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Whistleblower
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Apple Hit with \$25 Million Penalty for Favoring H-1B Workers over Citizens

By [David North](#) on November 13, 2023

Though the reporting is foggy, mighty Apple has just received a slap on the wrist for favoring H-1Bs over other workers; it has accepted a \$25 million penalty for its actions, has promised to behave in the future, and denied it ever did anything wrong.

The media coverage of this issue is marred by the total lack of a meaningful description of the favored workers as *H-1Bs*; the [LA Times](#) identifies people favored by Apple as “immigrant workers seeking to be granted permanent resident status”. Perhaps this is a fine point, but an “immigrant worker” by definition already has permanent status; the preferred workers were undoubtedly H-1Bs, who are *nonimmigrant* workers who wanted to become “immigrant workers”.

What Apple did, one reads between the lines, was to quietly convert some H-1Bs to immigrant or green card status, without advertising the availability of these jobs to citizen and green card employees who might have liked to compete for these positions.

This, in turn, reflects another one of the complexities of the immigration law. While there is no need (unfortunately) for an H-1B employer to search for citizen and green card workers before being granted the privilege of hiring an H-1B, the same employer must make an effort to find citizen and green card workers before filling an application to convert the H-1B to permanent alien (green card) status. This is what Apple did not do in this case.

There is an irony here. Apple is an employer that will take this step, offering H-1Bs permanent resident jobs, essentially removing the indenture of favored workers by seeking green cards for them. Meanwhile the more exploitative firms, such as the Indian labor brokers, cannot be charged with these infractions as they rarely offer green cards to *their* H-1B workers.

There is also a 21st century nuance in this story. Apple, when it did advertise the availability of these jobs, apparently demanded a paper submission from would-be citizen workers, but accepted electronic applications from the H-1Bs. This the government found to be discriminatory.

As to the \$25 million, of this \$6,750,000 is a fine; the other \$18,250,000 is to be divided among the citizen (and/or green card) workers who did not get the jobs in question. It would have been helpful — in that it would encourage other citizen complaints — if the government had spelled out how much of the money went to worker A, how much to worker B, and so on, not necessarily naming them but showing the amounts.

Neither the media coverage nor the DoJ [press release](#) did this. Perhaps it is too early in the claims process to be that specific.

Topics: [H-1B Nonimmigrant Visa Program](#)