While Congress has not yet enacted legislation that would reform the H-1B program, including proposals to impede or bar our industry from accessing H-1B visas, the Administration has moved full-speed ahead to implement the Buy American/Hire American (BAHA) Executive Order (EO).

BAHA directs the Secretaries of Homeland Security, State, and Labor, and the Attorney General to review regulations that allow H-1B beneficiaries to work in the United States. Over the past few months, each department has acted to carry out BAHA and other executive orders intended to limit immigration and restrict access to H-1Bs as detailed in this Timeline.

January 15, 2017  S. 180/H.R. 1303 “H-1B and L-1 Visa Reform Act of 2017” introduced by Senators Grassley (R-IA) and Durbin (D-IL). This legislation specifically restricts “labor for hire” placements.

January 25, 2017  President issues Executive Order (EO) # 13768 “Enhancing Public Safety in the Interior of the United States.”

January 27, 2017  President issues EO # 13780 “Protecting The Nation From Foreign Terrorist Entry Into The United States.”

March 16, 2017  H.R. 1303 “H-1B and L-1 Visa Reform Act of 2017” introduced by Bill Pascrell (D-NJ). This legislation specifically restricts “labor for hire” placements.

March 31, 2017  USCIS issued a new Policy Memorandum which rescinded and superseded the December 22, 2000 “Guidance Memo on H-1B Computer-Related Positions” which may no longer be eligible for H-1Bs.

April 3, 2017  USCIS temporarily suspends premium processing for all H-1B visa petitions for up to six months, throwing business and worker plans into disarray.

April 3, 2017  USCIS announces further measures to detect fraud and abuse in the H-1B program; will target for site visits H-1B dependent employers and employers petitioning for H-1B workers who work offsite at another company/organization.

April 3, 2017  Department of Justice cautions employers petitioning for H-1B visas not to discriminate against U.S. workers.

April 4, 2017  Department of Labor announces the agency would (1) initiate investigations of H-1B program violators; (2) consider updates to the Labor Condition Application; (3) engage stakeholders to make regulatory and legislative improvements; and (4) establish an email address for whistleblowers to report violations.

April 18, 2017  President signs EO #13788, Buy American/Hire American, which directs the Secretaries of Homeland Security, State, and Labor, and the Attorney General to review regulations that allow H-1B visa beneficiaries to work in the United States.
April 25, 2017  President nominates Lee Francis Cissna to serve as Director, USCIS (DHS). Cisnas, a former Grassley staffer, helped draft “H-1B and L-1 Visa Reform Act.”

May 4, 2017  Department of State requests Office of Management & Budget approval of “Supplemental Questions for Visa Applicants, Form DS-5535” asking for extensive additional information for immigrant and nonimmigrant applicants.

July 26, 2017  USCIS holds Listening Session for the public to express their concerns about the various immigration programs. USCIS releases first round of H-1B data.

August 1, 2017  Sponsors of S.180/H.R. 1303 send bipartisan letter to President endorsing regulatory crack-down on H-1Bs and reforms contained in bill.


August 3, 2017  Department of State requests OMB to extend use of Form DS-5535. Comments due October 2, 2017. Chamber of Commerce files comments objecting to significant changes in policy without following Administrative Procedures Act requirements.

August 9, 2017  USCIS issues policy memo defining “affiliate” and “subsidiary” for purposes of establishing fee when filing an H-1B petition.

August 28, 2017  USCIS announces that in-person interviews will now be required for persons lawfully in the U.S. seeking permanent residence status.

September 5, 2017  President announces termination of DACA program in six months, unless Congress acts. (H-1B “reform” could be included in DACA legislation.)

September 13, 2017  Senate Judiciary Committee hearing on Immigration/Reforms to Nation’s Guestworker Programs (postponed following DACA termination announcement).

September 20, 2017  Reuters analysis of USCIS data shows 45 percent increase in Requests for Evidence (RFE) over same time last year.

October 3, 2017  USCIS resumes premium processing for H-1B visa extensions and for all types of H-1B petitions.

October 3, 2017  USCIS and Department of State reportedly crack down on individuals with alcohol-related charges or offenses; make ineligible for status extension.

October 5, 2017  Senate confirms Cissna as USCIS Director, 54-43.

October 20, 2017  DHS transmits audit of USCIS site visits titled “USCIS Needs a Better Approach to Verify H-1B Visa Participants. USCIS will implement four recommendations after which “violators can expect to have petitions (more quickly) revoked.”
October 23, 2017  USCIS Director Cissna rescinds the guidance memo directing immigration officials to give deference to previous decisions when processing visa extensions. The updated guidance instructs officers to apply the same level of scrutiny when reviewing nonimmigrant visa extension requests even where the petitioner, beneficiary and underlying facts are unchanged from a previously approved petition.

November 30, 2017  State Department will continue “extreme vetting” of certain visa applicants using Form DS-5535.