New $100,000 H-1B Fee: Considerations for Employers and H-1B Beneficiaries

by Ieva Aubin and J. Mike Sevilla

On September 21, 2025, the White House's presidential proclamation that temporarily restricts the entry of H-1B workers unless a $100,000 fee is paid by their employer went into effect. The restriction is valid for one year, subject to extension by the White House. The proclamation also directs the Secretary of State to issue guidance to "prevent misuse of B visas by alien beneficiaries of approved H-1B petitions that have an employment start date beginning prior to October 1, 2026."

The proclamation does account for exceptions if the foreign national worker, the employer of the worker or the industry of the worker is deemed in the national interest and does not pose a threat to the security or welfare of the United States.

Notably, the proclamation also directs the Secretary of Labor to initiate a rulemaking to revise the prevailing wage levels to prioritize the admission as nonimmigrants of high-skilled and high-paid aliens.

Analysis of Proclamation

The text of the initial proclamation in conjunction with a live press conference attended by President Donald Trump and Commerce Secretary Howard Lutnick, left immigration law practitioners, H-1B workers, and their employers confused about the scope and impact of the proclamation. The United States Citizenship and Immigration Service (USCIS) have since issued guidance clarifying the following:

"This proclamation only applies prospectively to petitions that have not yet been filed. The proclamation does not apply to aliens who: are the beneficiaries of petitions that were filed prior to the effective date of the proclamation, are the beneficiaries of currently approved petitions, or are in possession of validly issued H-1B non-immigrant visas. All officers of United States Citizenship and Immigration Services shall ensure that their decisions are consistent with this guidance. The proclamation does not impact the ability of any current visa holder to travel to or from the United States."

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United States Customs and Border Protection (CBP) issued similar guidance with additional context that read, “CBP will continue to process current H-1B visa holders in accordance with all existing policies and procedures.” According to a White House FAQ sheet, Department of State (DOS) also posted guidance to all consular offices, consistent with the guidance from U.S. Citizenship and Immigration Services and U.S. Customs and Border Protection guidance. The same White House FAQ sheet also clarified that the proclamation, “[d]oes not change any payments or fees required to be submitted in connection with any H-1B renewals.”

Further, White House Press Secretary Karoline Leavitt issued the following clarification on X:

1. This is NOT an annual fee. It is a one-time fee that applies only to the petition.

2. Those who already hold H-1B visas and just happen to be outside of the country right now will not be charged $100,000 to re-enter.

H-1B visa holders can leave and re-enter the country to the same extent as they normally would; whatever ability they have to do that is not impacted by yesterday’s proclamation.

3. This applies only to new visas, not renewals, and not current visa holders.

It will first apply in the next upcoming lottery cycle.

What Employers Must Consider Next

The proclamation and the subsequent updates still leave a great deal of uncertainty with key aspects of the H-1B process, such as:

- Whether this proclamation applies to H-1B petitions requesting a change of status after the effective date.
- The process for remitting the $100,000 payment.
- The procedure to submit a request for a national interest exception to the DOS or USCIS for the fee.
- Whether the proclamation applies to cap-exempt H-1B petitioners.

Litigation challenging the Trump administration’s authority to impose the $100,000 fee appears to be imminent.

Dorsey’s immigration team is actively monitoring these evolving developments and is available to work with corporate clients to strategize regarding the best path forward.