

The New \$100,000 Fee for H-1B Workers: What You Need to Know

On September 19, 2025, President Trump issued a Proclamation that temporarily halts decisions on new H-1B petitions and bans entry of certain H-1B workers, unless a \$100,000 fee is paid or a national interest waiver is granted. The Proclamation took effect **September 21, 2025, at 12:01 a.m. EDT** for twelve months (with the possibility of an extension).

The language of the Proclamation and subsequent public statements from DHS and DOS has caused confusion about how broadly the new fee would apply to employers' H-1B petitions and/or to foreign workers' H-1B visa applications. On October 20, 2025 USCIS [provided further guidance](#) and updated their [H-1B Specialty Occupation webpage](#) to help understand what filings require the fee and how to pay it. Below is a compilation of the instructions and clarifications the government agencies have publicized, and what employers and beneficiaries need to know about the new \$100,000 fee as of October 22, 2025.

Note: There have already been two lawsuits filed to contest President Trump's Proclamation: A [diverse group of plaintiffs](#) filed in the U.S. District Court for the Northern District of California, while the [U.S. Chamber of Commerce](#) filed in the U.S. District Court for the District of Columbia. With the H-1B lottery coming up in March 2026, DHS or DOS may also provide further clarifications. Thus, the guidance in this alert is subject to change.

Who Is Affected?

- First-time H-1B petitions filed on or after 9/21/2025 for beneficiaries who are either outside of the U.S. and do not have a valid H-1B visa, or the beneficiary is in the U.S. and the petition requests consular notification, port of entry notification, or pre-flight inspection.
- Individuals applying for a visitor visa who have approved H-1B petitions.

Who is Not Affected?

- H-1B petitions filed before 9/21/2025.
- Individuals with a valid H-1B visa (travel in and out of the U.S. is permitted).
- H-1B extensions, amendments, changes of employer, or change of status for beneficiaries inside the U.S.
- A beneficiary inside the U.S. at the time an H-1B petition is granted and who subsequently departs the U.S. to apply for a related H-1B visa.

What Does the Proclamation Require?

- Proof of payment of the \$100,000 must accompany each "new" H-1B petition filed after 9/21/2025.
- Payment must be made using [pay.gov](#) prior to filing an H-1B petition with USCIS. The payment form is available for [preview](#).
- If an application is not approved, a full refund will be processed.

Are there Exceptions to the Proclamation?

The proclamation provides that exceptions may be granted in the national interest, including for:

- Specific individuals,
- All individuals working for specific companies, or
- All individuals in a specific industry.

Criteria to Qualify for an Exception:

Exceptions are granted in the "extraordinarily rare circumstance" where DHS determines:

- A particular foreign worker's presence in the U.S. as an H-1B worker is in the national interest;
- No American worker is available to fill the role;
- The foreign worker does not pose a threat to the security or welfare of the U.S.; and
- Requiring the \$100,000 payment would significantly undermine the interests of the U.S.

What Should H-1B Workers and Employers Do?

Contact your immigration attorney to discuss whether this proclamation impacts your case. You can reach Jennifer Cory at Jennifer.Cory@fisherbroyles.com and Jeff Widdison at Jeffrey.Widdison@fisherbroyles.com. We will be closely monitoring any information or developments to provide the best advice for our clients.

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