

White House Proclamation Imposes \$100,000 Payment on New H-1B Petitions for Workers from Abroad

Alert

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On September 19, 2025, the White House issued a [Proclamation](#), effective September 21st, that restricts the entry into the United States of certain nonimmigrants who seek to be admitted in H-1B status to perform services in a specialty occupation unless their H-1B petitions are accompanied or supplemented by a \$100,000 one-time payment per individual or the individual receives a national interest exemption. This payment is new and is in addition to the existing registration and filing fees for H-1B petitions which generally are less than \$4,000 for private employers. On September 20th, the White House provided much needed [clarification](#) that the payment only applies to new H-1B petitions filed after September 21, 2025 and does not impact current H-1B workers or beneficiaries of pending H-1B petitions.

The immigration shift targets new H-1B petitions for beneficiaries who are currently outside the United States. This affects employers' talent acquisition strategies with overseas hiring plans facing immediate and costly decisions. The intent is to encourage U.S. employers to hire U.S. workers instead.

Future federal court litigation is anticipated and may impact implementation of the Proclamation. Additional governmental guidance is also anticipated to further clarify the scope of the payment and the logistics of payment collection. Unless extended, the Proclamation is set to expire on September 21, 2026.

WHO IS NOT IMPACTED BY THE PROCLAMATION?

The White House, the U.S. Citizenship and Immigration Services, and the U.S. Customs and Border Protection all separately confirmed all H-1B workers currently in the United States are not subject to the Proclamation with no restriction on international travel. In addition, the Proclamation and \$100,000

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payment will not apply in the following scenarios:

- Beneficiaries with pending or approved H-1B petitions filed prior to September 21, 2025.
- Beneficiaries of H-1B petitions filed after September 21, 2025, seeking extension/amendment of H-1B stay, or change of H-1B employer within the United States.
- Family members in H-4 dependent visa status.

Based on the guidance from the Department of State, we anticipate that foreign nationals currently outside the United States with pending or approved H-1B petitions as of September 21, 2025, should be able to secure new H-1B visas at U.S. consular posts abroad and enter the United States in H-1B status after September 21, 2025.

WHO IS SUBJECT TO THE PROCLAMATION AND \$100,000 PAYMENT?

Beneficiaries of new H-1B petitions filed after 12:01am EDT on September 21, 2025, currently abroad, who attempt to enter the United States in H-1B status will be subject to the \$100,000 payment. The U.S. Citizenship and Immigration Service will not adjudicate H-1B petitions and the Department of State will not issue H-1B visas without evidence of the \$100,000 payment for the new H-1B workers outside of the United States.

NATIONAL INTEREST EXEMPTIONS

The Proclamation authorizes the Secretary of Homeland Security to grant exemptions of the \$100,000 supplemental payment to any individual foreign national, all foreign nationals working for a company, or all foreign nationals working in an industry, if the Secretary of Homeland Security determines that the hiring of such foreign nationals "is in the national interest and does not pose a threat to the security or welfare of the United States." We are awaiting further details on the logistics of the national interest exemption process. We anticipate that employers seeking an exemption will be required to provide strong documentation demonstrating the employee's or the organization's strategic importance, economic harm, or public interest impact if the entry payment was enforced.

PREVAILING WAGE CHANGES ANTICIPATED FOR H-1B PETITIONS

The Proclamation directs changes be made to the way prevailing wages are set in the H-1B program and prioritizes higher paid and higher skilled foreign workers. The Secretary of Labor is instructed to initiate rulemaking to revise prevailing wage levels so that they align with the policy goals of the Proclamation. Additionally, the Secretary of Homeland Security is instructed to initiate rulemaking to prioritize the admission of high-skilled, high-paid nonimmigrants.

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Employers who sponsor H-1B beneficiaries will need to budget for higher level wages, and specific geographies where prevailing wages are higher or lower under the current rules. Employers may run a risk of Requests for Evidence or denials of their petitions if they routinely only qualify for the lowest of wage level for lower paid, entry-level positions. Department of Homeland Security will develop rules that favor applicants who are both highly skilled and well-compensated setting thresholds for minimum wages, educational or experience as distinguishable factors.

The new wage rules are anticipated to be published followed by a comment period before the next H-1B lottery which is expected to begin in March 2026. In the meantime, the current prevailing wage levels remaining in effect.

NEXT STEPS FOR EMPLOYERS

- Identify potential future foreign national hires who are abroad and assess the financial and operational implications of the \$100,000 payment.
- Evaluate whether any positions or business units may qualify for national interest exemptions.
- Evaluate and stay informed of recommendations related to rulemaking changes to the prevailing wage levels and prioritization of highly skilled and highly paid nonimmigrants.
- Stay in close contact with legal counsel for federal court litigation updates that may have an impact on the Proclamation.

Stinson will continue to closely monitor developments and provide updates. For more information on how this impacts you or your organization, please contact [Olga Andreyeva](#), [Elizabeth Chatham](#), [Brad Sandler](#), [Renée Mueller Steinle](#) or the Stinson contact with whom you regularly work.

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