




Exploring Immigration Pathways for AI & "Emerging Technologies" Experts
Capitalizing on Current Policymaking

March 20, 2024




1




Our Agenda


- 1. Recent STEM Policies**
- 2. Executive Order on Artificial Intelligence**
- 3. New Opportunities for Experts in AI and How to Capitalize**
- 4. Resources**



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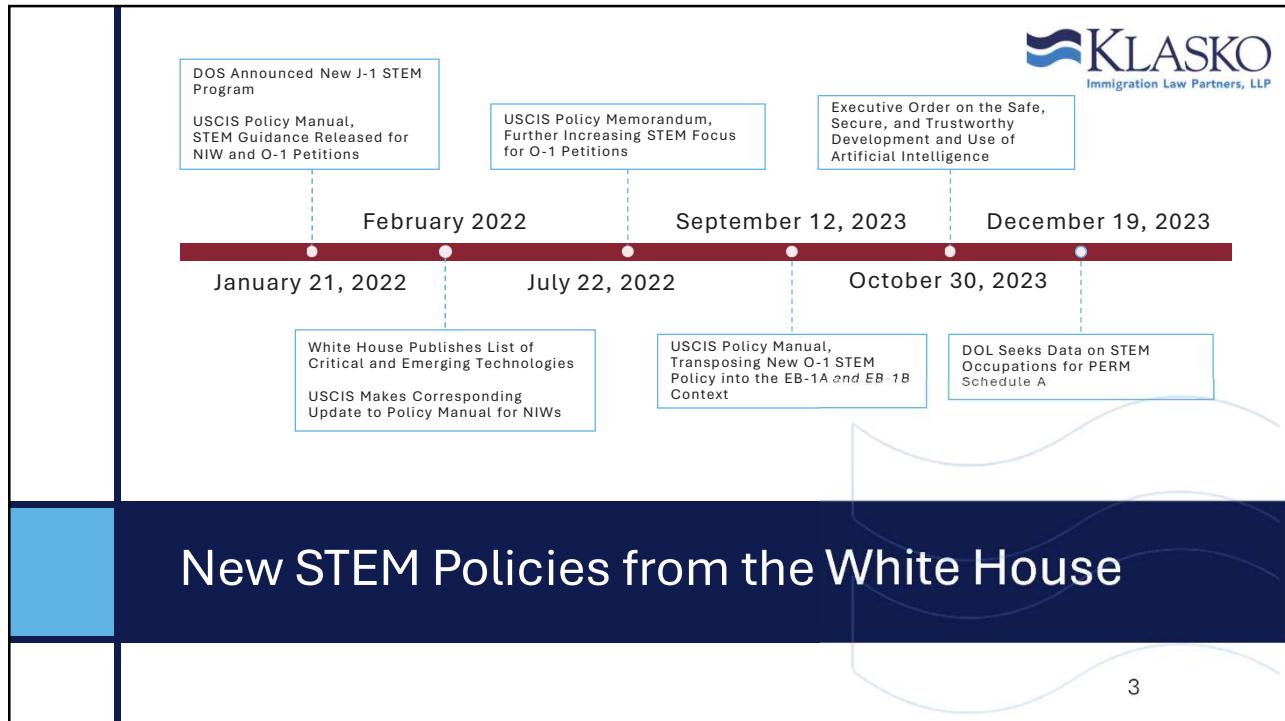


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2



3

Overview of the Executive Order (EO)

OCTOBER 30, 2023

Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence

American Competitiveness. The EO underscores how prioritizing Artificial Intelligence (AI) innovation and AI professionals is key to American competitiveness

Not Just AI. The EO is not just about AI—and calls for support of other “critical and emerging technologies” occupations that are related directly to our business

No Immediate Change. The EO directs federal agencies to consider or initiate immigration policy or program changes within 45 – 180 days.

Deliberate Policy Advancements. The EO comes on the heels of other federal initiatives that open up additional immigration pathways for STEM-related professionals


4

Critical and Emerging Technologies (CETs)

- **National Science and Technology Council** and the National Security Council publishes a list at least every two years (most recently **February 2024**)
- **CETs** are advanced technologies that have potential significance to the US national security
 - Protect the **security** of the American people
 - Expand **economic prosperity** and opportunity
 - Realize and **defend democratic values**
- **18 Fields with 125 Sub-fields**, including:

Artificial Intelligence	Robotics
Data Privacy	Advanced Cloud Services
Data Security	High-performance Data Storage
Cybersecurity	Data Processing and Analysis
Human-Machine Interfaces	Quantum Computing

5



The EO's Immigration Prospectus

- Creating Pathways for AI and Critical and Emerging Technologies
- Modernizing the H-1B Program
- Updating Schedule A: Prioritizing Jobs in AI and STEM Fields
- Updating the J-1 Visa: New Rules and Programs
- Creating Public Resources and New Reporting

6

Creating Pathways for AI and Critical and Emerging Technologies

- Modernizing immigration pathways for AI and CET professionals
- Creating new guidance to specifically consider and prioritize these fields
- Streamlining processing for visa applicants in these fields

(i) review and initiate any policy changes the Secretary determines necessary and appropriate to clarify and modernize immigration pathways for experts in AI and other critical and emerging technologies, including O-1A and EB-1 noncitizens of extraordinary ability; EB-2 advanced-degree holders and noncitizens of exceptional ability; and startup founders in AI and other critical and emerging technologies using the International Entrepreneur Rule; and

7

Modernizing the H-1B Program

- Building upon the recent H-1B rulemaking to consider and prioritize AI and CET professionals
- Updating DHS and DOL policies to align with new emerging technology fields
- Streamlining green card pathways for professionals in these fields

(ii) continue its rulemaking process to modernize the H-1B program and enhance its integrity and usage, including by experts in AI and other critical and emerging technologies, and consider initiating a rulemaking to enhance the process for noncitizens, including experts in AI and other critical and emerging technologies and their spouses, dependents, and children, to adjust their status to lawful permanent resident.

8

Updating Schedule A: Prioritizing Jobs in AI and STEM Fields

- Considering AI and STEM-related fields for inclusion in Schedule A
- Determining that these fields are in-demand with short supply of professionals
- Waiving the labor market test for these professionals
- **DOL has already begun soliciting this information**

(e) Within 45 days of the date of this order, for purposes of considering updates to the "Schedule A" list of occupations, 20 C.F.R. 656.5, the Secretary of Labor shall publish a request for information (RFI) to solicit public input, including from industry and worker-advocate communities, identifying AI and other STEM-related occupations, as well as additional occupations across the economy, for which there is an insufficient number of ready, willing, able, and qualified United States workers.

9

Updating the J-1 Visa: New Rules and Programs

- Creating new designations for countries and skills to remove the 2-year home residence requirement
- Updating the Exchange Visitor Skills List
- Implementing a domestic visa renewal program for J-1 research scholars and AI and CET professionals

(i) consider initiating a rulemaking to establish new criteria to designate countries and skills on the Department of State's Exchange Visitor Skills List as it relates to the 2-year foreign residence requirement for certain J-1 nonimmigrants, including those skills that are critical to the United States;

(ii) consider publishing updates to the 2009 Revised Exchange Visitor Skills List (74 FR 20108); and

(iii) consider implementing a domestic visa renewal program under 22 C.F.R. 41.111(b) to facilitate the ability of qualified applicants, including highly skilled talent in AI and critical and emerging technologies, to continue their work in the United States without unnecessary interruption.

(i) consider initiating a rulemaking to expand the categories of nonimmigrants who qualify for the domestic visa renewal program covered under 22 C.F.R. 41.111(b) to include academic J-1 research scholars and F-1 students in science, technology, engineering, and mathematics (STEM); and

10

Creating Public Resources and New Reporting

- Publishing materials on AI.gov for professionals in AI fields
- Materials include information on immigration pathways, details regarding newly announced policies, and organized programs for AI professionals
- Collecting and publishing data regarding visa filings for professionals in AI and CET fields

(i) a clear and comprehensive guide for experts in AI and other critical and emerging technologies to understand their options for working in the United States, to be published in multiple relevant languages on AI.gov; and

(ii) a public report with relevant data on applications, petitions, approvals, and other key indicators of how experts in AI and other critical and emerging technologies have utilized the immigration system through the end of Fiscal Year 2023.

11

Why does this matter?

12

Pathways for AI Professionals

J-1

- Nonimmigrant Category Exchange visitors
- Researchers, Students, Interns, Trainees
- New STEM Guidance
- No Self-Filing
- Limited to 12 or 18 months
- No lottery system

O-1A

- Nonimmigrant Category
- Extraordinary Ability – Very Top of the Field
- New STEM Guidance
- No Self-Filing
- No limitation on extensions
- No lottery system

EB-2 NIW

- Immigrant Category
- Substantial merit and national importance
- Self-filing
- New STEM Guidance
- Avoids Labor Market Test
- More priority date backlog

EB-1A

- Immigrant Category
- Extraordinary Ability – Very Top of the Field
- Self-filing
- New STEM Guidance
- Avoids Labor Market Test
- Less priority date backlog

13

The Industry Has Taken Notice

Increase in NIW Petitions

Year	NIW Percent of Total receipts	Non-NIW Percent of Total receipts
2018	12%	88%
2019	16%	84%
2020	21%	79%
2021	21%	79%
2022	26%	74%
2023	43%	57%

Increase in STEM O-1 Petitions

Year	STEM Only	Non-STEM
2018	2,130	2,520
2019	3,270	3,290
2020	3,400	3,110
2021	3,550	3,410
2022	4,570	4,140
2023	4,560	4,380

https://www.uscis.gov/sites/default/files/document/reports/stem_related_petition_trends_eb2_and_o1a_categories_factsheet_fy23.pdf

14

Top 5 Trends

1. The number of EB-2 I-140 filings is increasing, and more EB-2 petitioners are seeking an NIW
 - o NIW receipts in STEM fields increased from 9,440 in FY 2021 to 20,950 in FY 2023
2. NIW approvals in STEM fields are increasing
 - o Denials also increased in FY 2023
3. USCIS has reduced NIW processing times
4. O-1 usage has steadily increased for several years
5. USCIS is approving more O-1 petitions for STEM fields than non-STEM fields

15

Opportunities for: Employers

Write the Story. Identify which fields your company is investing in and consider how you those areas of significance to the United States.

Review Policies. Revisit your policies for employing foreign national workers to take advantage of the current Administration's STEM focus.

Invest and Experiment. Allocate a specific department of your business to perform applied research in these areas.

Advocate. Work with industry associations to provide feedback to the DOL, USCIS, and ICE to facilitate supportive policy for these fields.

Professionals

Write YOUR Story. Build your narrative: what fields overlap with your work; what is your expertise; how does your work benefit the U.S.?

Create a Portfolio. Use the new tools and guidance to begin building your portfolio of work—with intention. And identify where you can earn easy points.

Be Creative. The current Administration is showing leniency that may not continue. Avoid excluding yourself from any options.

Prepare Yourself. You are the best advocate for yourself. If you have heard of new visa options, create a dialogue with your employer.

16

Resources

17

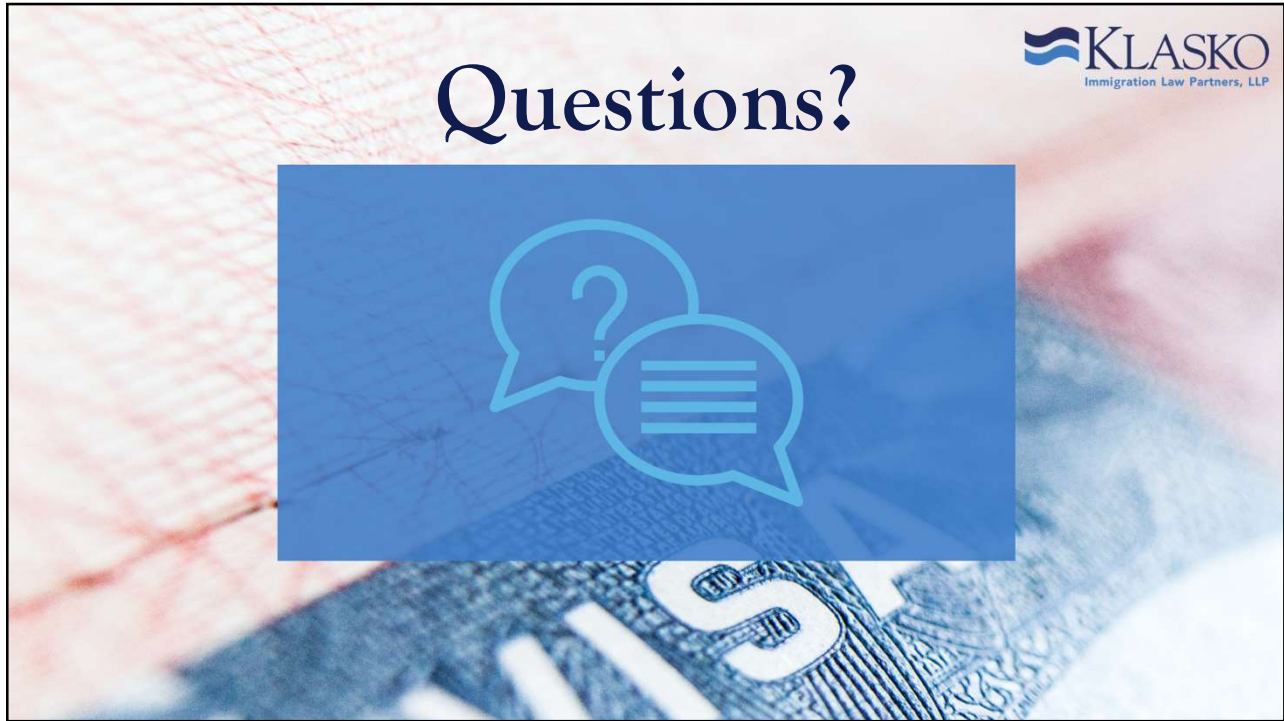
Resources



SCAN
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- [Executive Order on Artificial Intelligence](#) provides the full text of the White House's EO
- [White House Fact Sheet on AI EO](#) provides a high-level overview of the component parts of the EO
- [AI.gov](#) provides resources for AI professionals, including foreign nationals
- [2024 Critical and Emerging Technologies List Update](#) provides the full list of CET fields and sub-fields
- [USCIS Policy Manual on EB-1A](#) provides a breakdown of acceptable evidence for the EB-1A category
- [USCIS Policy Manual on O-1](#) provides examples of acceptable evidence for the O-1 category

18



Questions?

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19



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20

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21

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22