

OMB OIRA Releases Unified Agenda and USCIS Regulatory Priorities, Including H-1B, EB-5, and More

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On Dec. 14, the Office of Management and Budget Office of Information and Regulatory Affairs (OMB) published the biennial Unified Agenda. A long-standing outgrowth of previous regulatory reform efforts, the Unified Agenda offers the public the “current thinking” of federal agencies on upcoming Agency regulatory priorities.

Of importance to the immigration community, DHS USCIS posed the following regulatory priorities-

United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) is the government agency that oversees lawful immigration to the United States. USCIS’s role is to efficiently adjudicate and manage petitions, applications, and requests for immigration benefits for foreign nationals seeking lawful immigration status in the United States and for individuals seeking to become citizens of the United States, and other matters within the jurisdiction of the agency, in a manner that detects, deters, and prevents fraud, protects the jobs and working conditions of American workers as appropriate, and ensures the national security, public safety, and welfare of the American people. In the coming year, USCIS will promulgate several regulatory and deregulatory actions to directly support these commitments and goals.

Rescission of International Entrepreneur Rule. USCIS will propose to rescind the final rule published in the Federal Register on Jan. 17, 2017. The final rule established a program that would allow for consideration of parole into the United States, on case-by-case basis, of certain inventors, researchers, and entrepreneurs who had established a U.S. start-up entity, and who had been awarded substantial U.S. investor financing or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting edge research.

Removing H-4 Dependent Spouses from the Class of Aliens Eligible for Employment

Authorization. USCIS will also propose to rescind the final rule published in the Federal Register on Feb. 25, 2015. The 2015 final rule amended DHS regulations by extending eligibility for employment authorization to certain H-4 dependent spouses of H-1B nonimmigrants who are seeking employment-based lawful permanent resident status.

H-1B Nonimmigrant Program and Petitioning Process Regulations. In order to improve U.S. worker protections as well as to address the requirements of Executive Order 13788, [Buy American and Hire American](#), USCIS proposes to issue regulations with the focus of improving the H-1B nonimmigrant program and petitioning process. Such initiatives include a proposed rule that would establish an electronic registration program for H-1B petitions subject to annual numerical limitations and would improve the H-1B numerical limitation allocation process (*Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Aliens Subject to Numerical Limitations*); and a proposed rule that would revise the definition of specialty occupation to increase focus on truly obtaining the best and brightest foreign nationals via the H-1B program and would revise the definition of employment and employer-employee relationship to help better protect U.S. workers and wages. (*Strengthening the H-1B Nonimmigrant Visa Classification Program.*)



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Heightened Screening and Vetting of Immigration Programs Regulations. USCIS will propose regulations guiding the inadmissibility determination whether an alien is likely at any time to become a public charge under section 212(a)(4) of the Immigration and Nationality Act. (*Inadmissibility and Deportability on Public Charge Grounds.*)

Employment Creation Immigrant Regulations. USCIS will amend its regulations modernizing the employment-based, fifth preference (EB-5) immigrant investor category based on current economic realities and to reflect statutory changes made to the program. (*EB-5 Immigrant Investor Program Modernization*). In addition, USCIS will propose to update its regulations for the EB-5 Immigrant Investor Regional Center Program to better reflect realities for regional centers and EB-5 immigrant investors, to increase predictability and transparency in the adjudication process, to improve operational efficiency, and to enhance program integrity. (*EB-5 Immigrant Investor Regional Center Program.*)

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