

H-1B: Homeland Security Secretary signals change to embattled visa program

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All companies should be made to try harder to hire Americans, Nielsen says



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H-1B application documents (Meri Simon/Bay Area News Group)

Amid planning by the administration of President Donald Trump to change the H-1B visa program, U.S. Homeland Security Secretary Kirstjen Nielsen has signaled that the government will seek to make all employers try harder to find qualified American workers — and offer them jobs before seeking foreign talent.

Homeland Security has already [announced](#) its intention to alter the lottery-based selection process for H-1B applications to favor people with master's degrees or higher. The agency has [also said](#) it plans to revise the definition of a “specialty occupation,” in order to enhance the visa program’s ability to obtain “the best and the brightest foreign nationals.” And Homeland Security has said it wants to “revise the definition of employment and employer-employee relationship to better protect U.S. workers and wages” and plans to “propose additional requirements designed to ensure employers pay appropriate wages to H-1B visa holders.”

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The H-1B, intended for skilled foreign workers, has become a flashpoint in the immigration debate, with Silicon Valley tech firms and other supporters arguing for an expansion to the annual 85,000 cap on new visas, and critics pointing to reported abuses, which have included the alleged replacement by foreign IT workers of Americans working at UC San Francisco and Disney — after the U.S. employees had trained the newcomers.

In testimony Thursday to the House Committee on the Judiciary, Nielsen highlighted the issue of abuse, before getting specific about a sought-after change.

“Perhaps no other visa category has received as much attention in recent years as the H-1B, as reports of abuse of the program have caused outrage among the public,” Nielsen said, according to a [committee transcript](#).

“No qualified hardworking American should be forced to train their H-1B replacement, and then (be) let go.”

Outlining the administration’s motivation to “ensure that American workers are not pushed aside for the promise of cheaper, foreign labor,” Nielsen also expressed concern for non-citizen labor, saying her agency sought to guarantee that “employers, recruiters, or any of their agents do not exploit foreign workers.”

Then she suggested a change in the program, to make all companies seeking skilled workers look closer to home and offer jobs to Americans before seeking H-1B visas for foreign employees. Under current law, Nielsen noted, only “willful violators” of the H-1B program or companies deemed “[H-1B dependent](#)” are required to certify that they’ve tried hard to find American workers and offered jobs to those qualified, before applying for an H-1B visa. That requirement should be expanded, Nielsen said.

“All employers should be required to certify that they have made a good faith effort to recruit U.S. workers before filing an H-1B petition, and have offered jobs to qualified and available American applicants,” she said.

“We have to make sure the H-1B program does not harm American workers who may be as qualified and willing to do jobs that foreign workers are imported to fill.”

Nielsen, reportedly [on her way out](#) of the administration, said Homeland Security was reviewing current guidance and regulations around the use of H-1B workers, and added that her agency also wanted to “work with Congress to make legislative changes that would provide more protections to the United States workforce.”