

# Visa involved in Tesla factory expansion sparks debate

## IS TESLA RUNNING AN ORGANIZED CRIME OPERATION? SEE: <https://ricotsla.wordpress.com>

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- Even as Silicon Valley and lawmakers quarrel over expanding visa quotas for high-skilled workers, millions of foreign workers take an easier path to the country -- the simple business visa. The visa, at the heart of an investigation by this newspaper into at least 140 Eastern European workers building a paint shop at Tesla's Fremont plant, is easy to obtain and widely available. Critics say it allows workers to go largely untracked and unnoticed in the U.S. Even as it eases the flow of commerce between countries, they say, the federal government has limited power to police and prosecute violations. "Who's checking up on them once they're here?" asked Daniel Costa, director of immigration law and policy research at the Economic Policy Institute. "No one." Cars are lined up near the Tesla Motors complex in Fremont, Calif., on Thursday, Jan. 28, 2016. (LiPo Ching/Bay Area News Group) (LiPo Ching) The B-1/B-2 visa is a hybrid that allows both business and pleasure travel. It was used by the workers imported by a subcontractor to the Tesla plant, according to interviews and a lawsuit brought by an injured worker. While foreign workers can obtain the visa for supervisory duties, workers at the Tesla plant were installing pipes and welding parts -- hands-on work banned by the terms of their visas, according to immigration experts and court documents. Workers told this newspaper in the story "The Hidden Workforce Expanding Tesla's Factory" that they had worked on jobs under similar arrangements around the country. Immigration experts say abuse of the B-1/B-2 visa system raises persistent questions of oversight and regulation for a popular program. In 2014, about 6.2 million foreign visitors received B-1/B-2 visas, which allow visits for business conferences, some short-term advisory projects and tourism. Costa said the Tesla construction project highlighted several common regulatory flaws, including vetting and oversight of foreign workers. Consular officials screen visa-seekers for "immigration intent," a term for how likely the person is to illegally overstay his or her visa in the U.S. Costa said the

consular officers have little training or guidelines to evaluate what the workers will be doing once they are in the country.

Regulators also lack information about employment conditions and wages, often leaving them dependent on whistle-blowers for enforcement, he said.

Muzaffar Chishti, a lawyer and immigration researcher at the Migration Policy Institute, said federal authorities lack strong enforcement laws. Federal officials rarely bring criminal charges, he said. Civil penalties and fines are the typical punishment. "Charging these people a fine is not going to do anything," he said. "This is part of their business model."

But even as experts point to the flaws in the system, companies may see the B-1 as a way to bring a trusted workforce into the U.S. for complex projects.

Eisenmann, a German manufacturer of industrial systems, won a bid for the project worth more than \$100 million to build Tesla Motors' new paint shop. The company said it employed domestic and foreign subcontractors, including Slovenian company ISM Vuzem, to complete the job.

The lawsuit by injured Slovenian worker Gregor Lesnik claims as many as 200 foreign employees working for Vuzem and other subcontractors came over on B-1/B-2 visas, backed by letters of support from Eisenmann.

In a statement Friday, Eisenmann said it chose Vuzem because the companies had a long-standing relationship and the firm did quality work. Eisenmann said subcontractors are responsible for hiring workers and arranging visas. Sometimes, the company said, it helps out with immigration papers.

"In exceptional cases, Eisenmann supports the visa process of workers named by the qualified subcontractors with invitation letters to the U.S. Consulate -- always in conjunction with a dedicated project," the company said. Eisenmann said it supported the visa for Lesnik for a different project.

Eisenmann said this week it is reviewing its suppliers for compliance to wage and visa laws. It has also hired an outside accounting firm to review Vuzem's wage and work conditions at the Tesla site.

The imported workers at the Tesla paint factory told this newspaper they made around \$10 an hour -- Lesnik said he received as little as \$5 -- and worked up to seven days a week. Tesla and its contractor, Eisenmann, said the contract with Vuzem specified a \$55 hourly labor rate.

The common business visa has drawn little government scrutiny outside of a few, vocal members of Congress.

In 2011, Sen. Chuck Grassley, R-Iowa, asked the State and Homeland Security departments to eliminate loopholes in the B-1 visa system. Grassley said some companies were using the B-1 visa to evade the annual quota of 85,000 H-1B visas.

"It appears the B-1 visa program has become a subterfuge for companies wanting to avoid the cap and wage requirements of the H-1B visa," Grassley said in 2011. "We should be focusing our oversight efforts on employers who are taking advantage of the system and importing foreign workers to the detriment of Americans."

Grassley noted that the two departments need to compile statistics on which companies are using the B-1, how applications are processed, and the amount of time visa holders are spending in the country.

Costa said much of that data remains buried in embassies around the globe. The extent of B-1 visa abuse is difficult to gauge, he said.

"It's morphed into something," Costa said, "that Congress didn't intend."