

THE WALL STREET JOURNAL.

TRUMP SIGNS ORDER CALLING FOR CHANGES IN H-1B VISA RULES

Directive initiates review aimed at closing loopholes on 'Buy American,' 'Hire American' initiatives

By Eli Stokols and Laura Meckler
April 18, 2017

President Donald Trump said Tuesday that he wants to change rules for distributing visas to high-skilled foreign workers, promising to direct more to the highest-paid applicants as he seeks to make good on his "America First" economic promises.

The result stands to benefit high-tech companies in Silicon Valley, with fewer H-1B visas going to outsourcing firms, many based in India, which critics say displace American workers. Under current rules, the visas are distributed at random by a lottery in which every applicant has an equal chance.

"It's America first – you better believe it," Mr. Trump said during a speech at [Snap-On Inc.](#), a tool manufacturer in Kenosha, Wis., before signing [an executive order](#) that calls for a government-wide review aimed at stricter enforcement of immigration and other laws governing the entry of workers into the U.S.

The order also initiates a 150-day review across all federal agencies aimed at detecting loopholes and waivers that undercut existing "Buy American" initiatives.

Mr. Trump said his "Buy American, Hire American" directive, coming as his administration nears the 100-day mark, fulfills a central campaign promise and "sends a powerful signal" to the world. "We are going to protect our workers, defend our jobs and finally put America first," he said.

Some congressional Democrats praised the executive order on the whole.

Sen. Chris Murphy (D., Conn.) called it "a step in the right direction." Sen. Sherrod Brown (D., Ohio) urged Mr. Trump to go further. "Reviewing Buy America alone won't put construction workers back on the job," Mr. Brown said in a statement. "Until we apply Buy America to all our infrastructure and public works projects, we will allow this business to go to foreign countries at the expense of Ohio taxpayers."

Mr. Trump called for a change in how the scarce H-1B visas are distributed, but the actual executive order isn't specific about policy changes. The order simply directs several cabinet secretaries to suggest changes "as soon as practicable" that would ensure the visas are awarded to "the most skilled and the highest paid" applicants.

Mr. Trump cast the H-1B program, which brings 85,000 high-skilled foreign workers to the U.S. each year, as a victim of "widespread abuse" and promised it would stop.

He didn't say which companies he was talking about, but the firms that have come under the most scrutiny are outsourcing companies that handle technology work for U.S. companies. They rely heavily on foreign workers, who are often paid \$60,000 or slightly more. That is the minimum salary required by law to avoid burdensome regulations.

In some cases, these workers have replaced Americans, such as when companies lay off their technology staff and then outsource the work to one of these firms.

The president noted the visas are now awarded in a "total random lottery" and said instead, they should go to the "most-skilled and highest-paid applicants." That would have the effect of helping high-tech firms such as Microsoft or Google, which seek many H-1B visas but pay higher wages.

Tech firms have long lobbied for an increase in the number of H-1B visas, noting the high demand for the visas far outstrips supply, while others advocate a reduction. Either way, changes in the number awarded would need congressional approval.

Visas for next fiscal year were awarded this week after 199,000 applications for 85,000 spots were received in less than a week.

A professional society for U.S. engineers, known as IEEE-USA, has been lobbying the administration to change the lottery since Mr. Trump took office and has expressed deep frustration that another year's worth of visas were awarded under the existing rules.

But another group that supports restrictions on immigration, NumbersUSA, welcomed the announcement as a first step toward helpful changes.

Sam Adair, a partner at immigration law firm Graham Adair, who represents technology companies, including those in Silicon Valley, said the initiatives bode well for them. "For a lot of U.S. employers, simply discouraging the number that go to big outsourcing companies would be a good thing," Mr. Adair said.

Talk of changes in the H-1B visa program, though, is making some in Silicon Valley, nervous.

"I welcome any changes that will crack down on H-1B abuses or loopholes that could be used to hire workers at lower wages," said San Jose, Calif., Mayor Sam Liccardo. "However, we must not adopt any policies or rules that would hamper the critical flow of cutting-edge ideas and talent into our country."

The [Indian outsourcers have been girding for changes](#) in the program, and on Tuesday, their trade group, Nasscom, said critics of their business model are unfair. "We believe that the current campaign to discredit our sector is driven by persistent myths, such as the ideas that H-1B visa holders are 'cheap labor' and 'train their replacements,' neither of which is accurate."

Nasscom's president, Rentala Chandrashekhar, added, "Any new requirements aimed at protecting U.S. workers should be applied to all visa sponsors to ensure a level playing field."

The wide-ranging presidential order also directs government agencies to strengthen rules barring foreign contractors from bidding on government projects and to review federal

procurement rules and trade agreements with an eye on eradicating waivers on existing "Buy American" requirements.

"We're going to do everything in our power to make sure that more products are stamped with those wonderful words: 'Made in the U.S.A.,' " Mr. Trump said.

Senate Minority Leader Chuck Schumer (D., N.Y.) brushed off the executive order and speech as hollow gestures.

"Unfortunately for the American worker, reality hasn't matched his rhetoric," Mr. Schumer said in a call to reporters, adding that the president "seems to do what CEOs want, not what American people want."

Mr. Schumer pointed to the Keystone XL oil pipeline, which Mr. Trump initially pledged would be constructed from American-made steel before easing off that demand upon learning that foreign steel already had been purchased for the project.

But domestic steel producers are optimistic about the executive order and, specifically, its clear affirmation of the "melted and poured" standard ensuring that only steel melted and poured in the U.S. will be classified as American-made.

"The melted and poured standard is absolutely critical and ensures that the benefits of Buy American are maximized for companies throughout the supply chain," said Chris Weld, an attorney at Wiley Rein representing several domestic steel producers.

Although Mr. Weld believes additional executive actions or legislation may be needed to better ensure that Buy American directives are heeded and enforced, he called the president's initial action a positive first step.

Federico Pena, who served as Secretary of Transportation in the Clinton administration, said Buy American policies are "conceptually a good idea" but may result in the government's taxpayer dollars not going as far.

"The challenge occurs when the products and services are far more expensive than foreign products and services," Mr. Pena said. "One has to balance the good intention of buying American products and services versus whether one is willing to overpay for those products and services."

Mr. Trump also resumed his criticism of North American Free Trade Agreement, saying "very big changes" would be coming to the trade deal "or we are going to get rid of Nafta once and for all." And he directed federal agencies to do more to hire American-owned firms for government work.

In addition, he vowed to intervene in a trade dispute between Canada and the U.S. [over milk](#) imports.

"We're going to stand up for our dairy farmers in Wisconsin," he said, adding that he read about how a local dairy has been forced to cancel contracts with about 75 Wisconsin farms because of a drop in its Canadian business, stemming from a statute change aimed at favoring Canadian milk providers.

"In Canada, some very unfair things have happened to our dairy farmers and others," Mr. Trump said, vowing to work on a solution with Wisconsin lawmakers Gov. Scott Walker, Sen. Ron Johnson and House Speaker Paul Ryan.

- Rebecca Ballhaus and Natalie Andrews contributed to this article.