At 56%, Indians record highest US work visa rejection: Report

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BENGALURU: Despite the growing bonhomie with the United States, India suffered by far the highest number of L-1B visa denials between 2012 and 2014.

As high as 56% of the L-1B visa petitions by Indians was rejected, compared with an average denial rate of 13% for all countries other than India. The data was released by the Virginia-based National Foundation for American Policy (NFAP), a non-profit and non-partisan public policy research organization focused on trade, immigration and related issues. It's based on data obtained from the US Citizenship and Immigration Services (USCIS).

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The data shows the denial rates for Chinese and Mexican nationals were less than half of India's - at 22% and 21%, respectively. British nationals followed at 16% and Japanese and German nationals at 15%.

L-1B visa is a non-immigrant visa enabling US employers to offer intra-company transfer of employees with specialized knowledge from one of its affiliated foreign offices to one of its offices in America. 'US employers' in this case also include Indian companies with US subsidiaries. The biggest users of L-1 visas are Indian IT companies like TCS, Infosys and Wipro. Transferred employees can stay in the US for up to five years.

The total number of L-1B petitions filed by employees of Indian origin was 25,296 during 2012-14, while the number of denials was 14,104, a 56% denial rate.

"The data is shocking and needs to be taken up immediately at the government level. Unlike the H-1B visa, L-1 visas do not have a yearly limit. Given that India is globally known for its specialized knowledge pool, the US government should provide the reasons for such a high number of rejections from India, while streamlining and providing clear guidance on the application process," said Vikram Shroff, head of the HR Law practice at leading law firm Nishith Desai Associates.

Rejection rates have increased sharply since the 2007-08 global financial crisis and the resulting high unemployment rates in the US. For all countries, the average rejection rate was under 10% before 2008, but now stands at 35%. The Indian rejection rate has contributed significantly to this increase. What's surprising is that the rejection rates are rising even with the unemployment rate in the US dropping sharply.

NFAP says the high rate of denials and requests for evidence (made when an application/petition lacks required documentation/evidence) for L-1B petitions could have a

negative impact on the US's ability to develop products and services that compete globally. "Over the past several years, the law governing L-1B petitions did not change, while the economy has become more global," said Blake Chisam, former chief counsel of the House Ethics Committee and a partner at law firm Fragomen.

In early 2012, the US Citizenship and Immigration Services (USCIS) officials had proposed new guidelines to review and update the definition for L-1B petitions. "The new proposed guidance never materialized and, based on reports from employers and attorneys, inconsistent decision-making, as well as high levels of denials and requests for evidence have continued," the report said.

Rakesh Prabhu, partner-immigration practice at ALMT Legal, feels that US authorities are trying to do a "balancing act" - trying to protect the interests of the American workforce but also providing some concession to foreign workers, such as the recent move to give work permits to their spouses.