

## *Pink Slips at Disney. But First, Training Foreign Replacements.*

By Julia Preston

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ORLANDO, Fla. — The employees who kept the data systems humming in the vast Walt Disney fantasy fief did not suspect trouble when they were suddenly summoned to meetings with their boss.

While families rode the Seven Dwarfs Mine Train and searched for Nemo on clamobiles in the theme parks, these workers monitored computers in industrial buildings nearby, making sure millions of Walt Disney World ticket sales, store purchases and hotel reservations went through without a hitch. Some were performing so well that they thought they had been called in for bonuses.

Instead, about 250 Disney employees were told in late October that they would be laid off. Many of their jobs were transferred to immigrants on temporary visas for highly skilled technical workers, who were brought in by an outsourcing firm based in India. Over the next three months, some Disney employees were required to train their replacements to do the jobs they had lost.

“I just couldn’t believe they could fly people in to sit at our desks and take over our jobs exactly,” said one former worker, an American in his 40s who remains unemployed since his last day at Disney on Jan. 30. “It was so humiliating to train somebody else to take over your job. I still can’t grasp it.”

Disney executives said that the layoffs were part of a reorganization, and that the company opened more positions than it eliminated.

But the layoffs at Disney and at other companies, including the Southern California Edison power utility, are raising new questions about how businesses and outsourcing companies are using the temporary visas, known as H-1B, to place immigrants in technology jobs in the United States. These visas are at the center of a fierce debate in Congress over whether they complement American workers or displace them.

According to federal guidelines, the visas are intended for foreigners with advanced science or computer skills to fill discrete positions when American workers with those skills cannot be found. Their use, the guidelines say, should not “adversely affect the wages and working conditions” of Americans. Because of legal loopholes, however, in practice, companies do not have to recruit American workers first or guarantee that Americans will not be displaced.

Too often, critics say, the visas are being used to bring in immigrants to do the work of Americans for less money, with laid-off American workers having to train their replacements.

“The program has created a highly lucrative business model of bringing in cheaper H-1B workers to substitute for Americans,” said Ronil Hira, a professor of public policy at Howard University who studies visa programs and has testified before Congress about H-1B visas.

A limited number of the visas, 85,000, are granted each year, and they are in high demand. Technology giants like Microsoft, Facebook and Google repeatedly press for increases in the annual quotas, saying there are not enough Americans with the skills they need.

Many American companies use H-1B visas to bring in small numbers of foreigners for openings demanding specialized skills, according to official reports. But for years, most top recipients of the visas have been outsourcing or consulting firms based in India, or their American subsidiaries, which import workers for large contracts to take over entire in-house technology units — and to cut costs. The immigrants are employees of the outsourcing companies.

In 2013, those firms — including Infosys, Tata Consultancy Services and HCL America, the company hired by Disney — were six of the top 10 companies granted H-1Bs, with each one receiving more than 1,000 visas.

H-1B immigrants work for less than American tech workers, Professor Hira said at a hearing in March of the Senate Judiciary Committee, because of weaknesses in wage regulations. The savings have been 25 percent to 49 percent in recent cases, he told lawmakers.

In a letter in April to top federal authorities in charge of immigration, a bipartisan group of senators called for an investigation of recent “H-1B-driven layoffs,” saying, “Their frequency seems to have increased dramatically in the past year alone.”

Last year, Southern California Edison began 540 technology layoffs while hiring two Indian outsourcing firms for much of the work. Three Americans who had lost jobs told Senate lawmakers that many of those being laid off had to teach immigrants to perform their functions.

In a statement, the utility said the layoffs were “a difficult business decision,” part of a plan “to focus on making significant, strategic changes that can benefit our customers.” It noted that some workers hired by the outsourcing firms were Americans.

Fossil, a fashion watchmaker, said it would lay off more than 100 technology employees in Texas this year, transferring the work to Infosys. The company is planning “knowledge sharing” between the laid-off employees and about 25 new Infosys workers, including immigrants, who will take jobs in Dallas. Fossil is outsourcing tech services “to be more current and nimble” and “reduce costs when possible,” it said in a statement.

Among 350 tech workers laid off in 2013 after a merger at Northeast Utilities, an East Coast power company, many had trained H-1B immigrants to do their jobs, several of those workers reported confidentially to lawmakers. They said that as part of their severance packages, they had to sign agreements not to criticize the company publicly.

In Orlando, Disney executives said the reorganization resulting in the layoffs was meant to allow technology operations to focus on producing more innovations. They said that over all, the company had a net gain of 70 tech jobs.

“Disney has created almost 30,000 new jobs in the U.S. over the past decade,” said Kim Prunty, a Disney spokeswoman, adding that the company expected its contractors to comply with all immigration laws.

The tech workers laid off were a tiny fraction of Disney’s “cast members,” as the entertainment conglomerate calls its theme park workers, who number 74,000 in the Orlando area. Employees who lost jobs were allowed a three-month transition with résumé coaching to help them seek other positions in the company, Disney executives said. Of those laid off, 120 took new jobs at Disney, and about 40 retired or left the company before the end of the transition period, while about 90 did not find new Disney jobs, executives said.

Excerpts from a contract that technology employees laid off by Disney had to sign.

Living in a company town, former Disney workers were reluctant to be identified, saying they feared they could jeopardize their chances of finding new jobs with the few other local tech employers. Several workers agreed to interviews, but only on the condition of anonymity.

They said only a handful of those laid off were moved directly by Disney to other company jobs. The rest were left to compete for positions through Disney job websites. Despite the company's figures, few people they knew had been hired, they said, and then often at a lower pay level. No one was offered retraining, they said. One former worker, a 57-year-old man with more than 10 years at Disney, displayed a list of 18 jobs in the company he had applied for. He had not had more than an initial conversation on any one, he said.

Disney "made the difficult decision to eliminate certain positions, including yours," as a result of "the transition of your work to a managed service provider," said a contract presented to employees on the day the layoffs were announced. It offered a "stay bonus" of 10 percent of severance pay if they remained for 90 days. But the bonus was contingent on "the continued satisfactory performance of your job duties." For many, that involved training a replacement. Young immigrants from India took the seats at their computer stations.

"The first 30 days was all capturing what I did," said the American in his 40s, who worked 10 years at Disney. "The next 30 days, they worked side by side with me, and the last 30 days, they took over my job completely." To receive his severance bonus, he said, "I had to make sure they were doing my job correctly."

In late November, this former employee received his annual performance review, which he provided to The New York Times. His supervisor, who was not aware the man was scheduled for layoff, wrote that because of his superior skills and "outstanding" work, he had saved the company thousands of dollars. The supervisor added that he was looking forward to another highly productive year of having the employee on the team.

The employee got a raise. His severance pay had to be recalculated to include it.

The former Disney employee who is 57 worked in project management and software development. His résumé lists a top-level skill certification and command of seven operating systems, 15 program languages and more than two dozen other applications and media.

"I was forced into early retirement," he said. The timing was "horrible," he said, because his wife recently had a medical emergency with expensive bills. Shut out of Disney, he is looking for a new job elsewhere.

Former employees said many immigrants who arrived were younger technicians with limited data skills who did not speak English fluently and had to be instructed in the basics of the work.

HCL America, a branch of a global company based in Noida, India, won a contract with Disney in 2012. In a statement, the company said details of the agreement were confidential. "As a company, we work very closely with the U.S. Department of Labor and strictly adhere to all visa guidelines and requirements to be complied with," it said.

The chairman of the Walt Disney Company, Robert A. Iger, is a co-chairman with Michael R. Bloomberg, the former mayor of New York, and Rupert Murdoch, the executive chairman of News Corporation, in the Partnership for a New American Economy, which pushes for an overhaul of immigration laws, including an increase in H-1B visas.

But Disney directly employs fewer than 10 H-1B workers, executives said, and has not been prominent in visa lobbying. Mr. Iger supports the partnership's broader goals, including increased border security and a pathway to legal status for immigrants here illegally, officials of the organization said.