



Clarifying the Presidential Proclamation on H-1B Petitions

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On Friday, September 19, 2025, President Trump signed a presidential Proclamation imposing a new \$100,000.00 fee on some H-1B visa petitions. This Proclamation, "[Restriction on Entry of Certain Nonimmigrant Workers](#)," took effect at 12:01 AM on Sunday, September 21, 2025.

The text of the Proclamation does not clearly address every H-1B scenario, and immigration experts still have many questions about its application. The White House and three government agencies have published materials to clarify some initial questions, including this [White House Fact Sheet](#), this [USCIS Memorandum](#), and this [Department of State FAQ](#). The information below is based on the Proclamation text and government-issued clarifications:

The Proclamation applies only to H-1B petitions filed after September 21, 2025, for foreign workers ("beneficiaries") who are outside of the U.S. at the time of H-1B petition filing, with some exemptions for beneficiaries working in the national interest.

The \$100,000.00 must be paid in addition to current H-1B petition filing fees (typically \$3,380 for large private employers), and it is due at the time of initial H-1B petition filing. It is not an annual subscription fee, as announced when the Proclamation was signed.

The \$100K payment is not required for beneficiaries of petitions filed prior to September 21, 2025, including:

- beneficiaries of pending or currently approved H-1B petitions, or

- beneficiaries in possession of validly issued H-1B non-immigrant visas seeking to enter the U.S. from overseas, or
- beneficiaries with an approved H-1B petition who will leave the U.S. and apply for an H-1B visa stamp overseas.

The \$100K payment is also *not required* for future H-1B petitions if:

- the beneficiary is inside the U.S. in H-1B status at the time the employer files the H-1B petition (for example, an H-1B extension or transfer), or
- the employer can prove that issuing an H-1B visa to the overseas beneficiary is in the U.S. national interest.

The \$100K payment is *likely not required* for future H-1B petitions if the beneficiary is inside the U.S. in a different legal immigration status when the employer files the H-1B petition. For example, an employer will probably not pay the additional \$100,000 fee when requesting that an employee currently working in F-1 OPT status change to H-1B status.

As of September 24, 2025, it is not yet clear if the \$100,000 fee will be required at any time *after* the original H-1B petition filing. For example, if an employer is not required to pay the fee when filing the petition because the beneficiary is inside the U.S., but that beneficiary travels outside of the U.S. after the H-1B petition is approved, will the Department of State demand \$100,000 to issue the H-1B visa stamp, which the beneficiary needs before returning to the U.S.? We urge beneficiaries in this scenario to exercise caution when deciding to leave the U.S. until the government issues clear guidance.

Interpretation of the Proclamation is still evolving in some areas, and this information may change. The Proclamation will likely face legal challenges before March of 2026, when the fiscal year 2027 H-1B lottery and application season begins.

Please contact a Boardman Clark [immigration attorney](#) to discuss your specific situation, particularly if your foreign employee is planning to travel overseas.

Disclaimer: This information is not intended to be legal advice. Rather, it seeks to make recipients aware of certain legal developments that affect human resource issues.

Recipients who want legal advice concerning a particular matter should consult with an attorney who is given a full understanding of the relevant facts pertaining to the particular matter.

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