

Explainer: Tech companies worry about cherished tech visas

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In this Wednesday, Jan. 4, 2017, file photo, Google CEO Sundar Pichai speaks during a news conference on Google's collaboration with small scale local businesses in New Delhi. U.S. tech companies fear the Trump administration will target a visa program they cherish for bringing in engineers and other specialized workers from other countries. Although these visas, known as H-1B, aren't supposed to displace American workers, critics say safeguards are weak. This comes amid a temporary ban on nationals of seven Muslim-majority countries from entering the U.S., including those who are employed by Google and other tech companies but were out of the country when the surprise order was issued Friday, Jan. 27. (AP Photo/Tsering Topgyal, File)

Next on the immigration chopping block? U.S. tech companies fear the Trump administration will target a visa program they cherish for bringing in programmers and other specialized workers from other countries.

Although these visas, known as H-1B, aren't supposed to displace American workers, critics say safeguards are weak. Critics also say the program mostly benefits consulting firms that let tech companies contract out their jobs to save money. The administration is considering a broad review of such programs, though there weren't many specifics in a draft executive order obtained by The Associated Press.

This comes amid President Donald Trump's temporary ban on nationals of seven Muslim-majority countries from entering the U.S., including those who are employed by Google and other tech companies but were out of the country when the surprise order was issued Friday.

Here's a look at how the H-1B visa program works and why tech companies are worried.

IS THIS A TECH VISA PROGRAM?

The H-1B program is open to a broad range of occupations, including architects, professors and even fashion models. Companies must affirm that the job requires a specialty skill that cannot be filled by a U.S. worker.

Many of these skills happen to be in tech. According to the Labor Department, the top three H-1B occupations are computer systems analysts, application software developers and computer programmers. The Labor Department says about half of its H-1B certifications are for

those three occupations.

BY THE NUMBERS

The U.S. government allows up to 85,000 new H-1B visas each year, and recipients can stay up to six years. Demand is usually higher, so the government holds an annual lottery. Advocates say that's a sign the cap needs to be raised.

WHAT ABOUT AMERICAN JOBS?

By law, companies are required to pay at least the prevailing wage for that occupation. In some cases, they also must make a good faith effort to hire a U.S. worker before turning to an H-1B worker.

The Labor Department must certify that these conditions have been met. After that, Homeland Security's Citizenship and Immigration Services conducts a lottery and the State Department issues visas to the lucky winners.

Venky Ganesan, a managing director at venture capitalist firm Menlo Ventures, says that rather than displace low-wage workers, the program encourages students to stay in the U.S. after getting their degrees in high-tech specialties. He said many of them go on to start companies and hire U.S. workers.

SOUNDS GOOD, BUT .

A 2011 study from the Government Accountability Office, the investigative arm of Congress, found that the Labor Department's review is "cursory and limited by law to only looking for missing information and obvious inaccuracies." An Associated Press review of Labor Department data showed that less than 2 percent of applications were denied in fiscal 2016.

Critics say the program has turned into a mechanism for companies to contract out jobs to consulting firms. Indeed, the data show that top companies certified for H-1B visas are large consulting firms. Apple ranked eighth, and no other traditional tech firm made the top 15 in the AP review.

CONSULTING FIRMS TARGETED

Last week, Democratic Rep. Zoe Lofgren, whose district includes Silicon Valley, proposed raising the minimum annual salary for certain exemptions to \$130,000, from \$60,000. The change could require more companies to try to hire U.S. workers first.

As news of the proposal circulated in India, shares of many Indian technology companies sank. The stocks of Wipro, Infosys and Tata Consultancy Services—the fifth, seventh and 10th largest sources of H-1B applications—each fell 2 percent to 4 percent Tuesday on the Bombay Stock Exchange.

As a Democratic bill, it has virtually no chance of passage in the Republican Congress, although the idea could be incorporated into other measures from the GOP.

WHAT ELSE?

The draft order from the White House had few specifics, other than to review existing regulations, find ways to allocate visas more efficiently and ensure that beneficiaries are "the best and the brightest."

This suggests that the Trump isn't looking to kill the program entirely.

The order didn't propose anything specific about allocating visas, though one option is to scrap the lottery in favor of offering visas to the highest-paying jobs. Lofgren's bill would prioritize visas for higher-paying jobs and set aside 20 percent of slots for smaller businesses and startups.

Tech companies have been clamoring for the government to increase the number of annual visas allotted, but there's no indication that's on the agenda. In fact, the number of visas could go down. Although the cap itself is set by law, there's no legal requirement for the administration to issue that many visas.

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