



## **Trump visa restrictions live on under COVID-19 backlog**

May 23, 2021

President Biden's efforts to dismantle his predecessor's immigration legacy are being hamstrung by a State Department that's still operating with limited capacity due to the coronavirus pandemic.

Since taking office, Biden has reversed several policies former President Trump put in place to block visas for thousands of immigrants seeking to work or join family members in the U.S.

But the same COVID-19 restrictions that helped Trump scale back visas are now hindering Biden, who has made expanding legal pathways for immigration a cornerstone of his first few months in office.

As of April, about three-fourths of the State Department's embassies and consulates were at least partially closed, leaving few staff on hand to process visas for those who are no longer blocked by Trump's order.

"The on-the-ground reality is only marginally affected by the change in administration and policies," said David Bier, a research fellow at the Cato Institute who analyzed the number of partially closed embassies and consulates.

“The bureaucratic processing is as important as any formal policy. And right now what we’re seeing is State Department’s broad closures are affecting the vast majority of legal immigrants seeking to come to the United States right now, and not enough is being done to facilitate processing of those applications.”

Even as the State Department ramps up vaccinations of its staff, the complications of processing visas during the pandemic are creating a pileup on top of an already daunting backlog.

One result is that the effects of Trump’s policies targeting family based-immigration are living on under Biden’s presidency.

“The Trump administration definitely exacerbated this,” said Megan Essaheb, director of immigration ad-vocacy with Asian Americans Advancing Justice.

“It’s just going to be really hard to do a full year of visa processing in seven months.”

There were more than 500,000 immigrant visa applicants ready for interviews at the end of April, with about 22,000 scheduled for this month. That’s roughly a third of the average of 60,000 visa appointments pre-pandemic. And that’s on top of another 3.7 million people who have submitted an initial application to join family in the U.S.

It’s a backlog the State Department acknowledges has only been made worse over the past year.

“Many of our embassies and consulates remain on a limited staffing posture due to the pandemic,” the department said in a statement to The Hill, noting that COVID-19, along with Trump’s previous orders, have “resulted in profound reductions in the department’s visa processing capacity.”

“U.S. embassies and consulates are working to resume routine visa services on a location-by-location basis as expeditiously as possible in a safe manner. We are making significant efforts with constrained resources to safely return to pre-pandemic workload levels, but are unable to provide a specific date for when this will happen at each post,” the agency said.

As the coronavirus quickly spread around the world last year, Trump signed a flurry of executive orders that aligned with his long-term immigration goals.

The first, signed in April of 2020, blocked visas to almost all those seeking to join relatives already in the U.S., as well as winners of the 55,000 diversity visas allotted each year by lottery to those seeking a green card. “We must be mindful of the impact of foreign workers on the United States labor market, particularly in an environment of high domestic unemployment and

depressed demand for labor. We must also conserve critical State Department resources so that consular officers may continue to provide services to United States citizens abroad,” Trump wrote in the April order.

An order in June restricted the temporary worker visas — popular in the tech industry — as well as those for seasonal workers and others.

The limitations on family-based migration helped the Trump administration in achieving a goal it had sought from the beginning: ending “an antiquated system of family ties, not skill or merit,” the White House wrote in 2017, by limiting who could join family members already living in the U.S.

“It created this situation where we essentially drastically suppressed family-based immigration and we have for a year now,” said Jorge Loweree, policy director at the American Immigration Council, adding that the orders were based on “purported economic reasons.”

“It was very deliberate to carve out people they wanted to carve out for years.”

Other aspects of the complex U.S. immigration system assisted the Trump administration further.

The U.S. caps the number of both family- and employment-based visas every year. However, any family-based visas that aren’t used are then added to the employment-based cap for the following year — a feature that can balloon employment-based opportunities.

“We’re definitely in limbo for family-sponsored immigration around the world. They don’t know when they’re going to get appointments, and the backlog will continue to grow as they’re not issuing visas at the rate they need to in order to use them all,” Bier said.

“So everyone’s getting pushed back further in line as a consequence of this.”

More than 100,000 unused family-based visas went unused in 2020, boosting the number of employment-based visas for this year.

Loweree said that means the impact of some of Trump’s changes endure even after he’s left office.

“The one thing to understand is there’s this genius in the way they went about doing this, because what they did proved incredibly effective given the way our system is structured,” he said. “The combination of what they did actually achieved — through manipulating the federal bureaucracy — what they wanted for years, which was to dramatically suppress family-based

immigration while boosting employment-based immigration. That's a trend that has continued and frankly could be worse in the next fiscal year unless there is a move by the Biden administration to ramp up consular processing abroad."

Some want the State Department to loosen some of its restrictions, going virtual at a time when so many workplaces have done the same.

"We'd like them to do virtual visa interviews," Essaheb said.

"There are certainly categories that probably require more scrutiny," she said, "but there are other applications with familial relationships that are pretty routine, and people who have blood relationships have oftentimes a lot of evidence of that relationship."

Bier is hoping the State Department might choose to exempt entire categories from interviews, like those that have previously been interviewed or traveled to the U.S. or others with a low risk of overstaying their visa.

Essaheb also hopes there could be a legislative fix — taking action to preserve family-based visas that would otherwise expire.

"We want Congress to save these immigrant visas and roll them over into the new year," she said.