa program provides no protections for American workers, EPI report finds

NEWS FROM EPI

FOR IMMEDIATE
RELEASE

Friday,
August 13, 2010

CONTACT

Phoebe Silag or
Karen Conner
202-775-8810
news@epi.org

The L-1 visa program provides no protections for U.S. workers or the U.S. labor market, a new report by the Economic Policy Institute finds. Moreover, U.S. government officials have long been aware of the numerous problems associated with the L visa programs but have not taken steps to remedy them or create an effective oversight system. EPI's report, [*Abuses in the L-Visa Program: Lawful but Lacking Oversight*](#), by Immigration Policy Analyst Daniel Costa, outlines the problems that exist within the L visa system and offers a series of policy recommendations that would strengthen it.

Congress created the L-1 visa program in 1970 to enable multinational corporations to transfer high-level managers and executives, as well as personnel with specialized knowledge in other countries to offices in the U.S. L-1 visas are "nonimmigrant" work visas—employers apply for the visas, and the visas are temporary and do not confer rights on the holders to become legal permanent residents or naturalized American citizens.

In applying for L-1 visas for employees, corporations do not have to advertise open positions, nor do they have to prove there are no available American workers for the positions or that transferring a foreign employee to the U.S. would not adversely affect the working conditions of similarly situated American workers. There is no doubt that global mobility can benefit the U.S. economy; however, there are no restrictions on what types of businesses can sponsor an L-1 visa or on what occupations are eligible. The lack of constraints, coupled with the fact that the number of L-1 visas rose 351% from 2000 to 2009, suggests that the program is being misused.

According to the report, the L-1 visa program has not resulted in generating significant foreign investment—or job creation—in the United States. By far the largest user of the L-1 visa, India, accounted for only 0.19% of total foreign direct investment (FDI) dollars in the U.S. in 2009.

Furthermore, employers are not required to pay the prevailing or market wage for L-1 positions, which has a detrimental effect on both the U.S. labor market and on the foreign workers themselves. L-1 employees are at a unique disadvantage as a result of an unequal power structure—their visas are held by their employer, meaning they cannot switch jobs, and only the employer has the right to apply for permanent residence on behalf of L-1 employees.

-More-

Finally, not only has the number of L-1 visas granted by the federal government skyrocketed; there is no numerical cap on the number that can be granted. It is also difficult to count how many L visa holders are in the U.S.—the Department of Homeland Security does not keep track of the total number.

There are a number of steps policymakers can take to improve the program, including the following:

- Set an annual numerical cap on L visas.
- Require L-1 transferees to possess extensive postsecondary education, training or experience.
- Forbid multinational companies from transferring employees to U.S. offices on L-1 visas unless no qualified U.S. worker can be found to fill the position.
- Determine the appropriate maximum allowable percentage of temporary foreign workers that companies may hire as a portion of their total U.S. workforce – but not to exceed a total of 20% – unless a bona fide labor shortage in a particular sector of the economy has been identified by the Department of Labor or a Foreign Worker Adjustment Commission.
- Require that employers pay L visa workers at least the market wage for U.S. workers similarly situated, and no less than the prevailing wage, to ensure that wages are not depressed for U.S. workers in similar occupations and with comparable skill levels.
- Empower the Department of Labor with significant authority to audit firms and enforce any new rules created to protect against U.S. worker replacement, adverse working conditions and downward pressure on wages caused by L visa workers.
- Reduce the amount of time an L-1 beneficiary is authorized to stay and work in the U.S.
- Impose an “anti-fraud” fee of at least \$5,000 for every L visa granted.

#