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# H-1B visa changes: Why Trump aides want to change H-1B visa program

Trump H-1B policy, H-1B visa changes: What is the H-1B program? What are the criticisms levelled against it? And what are the changes proposed by the Donald Trump administration?

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President Donald Trump (left) listens with Secretary of Defense Pete Hegseth (centre), as Secretary of Commerce Howard Lutnick speaks during a cabinet meeting at the White House on Tuesday. (AP Photo/Mark Schiefelbein)

H-1B visa changes 2025: United States Commerce Secretary Howard Lutnick called the popular H-1B visa program a "scam", saying that American businesses should be focused on

hiring American workers instead of foreigners.

"The current H-1B visa system is a scam that lets foreign workers fill American job opportunities," he **said during an interview with *Fox News*** on Tuesday. "Hiring American workers should be the priority of all great American businesses. Now is the time to hire American."

Lutnick's criticism echoes the views of many influential figures in the Donald Trump administration, including White House deputy chief of staff **Stephen Miller**, the architect of Trump's immigration policies. They criticise the program for undercutting American workers.

Others, including Elon Musk and Vivek Ramaswamy who were once very close to the US President, praise the program for attracting top talent from around the globe to the United States. The H-1B program has long been a highly desired pathway for Indians to migrate to the US — more than 72% of approved H-1B petitions in 2023 were from Indians.

What is the H-1B program? What are the criticisms levelled against it? And what are the changes proposed by the Donald Trump administration?

**Visa for 'skilled' migrants**

The H-1B visa program allows American employers to hire immigrant workers in occupations that require "a high level of skill" and "at least a bachelor's degree", according to the US Department of Labour.

The program was started in 1990, with the intention of helping "employers who cannot otherwise obtain needed business skills and abilities from the US workforce by authorising the temporary employment of qualified individuals who are not otherwise authorised to work in the United States".

An H-1B visa can be issued for a maximum of six years at a stretch, after which the visa holder has to either leave the US for a period of at least 12 months before returning, or apply for and receive permanent residence ("Green Card").

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Currently, there is an annual numerical limit (regular cap) of 65,000 new statuses/ visas under this program each fiscal year, with an extra 20,000 visas available to those with a master's

degree or higher from a US university.

However, not all H-1B petitions are subject to the annual cap. The number of petitions approved by the United States Citizenship and Immigration Services, a part of the US Department of Homeland Security (DHS), is thus far higher than the annual cap.

Notably, petitions for "continuing employment" do not fall under the cap. In the fiscal year 2023, for instance, USCIS approved 118,948 petitions for initial employment, and 267,370 petitions for continuing employment — taking the total number of approved petitions that year to 3,86,318.

Those seeking employment at higher education institutions or nonprofit entities affiliated to such institutions, nonprofit research organisations, or government research organisations are also eligible to be exempted from the cap.

## Immigration discourse in US

To understand the criticism of H-1B visas, one has to look at immigration discourse in the US.

Immigration is one of the most polarising political issues in the US. According to a YouGov poll from October, 14.6% registered voters felt it was the most important issue in the (then) upcoming election. This number was only 2.1% in 2012.

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Much of Trump's election-time anti-immigration rhetoric focused on low-skilled labour migration. Besides the intrinsic racism, this rhetoric is fuelled by the belief that such immigration depresses wages, and takes away jobs that would have otherwise gone to the American working class — which has long been hit by high unemployment, low wages, inflation, a housing crisis, and other economic problems.

Trump has successfully cashed in on such sentiments, promising to make conditions better for the average working class American by curbing immigration. His camp's attack on the H-1B program involves many of the same themes as Trump's "Mexicans-are-stealing-American-jobs" rhetoric — only this time in the context of immigration into the US of skilled personnel for higher paying jobs.

## Indians and H-1B

People born in India are the largest beneficiaries of the H-1B program. Data from the US government show that Indians account for more than 70% of all H-1B petitions approved each

year since 2015. People born in China come a distant second, hovering at the 12-13% mark since 2018.

It is this dominance of Indians that has caught the attention of nativist MAGA Republicans who argue that Indians coming to the US to work in the tech industry are "stealing" American jobs and depressing wages.

Central to this argument is the claim that the H-1B program, meant to attract top talent from around the world to the US, is misused by tech corporations to staff their low-to-mid level workforce for lesser pay than what Americans would demand. When proponents of the H-1B program like Musk argue that "there is a permanent shortage of excellent engineering talent" critics hear that as them saying "Americans are too expensive to hire".

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Lutnick touched upon this theme in his *Fox New*s interview. He noted that an average American earns $75,000 a year while the average green card recipient earns $66,000 a year. "Why are we doing that? It's like picking the bottom core," he added.

There is some truth to this criticism. Nearly 70% of H-1B petitions approved for Indian professionals in US fiscal year 2023 were for salaries below $100,000 per annum, an analysis of data on 60,000 approvals from USCIS obtained by Bloomberg showed. For context, the median salary for IT professionals in the United States was $104,420 in May 2023, according to the US Bureau of Labor Statistics.

Around 25% of petition approvals were for salaries between $100,000 and $150,000, and only 5% were for salaries above $150,000, according to the analysis of USCIS data by The Indian Express in January.

Nonetheless, industry insiders maintain that H-1B visas are critical to bridging the skills gap in the US and that wages are market-driven. Chinese and Indians dominate the STEM fields worldwide. According to data presented by the Centre for Security and Emerging Technology (CSET) in 2020, China (3.57 million) and India (2.55 million) boast the highest number of STEM graduates in the world, significantly more than the US (820,000).
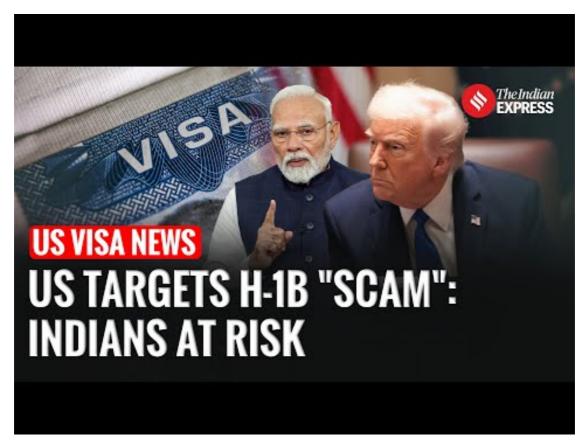
**Trump's alternative**

While many in the Trump camp have repeatedly spoken about an impending overhaul of the H-1B program, there is not a lot of publicly available information on what this overhaul will

look like.

A rule to modify the process for selecting H-1B petitions when registrations surpass the annual limit of 85,000 which was introduced by Trump on January 8, 2021 could be instructive. (This rule never saw the light of day under the Joe Biden administration).

Put simply, the rule reduced the number of H-1B intakes at lower salaries. "USCIS will rank and select the petitions received on the basis of the highest Occupational Employment Statistics wage level that the proffered wage equals or exceeds for the relevant Standard Occupational Classification code in the area of intended employment, beginning with OES wage level IV and proceeding in descending order with OES wage levels III, II, and I."

According to an article in the *Forbes* magazine, employers usually pay higher salaries to Level 3 (experienced) and Level 4 (fully competent) employees. Recent international students and other individuals starting their careers are typically paid at Level 1 and Level 2.



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The system proposed in 2021 would mean that USCIS would not select anybody paid at Level 1 for the regular cap or advanced degree exemption, choose only 20% of individuals at Level 2 for the 20,000 advanced degree exemption and 75% of the Level 2 registrants for the 65,000 regular cap, or about 50% combined, *Forbes* reported.

While it remains unclear whether the new changes will be identical to the rule Trump introduced in 2021, such a change would disadvantage international students, early-career professionals and people employed in less highly compensated jobs — reflecting the criticisms of the current H-1B program from the Trump camp.

Trump has also floated a "Golden Card" project which would provide residency and citizenship to wealthy individuals who invest around $1 million in a business that creates jobs, or $800,000 in a rural or economically depressed area. Lutnick referenced this project in his interview with Fox News, saying that it will allow the US to "start picking the best people".

The Commerce Secretary said that the demand for the Gold Card is very high with about 250,000 applicants so far which would generate "up to $1.25 trillion in investment".

*This is an **updated version** of an article published in January.*

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