Donald Trump Sets Wage Protections for U.S. Graduates

Neil Munro

January 12, 2021

President Donald Trump's Department of Labor has released an updated set of rules to protect the wages of American graduates from the damage done by CEOs' use of H-1B visa workers.

"The U.S. Department of Labor is taking these steps to strengthen wage protections, address abuses in visa programs, and protect American workers from being undercut by cheaper foreign labor," said U.S. Secretary of Labor Eugene Scalia said in a January 12 statement. He added:

> These changes help ensure that these important foreign worker programs function as Congress intended, while securing American workers' opportunities for stable, good-paying jobs.

The wage rules cover the H-1B program, which allows CEOs to keep roughly 900,000 foreign, mid-skilled, contract workers in the United States. The H-1B program also keeps roughly 150,000 spouses in white-collar jobs, and it helps attract roughly 300,000 foreign workers into white-collar jobs via the Optional Practical Training (OPT) program.

The labor department rules set the wage floors for the imported H-1B workers, and so hinder companies from hiring cheaper foreign workers instead of American graduates. The rule says:

> A primary purpose of the restrictions on immigration created by the INA, both numerical and otherwise, is "to preserve jobs for American workers." Safeguards for American labor, and the Department's role in administering them, have been a foundational element of the statutory scheme since the INA was enacted in 1952.

Lawsuits from business groups blocked a prior version of the rule.

The prior rule required companies to pay entry-level H-1B workers the same wage as the 45th percentile of entry-level American graduates. The new rule lowers that wage floor to just the 35th percentile — which is far higher than the current floor at the 17th percentile.

Skilled foreign workers — described as being in Levels 2, 3, or 4 — must be paid above the median wages level earned by skilled U.S. graduates, according to the rule.

The new rules are “disappointing but an improvement,” tweeted Ron Hira, a Howard University expert on the visa worker programs. The “Level 1 wage [for entry-level workers] remains roughly 20% discount on median [market wages]… Corps still have [a] huge profit incentive to replace US workers,” he wrote.

The changes from the initial version “greatly reduced the harm from the [prior version of the] rule, but it is still a terrible rule that will harm the U.S. economy,” said a tweet from David Bier at the Cato Institute, which favors laws that would allow U.S.-based companies to hire and import foreign workers in place of Americans.

“This rule is the last gasp of the Trump administration to restrict legal immigration,” complained Stephen Yale-Loehr, a lawyer at Cornell Law School.

The H-1B visa workers are not immigrants but can win green cards to become immigrants.

A more important protection was set last week when the Department of Homeland Security (DHS) announced it would use salary offers to allocate the annual corporate supply of 85,000 H-1B visas. The DHS process will allocate the annual supply of 85,000 H-1B visas to corporations that offer the highest pay. The ranking system will end the economic incentive to hire mid-skilled H-1B foreign workers instead of younger American graduates.

However, President-elect Joe Biden is filling his administration with many executives and advocates in the Fortune 500 and the tech sector. These appointees — such as DHS nominee Alejandro Mayorkas — may push to help their prior employers by deep-sixing Trump’s labor protections.

But the agency announcement is an “Important opportunity for Biden and Democratic-controlled Congress to step up and support this common-sense rule,” Hira said.

Trump lost his election campaign, in part, because he postponed H-1B reforms until late 2020 — and then declined to tout those white-collar gains on the campaign trail.

Trump zig-zagged on migration issues throughout his administration amid intense and emotional opposition from business and progressive groups. Finally, in 2019, Trump moved to block blue-collar migration via Mexico, but his white-collar reforms came too late to offset a sharp 2020 loss in support among college graduates.

The H-1B visa is just one part of a huge pyramid of imported labor used by U.S. investors and the Fortune 500 to spike their stock values and corral their control over the technology sector.

The imported labor force exists because Congress allows companies to provide green cards to roughly 70,000 foreign workers each year. As a result, at least 1 million foreign graduates are competing in U.S. workplaces for those green cards or are waiting for promised green cards.

This foreign labor force dubbed the “Green Card Workforce” is often preferred by executives because the dangled green cards ensure that the foreign workers will work long hours for lower wages. In addition, the workers have no legal protections in the workplace and have no professional authority to disagree with CEOs, who can also gain stock-market gains when Wall Street analysts welcome great use of visa workers.

Companies also use visa workers to crimp and slow domestic competition by minimizing the hiring of American graduates who may use their work experience to join or create rival companies. In the early 2000s, the federal government broke up an illegal "no-poaching" cartel by tech companies who were trying to prevent their American workers from changing jobs and so sharing their expertise with rival companies. This strategy is legal if the workforce consists of H-1B workers who cannot change jobs without their managers' permission.

Many U.S. and Indian employees tell Breitbart News that American graduates are excluded from many Fortune 500 jobs so that the jobs can be traded by hiring managers to foreign workers who want to win green cards.

In 2011, for example, a California-based health insurance company fired 40 Americans to hire a larger and more expensive workforce of H-1B workers, according to testimony from a company employee in a subsequent lawsuit. In 2020, Facebook was sued by the federal government for hiring policies that discriminate against American graduates.

The labor pyramid includes H-1Bs hired by the companies and by their subcontracting companies. The categories of workers also include J-1s, TNs, OPTs, B-1/B-2s, and foreign graduates who overstay their visas. Most work for Fortune 500 companies, but they are also prominent in tech firms, universities, and increasingly in the healthcare sector.

This huge imported workforce ensures that executives rarely have to compete for American graduates by offering higher wages, even when profits are growing. A 2020 report by the Federal Reserve said median salaries for U.S. graduates fell by two percent from 2016 to 2019 as blue-collar salaries rose amid President Donald Trump's border policies.
There is some evidence that the increasing use of visa workers is reducing U.S. technological capability, even as Chinese companies take the lead from investor-driven U.S. companies.

This growing use of this Green Card Workforce is ignored and misunderstood by the largely powerless white-collar reporters in the corporate media. Many media companies — such as the *Washington Post* — are owned by firms or investors who want to grow their Green Card Workforce.

Other white-collar reporters choose to view the visa workers via the lens of progressive immigration politics, even though the H-1B workers are foreign contract workers who replace white-collar Americans and who do not become immigrants until they receive a green card.