

## Another Executive Order on Immigration Expected

Written by Kevin J. Fitzgerald

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Within the next week, President Trump is expected to issue another Executive Order (“EO”) concerning high-skilled workers and foreign students, most likely to be titled “Protecting American Jobs and Workers by Strengthening the Integrity of Foreign Workers Visa Programs.” Unlike the EO that was signed last Friday, which imposed an immediate travel ban on foreign nationals from seven countries, it appears that this new EO is not expected to immediately terminate any individual’s work authorization or visa status, but rather provide direction for developing recommendations for changes in a variety of work visa categories. The final text of the EO is not yet available, but according to early versions that were leaked, our understanding is that there will be a few key directives that may eventually impact non-immigrant workers:

1. It appears that there will be a review of the H-1B visa allocation to ensure that the “best and brightest” beneficiaries are prioritized in the H-1B lottery system. This may be done by giving priority to those who have a master’s degree or higher and who are paid higher wages.
2. It appears that there may be a move through the EO to re-evaluate F-1 STEM extensions and the recent expansion of employment authorization cards for H-4 spouses.
3. There will be a directive to Department of Homeland Security to work with Department of Labor to evaluate how to better “restore the integrity of employment-based visa programs to better protect U.S. and Foreign Workers.” This appears to mean that there will be new processes and procedures which may affect prevailing wage requirements for H-1B dependent employers, and possibly prevailing wage requirements for all H-1B petitions, and also new obligations relating to recruiting and displacing U.S. workers.
4. Possible changes to the Visa Bulletin, which could result in further retrogression of priority dates.
5. Enhanced use of the E-Verify system, including a possible move to making U.S. employers who want to sponsor foreign workers in any category register for E-Verify.
6. It appears there will be more resources allocated for I-9 audits and investigations, Wage and Hour investigations, and DHS Site Visit expansions to more visa categories.

It appears that much of the EO will require either new or amended regulations to be proposed. That means it will have to go through formal rule-making, which requires a notice and comment period. This will give employers time to review and plan. We will keep on top of this and provide you details as they are forthcoming. The good news is that this will not be similar to the travel ban in that it will have immediate impact. Much of the EO is a directive to lawmakers.

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