

Consequences of BAHA

Buy American, Hire American Executive Order

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Buy American, Hire American (BAHA)



- Higher Wages and Employment Rates for U.S. Workers
- Protect economic interests of U.S. Workers
- Directs federal agencies to suggest reforms to help ensure that H-1B visas are awarded to the most-skilled and highest-paid beneficiaries
- USCIS is working on a combination of rulemaking, policy guidance, and operational changes to implement BAHA directives
- DOS has made BAHA related changes to its Foreign Affairs Manual
- DOL and DOJ have stepped up monitoring and enforcement of H-1B employers

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H-1B Specialty Occupations



An occupation that requires:

- (a) *the theoretical and practical application of a body of highly specialized knowledge **and***
- (b) *attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States*

Re-defining “Specialty Occupations”



- Since January 2017, 45% increase in RFE's
- Rescission of Computer Programmer Memo
- Types of RFE's
 - Demonstrate Level 1 PWD is appropriate for the specialty occupation
 - Implies that a Level 1 PWD is never appropriate for a specialty occupation
- Third Party Worksites

Proposed Changes

- H-1B Lottery – Merit Based System
- H-4 Work Authorization



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L-1 Visa Intra-Company Transferee



- L-1A Functional Managers
- L-1B Specialized Knowledge Workers
- Third Party Worksites
- Site Visits

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North American Free Trade Agreement (NAFTA)



➤ B-1

➤ TN

➤ L-1 Border Applications

➤ New L-1 Pilot Program

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Other Administrative Burdens



➤ Requests For Evidence (RFE)

➤ Rescission of Deference Memo

➤ Advance Parole Denials

➤ Employment-Based Green Card Interviews

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Worksite Enforcement

- Raids
- Audits



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Other Immigration Updates

- OPT STEM
- Travel Ban 3.0
- J-1 Exchange
- DACA and TPS
- Entrepreneurs
- E-Verify

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Questions?



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