

Despite 1/11 Tweet, H-1B Visa Petitioners Likely to Continue to Encounter Obstacles

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Is anyone else feeling a little confused by President Trump's stance on highly skilled workers? In the midst of a hard push by the President to obtain border security funding—and one of the longest ever partial U.S. government shutdowns on record, resulting from the stalemate between President Trump and Congress on this topic—the public received a seemingly pro-immigration Tweet from our Commander-in-Chief this morning.

President Trump's Tweet "encourage[ed] talented and highly skilled people to pursue career options in the U.S.," and mentioned a "potential path to citizenship" for highly skilled H-1B visa holders. But this is the danger of pinning your hopes on statement made in 280 characters or less on social media: to date, we have seen the opposite of a welcoming H-1B system that recognizes the value and contributions of high-skilled workers. Since the President took office nearly two years ago, the visa process for highly skilled workers—and specifically, for petitioners trying to hire new H-1B beneficiaries—has become what might be reasonably characterized as hostile. In FY2019 (last year's "H-1B season"), H-1B petitioners saw an unprecedented push-back from U.S. Citizenship and Immigration Services, impacting a wide swath of the H-1B petitions filed. While H-1B visas remain available for FY 2020 (with the application period beginning April 1, 2019), the current government has administratively been putting up its own wall for highly skilled workers to climb, and in many instances, changing policy so quickly and arbitrarily as to make the roadblocks nearly insurmountable.

While it would be wonderful to see changes to the H-1B system that would prevent headaches for employers and heartache for their intended workers, the proof will be in the pudding on this one. Fortunately in most cases but unfortunately in this instance, Tweets do not change the law, and are unlikely—without significant signaling from the broader administration—to have any impact on the standards currently applied by the U.S. government agencies granting immigration benefits. Too many government agents appear to continue to feel that they are protecting the country by making it harder for high-skilled foreign workers to obtain legal status to live and work in the U.S.

As H-1B policies impacting the upcoming fiscal year evolve, check back frequently for updates at <https://www.lippes.com/information/blog/immigration-blog/>.

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