

United States Department of Labor proposes increase in H-1B wages

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Market Watch

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Synopsis

The details of the proposal have not been published yet, but lawyers expect the administration of President Donald Trump to clear the proposal before the presidential elections in November. If given the go-ahead, it will be implemented immediately without public comment, unlike the case with most other rules.

Pune: The US Department of Labor has submitted a proposal to the White House Office of Management and Budget seeking to hike the minimum wages of H-1B and other work permit holders, a move that could significantly impact the H-1B visa programme.

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The Office of Management and Budget is tasked with producing the US President's Budget, among other functions.

The labour department submitted the proposal -- to restructure the wage levels of H-1B, H-1B1, E-3 and PERM (Employer Sponsored Green Cards) -- for review last week.



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The proposed rule does not provide details of the proposed restructuring, but there is expectation that the minimum level would be increased to level 2 or 3.

“This rule has the potential to decimate the H-1B program as many businesses would be unable to meet the minimum wage threshold,” said Nandini Nair, immigration partner at law firm Greenspoon Marder.

H-1B employees are hired at four levels.

“Prior to 2017, most companies would begin an employee at Level 1. But in 2017, the program began being **hit** for using Level 1 and most moved to Level 2, which was difficult enough. The difference between wage levels can be anywhere between \$10,000 and \$15,000. This would be extremely difficult for small to mid-size companies and startups to meet. It effectively stops companies from hiring H-1B workers,” Nair said.

The labour department determines wages based on prevailing rates for a given role across different regions in the country.

Most Indian technology firms have been increasing hiring locally due to the restrictions and uncertainty around the H-1B visa guidelines. In recent years, US tech firms have been the key recipients of H-1B visas.

Rajiv Khanna, managing partner at Immigration.com, said the wages are set according to the person’s experience level and that over the last years there have been calls to raise the minimum level from 1 to 2.

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Four out of five employers who bring in employees on H-1B visas pay 20% higher wages to those with the work permit than average market salaries, according to an analysis of US Department of Labor data by American think-tank CATO Institute.

The average offered wage for all 61,420 H-1B requesting employers in financial year 2019 was \$100,461. The average prevailing wage determination was \$83,619.