

# NASSCOM

*President Trump's executive order on "Aligning Federal Contracting and Hiring Practices with the Interests of American Workers." appears to have been made based on misperceptions, and misinformation. Part of the Executive Order focuses on federal contracting, and part of the Executive Order focuses on the H-1B visa program in general. Both elements of the Executive Order mandate reviews, reports, and development of policy and practice and recommendations rather than mandating any immediate changes.*

*The order is particularly coming at a time when there is a huge shortage of STEM skills in the U.S., that workers on short-term non-immigrant visas like H-1B and L-1 help bridge. Unemployment rate for computer occupations (those most common amongst H-1B visa holders) declined from 3% in Jan-2020 to 2.5% in May-2020, while unemployment rate for all other occupations grew from 4.1% in Jan-2020 to 13.5% in May-2020. Further, in the 30-day period ending 13th May 2020, there were over 625,000 active job vacancy postings advertised online for jobs in common computer occupations, including those most common to H-1B visa holders.*

*The White House said that it follows President Trump's "Buy American, Hire American" Executive Order from April 2017 and takes further action to prevent Americans from being displaced by foreign workers." The Executive order directs the heads of each federal department and agency to review the use of offshore services as well as temporary foreign labor (H-1Bs, L-1s) in the execution of contracts awarded in FY 2018 and 2019 and issue a report within 120 days to the Director of the Office of Management and Budget. The report will summarize the results of the reviews; recommending, if necessary, corrective actions that may be taken by the agency and timeframes to implement such actions; and proposing any Presidential actions that may be appropriate to ensure compliance with past executive actions and statutory requirements. The reports will also assess impacts on US workers, the US economy, national security, and the efficiency of Federal procurement.*

*Additionally, the executive order also requires the Secretaries of Labor and Homeland Security to "take action" within 45 days **"to protect United States workers from any adverse effects on wages and working conditions caused by the employment of H-1B visa holders at job sites (including third-party job sites)."***

*This underscores and sets a timeline for the agencies to finalize and publish some of the regulatory measures that have been discussed by the Administration and mentioned again in the June Proclamation. These may include the changes to the definitions of "specialty occupation", "employer", and "employer-employee relationship".*

*As the world opens up post the COVID-19 induced lockdowns, it is important for the U.S. to be able to access talent critical to the recovery phase. Measures that restrict access to talent will slow-down the recovery phase of U.S. economy, jobs, innovation and R&D.*