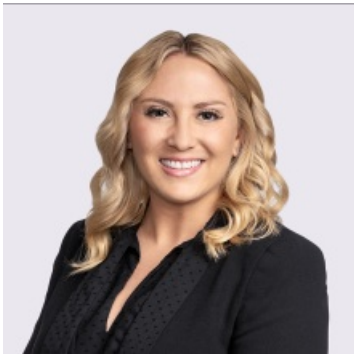


H-1B Visas: Will Trump 2.0 Be a Turning Point for Employers Needing Skilled Foreign Workers?

By Jessica K. Lang, William J. Manning & Marion Boyer

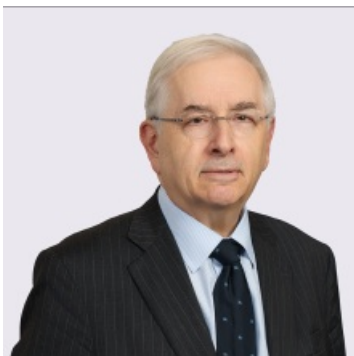
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Takeaways

- A second Trump administration may align U.S. immigration policy with U.S. workforce needs on this particular aspect more than the first one did.
- Despite limitations, the H-1B visa program has been instrumental in sustaining U.S. dominance in technology and innovation.
- Employers will need to stay on top of potential changes to the program.

Related links

- [The Visas Dividing MAGA World Help Power the U.S. Tech Industry - WSJ](#)
- [Prevailing Wage Information and Resources | U.S. Department of Labor](#)
- [H-1B Characteristics Congressional Report FY2022](#)

Article

Skilled immigration is making headlines with renewed focus on the H-1B nonimmigrant visa program, the most popular employment-based visa for foreign professional workers. Recent statements by Trump advisors Elon Musk and Vivek Ramaswamy, along with President-Elect Donald Trump himself, suggest the second Trump Administration may take a more favorable stance on H-1B visas compared to the “America First” approach of the past.

On Dec. 28, 2024, Trump surprised many by declaring his support for the H-1B program, calling himself a “believer in H-1B.” This followed his appointment of Sriram Krishnan as senior policy adviser on artificial intelligence — a decision that drew criticism due to Krishnan’s advocacy for “unlocking skilled immigration,” a stance seemingly at odds with past policies.

This shift in tone could align immigration policy with industry needs, offering opportunities to address talent gaps in critical sectors. As debates continue, the H-1B program’s role in driving innovation and bridging workforce shortages remains essential — a development employers relying on foreign talent cannot afford to overlook.

Introduced in 1990, the H-1B program allows U.S. companies to hire highly skilled foreign nationals for “specialty occupations” requiring at least a bachelor’s degree. It has played a pivotal role in filling talent gaps in technology, healthcare, life sciences, and finance. By enabling access to global talent, the program has been instrumental in sustaining U.S. dominance in technology and innovation. Leading companies depend on H-1B workers, many of whom occupy positions in science, technology, engineering, and mathematics, or STEM, fields. While the majority of STEM positions are filled by U.S. workers, the share of foreign workers — including H-1B visa holders — has more than doubled to 26 percent

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between [1990 and 2023](#) – a testament to the program’s importance for maintaining America’s competitive edge.

Critics of the H-1B program have long argued that it encourages cheap labor and undermines the competitiveness of U.S. workers. They also have voiced concerns about the perceived dependency of H-1B workers on their employer-sponsors, which they allege limits the mobility of these workers. However, these criticisms fail to acknowledge safeguards and provisions already embedded in the program, including:

- *Wage Protections:* Employers sponsoring H-1B workers must adhere to strict Department of Labor wage guidelines. They are required to submit a Labor Condition Application certifying that the H-1B worker will be paid at least [the prevailing wage](#) – the average salary for similar roles in the geographic area of employment. [USCIS data](#) indicates an average salary of nearly \$130,000 annually for computer-related occupations, which could hardly be described as “cheap labor.”
- *Job Portability:* The notion that H-1B workers are tied to their sponsors ignores the portability provisions of the program. Under the American Competitiveness in the Twenty-First Century Act, H-1B workers can change employers by filing a new petition. In FY 2023, USCIS received 75,843 “change of employer” petitions – nearly 90% percent of the annual H-1B cap. This highlights the program’s flexibility and dispels the myth that workers are bound to their original employers.
- *Cap-Exempt Employers:* A significant portion of H-1B visas is allocated to “cap-exempt” employers, such as universities and research institutions, highlighting the importance of foreign talent in advancing innovation. Yet, the debate often overlooks how these institutions contribute to the economy and workforce development.

Looking Ahead

Despite criticism, the H-1B program remains a cornerstone of the U.S. workforce strategy, with demand continuing to outpace supply. For FY 2025, USCIS received 470,342 registrations for just 85,000 available visas – a testament to its enduring popularity and importance in addressing skills gaps.

As the next H-1B cap lottery process approaches in March, employers should stay informed and prepared, collaborating with immigration counsel to navigate potential changes under the incoming administration.

Jackson Lewis attorneys are closely monitoring the evolving landscape of H-1B regulations and are here to guide employers through every step of the process. If you have questions about the H-1B process or how potential changes might affect your organization, contact your Jackson Lewis attorney for assistance.

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