

EX. ORD. NO. 13940. ALIGNING FEDERAL CONTRACTING AND HIRING PRACTICES WITH THE INTERESTS OF AMERICAN WORKERS

Ex. Ord. No. 13940, Aug. 3, 2020, 85 F.R. 47879, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the executive branch to create opportunities for United States workers to compete for jobs, including jobs created through Federal contracts. These opportunities, particularly in regions where the Federal Government remains the largest employer, are especially critical during the economic dislocation caused by the 2019 novel coronavirus (COVID-19) pandemic. When employers trade American jobs for temporary foreign labor, for example, it reduces opportunities for United States workers in a manner inconsistent with the role guest-worker programs are meant to play in the Nation's economy.

SEC. 2. *Review of Contracting and Hiring Practices.* (a) The head of each executive department and agency (agency) that enters into contracts shall review, to the extent practicable, performance of contracts (including subcontracts) awarded by the agency in fiscal years 2018 and 2019 to assess:

(i) whether contractors (including subcontractors) used temporary foreign labor for contracts performed in the United States, and, if so, the nature of the work performed by temporary foreign labor on such contracts; whether opportunities for United States workers were affected by such hiring; and any potential effects on the national security caused by such hiring; and

(ii) whether contractors (including subcontractors) performed in foreign countries services previously performed in the United States, and, if so, whether opportunities for United States workers were affected by such offshoring; whether affected United States workers were eligible for assistance under the Trade Adjustment Assistance program authorized by the Trade Act of 1974 [19 U.S.C. 2101 et seq.]; and any potential effects on the national security caused by such offshoring.

(b) The head of each agency that enters into contracts shall assess any negative impact of contractors' and subcontractors' temporary foreign labor hiring practices or offshoring practices on the economy and efficiency of Federal procurement and on the national security, and propose action, if necessary and as appropriate and consistent with applicable law, to improve the economy and efficiency of Federal procurement and protect the national security.

(c) The head of each agency shall, in coordination with the Director of the Office of Personnel Management, review the employment policies of the agency to assess the agency's compliance with Executive Order 11935 of September 2, 1976 (Citizenship Requirements for Federal Employment) [41 F.R. 37301, amending the Civil Service Rules], and section 704 of the Consolidated Appropriations Act, 2020, Public Law 116-93 [5 U.S.C. 3101 note].

(d) Within 120 days of the date of this order [Aug. 3, 2020], the head of each agency shall submit a report to the Director of the Office of Management and Budget summarizing the results of the reviews required by subsections (a) through (c) of this section; 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.

SEC. 3. *Measures to Prevent Adverse Effects on United States Workers.* Within 45 days of the date of this order, the Secretaries of Labor and Homeland Security shall take action, as appropriate and consistent with applicable law, 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), including measures to ensure that all employers of H-1B visa holders, including secondary employers, adhere to the requirements of

section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)).

SEC. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

DELEGATION OF AUTHORITY UNDER SECTIONS 1182(f) AND 1185(a)(1) OF THIS TITLE

Memorandum of President of the United States, Sept. 24, 1999, 64 F.R. 55809, provided:

Memorandum for the Attorney General

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), and in light of Proclamation 4865 of September 29, 1981 [set out above], I hereby delegate to the Attorney General the authority to:

(a) Maintain custody, at any location she deems appropriate, and conduct any screening she deems appropriate in her unreviewable discretion, of any undocumented person she has reason to believe is seeking to enter the United States and who is encountered in a vessel interdicted on the high seas through December 31, 2000; and

(b) Undertake any other appropriate actions with respect to such aliens permitted by law.

With respect to the functions delegated by this order, all actions taken after April 16, 1999, for or on behalf of the President that would have been valid if taken pursuant to this memorandum are ratified.

This memorandum is not intended to create, and should not be construed to create, any right or benefit, substantive or procedural, legally enforceable by any party against the United States, its agencies or instrumentalities, officers, employees, or any other person, or to require any procedures to determine whether a person is a refugee.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

IMPLEMENTING IMMEDIATE HEIGHTENED SCREENING AND VETTING OF APPLICATIONS FOR VISAS AND OTHER IMMIGRATION BENEFITS, ENSURING ENFORCEMENT OF ALL LAWS FOR ENTRY INTO THE UNITED STATES, AND INCREASING TRANSPARENCY AMONG DEPARTMENTS AND AGENCIES OF THE FEDERAL GOVERNMENT AND FOR THE AMERICAN PEOPLE

Memorandum of President of the United States, Mar. 6, 2017, 82 F.R. 16279, which related to increased enforcement of immigration laws, was revoked by Ex. Ord. No. 14013, §2(b), Feb. 4, 2021, 86 F.R. 8840, set out in a note under section 1157 of this title.

§§ 1182a to 1182c. Repealed. Pub. L. 87-301, § 24(a)(1), (3), Sept. 26, 1961, 75 Stat. 657

Section 1182a, act Sept. 3, 1954, ch. 1254, §4, 68 Stat. 1145, related to admission of aliens who were either convicted, or who admitted the commission, of a misdemeanor.

Section 1182b, Pub. L. 85-316, §5, Sept. 11, 1957, 71 Stat. 640, permitted admission of an alien spouse, child or parent excludable for crime involving moral turpitude in cases of hardship, when not contrary to na-

tional welfare or security, and with Attorney General's consent, and under conditions and procedures prescribed by him. See section 1182(h) of this title.

Section 1182c, Pub. L. 85-316, §6, Sept. 11, 1957, 71 Stat. 640; Pub. L. 86-253, §1, Sept. 9, 1959, 73 Stat. 490, authorized admission of an alien spouse, child, or parent of a United States citizen afflicted with tuberculosis under terms, conditions and controls prescribed by Attorney General. See section 1182(g) of this title.

§ 1182d. Denial of visas to confiscators of American property

(a) Denial of visas

Except as otherwise provided in section 6091 of title 22, and subject to subsection (b), the Secretary of State may deny the issuance of a visa to any alien who—

(1) through the abuse of position, including a governmental or political party position, converts or has converted for personal gain real property that has been confiscated or expropriated, a claim to which is owned by a national of the United States, or who is complicit in such a conversion; or

(2) induces any of the actions or omissions described in paragraph (1) by any person.

(b) Exceptions

Subsection (a) shall not apply to—

(1) any country established by international mandate through the United Nations; or

(2) any territory recognized by the United States Government to be in dispute.

(c) Reporting requirement

Not later than 6 months after October 21, 1998, and every 12 months thereafter, the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report, including—

(1) a list of aliens who have been denied a visa under this subsection; and

(2) a list of aliens who could have been denied a visa under subsection (a) but were issued a visa and an explanation as to why each such visa was issued.

(Pub. L. 105-277, div. G, subdiv. B, title XXII, §2225, Oct. 21, 1998, 112 Stat. 2681-819.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, and also as part of the Foreign Affairs Reform and Restructuring Act of 1998, and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Immigration and Nationality Act which comprises this chapter.

§ 1182e. Denial of entry into United States of foreign nationals engaged in establishment or enforcement of forced abortion or sterilization policy

(a) Denial of entry

Notwithstanding any other provision of law, the Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any foreign national whom the Secretary finds, based on credible and specific information, to have been directly involved

in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice or forcing a man or woman to undergo sterilization against his or her free choice, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such policies.

(b) Exceptions

The prohibitions in subsection (a) shall not apply in the case of a foreign national who is a head of state, head of government, or cabinet level minister.

(c) Waiver

The Secretary of State may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—

(1) determines that it is important to the national interest of the United States to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

(Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title VIII, §801], Nov. 29, 1999, 113 Stat. 1536, 1501A-468.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, and not as part of the Immigration and Nationality Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1182f. Denial of entry into United States of Chinese and other nationals engaged in coerced organ or bodily tissue transplantation

(a) Denial of entry

Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary shall direct consular officers not to issue a visa to any person whom the Secretary finds, based on credible and specific information, to have been directly involved with the coercive transplantation of human organs or bodily tissue, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such practices.

(b) Exception

The prohibitions in subsection (a) do not apply to an applicant who is a head of state, head of government, or cabinet-level minister.

(c) Waiver

The Secretary may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—