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TRUMP ADMINISTRATION PROPOSES ELIMINATING H-1B VISA LOTTERY

Proposal is one of remaining pieces of visa-program overhaul before US presidential election.

By Michelle Hackman
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WASHINGTON—The Department of Homeland Security is proposing to effectively replace the H-1B visa lottery, the method for selecting which foreign professionals receive the coveted visas each year, with a selection process that gives priority to the jobs with the highest salaries.

The proposal, which was announced Wednesday and will be opened for a 30-day comment period, was one of the expected remaining pieces of the Trump administration's overhaul of the visa program before the US presidential election.

The proposal is the latest in a series of changes the administration has made to restrict access to the H1-B program.

The administration has long argued that the visa program artificially depresses wages by allowing employers to hire foreign workers at lower salaries. Awarding visas to foreign professionals who would earn the highest salaries in their fields would create upward pressure on the market overall, according to administration officials.

"The current use of random selection to allocate H-1B visas makes it harder for businesses to plan their hiring, fails to leverage the H-1B program to truly compete for the world's best and brightest, and hurts American workers by bringing in relatively lower-paid foreign labor at the expense of the American workforce," said Acting DHS Deputy Secretary Ken Cuccinelli.

The proposed change was criticized by business groups and other immigration advocates.

"This proposal will significantly disrupt the operations of many businesses by denying them access to the talent they need to grow and create jobs," said Jon Baselice, executive director of immigration policy at the US Chamber of Commerce.

Under the proposal, visas would be awarded to applicants at the highest wage level of their given occupation within a particular geographic region. The government calculates four wage levels for each occupation in a given region, and employers are required to pay salaries at or above those levels based on their visa worker's job experience.

That setup would almost guarantee that no applicants ranked at wage level one—roughly entry-level workers—would qualify for visas. The government awards 85,000 new H-1B visas a year, and demand has consistently outstripped supply.

DHS offered an alternative that would keep a lottery-like system but give foreign professionals at higher wage levels an increased chance of winning.

A government official involved in enacting the new rule said the Trump administration intends to complete the policy before the end of President Trump's first term, so that it will take effect before the next registration period opens in March 2021.

If elected, former vice president Joe Biden could choose to reverse the policy, though his views on it aren't known.

A Biden campaign spokeswoman didn't return a request for comment. His immigration platform, however, has raised some concern among business groups that Mr. Biden might favor some stricter policies regulating H-1B visas.

"High skilled temporary visas should not be used to disincentivize recruiting workers already in the US for in-demand occupations," the Biden campaign's platform states.

The administration's announcement follows another set of rules, released earlier this month, that would significantly raise the salaries employers must pay their visa workers and restrict the sorts of degrees and occupations that qualify applicants for the H-1B. Those rules are being challenged in at least three separate lawsuits by business groups and universities, who say the new rules would stifle economic growth by limiting the pool of talent companies and research institutions can draw from.

The Trump administration sought in June to block all new H-1B visa holders from coming to the US this fall, when the visas are typically awarded each year, but its temporary ban was lifted by a federal court earlier this month.