

## Publications

### Presidential Proclamation Imposes \$100,000 Fee for New H-1B Petitions Filed On or After September 21, 2025; Federal Agencies Clarify Limited Scope of Proclamation

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On the evening of September 19, 2025, President Trump issued a sweeping Presidential Proclamation imposing a \$100,000 fee on new H-1B visa petitions, sparking immediate concern and confusion among employers and H-1B workers. However, within 24 hours, federal agencies issued clarifications confirming that the new, one-time fee applies only to new H-1B petitions filed on or after September 21, 2025, for beneficiaries outside the United States, and does not affect current H-1B visa holders or petitions filed before that date.

#### What We Know

As of September 22, 2025, the administration has issued official guidance confirming the following:

- The new \$100,000 fee applies only to individuals attempting to obtain visas and travel to the U.S. based on new H-1B petitions filed on or after 12:01 am ET, September 21, 2025; and
- The fee **does not** apply to:
  - Beneficiaries of H-1B petitions filed before September 21, 2025 (whether pending or approved);
  - Individuals who already possess a valid H-1B visa;
  - Individuals in H-1B status currently in the United States; or
  - H-1B visa renewal or extension petitions.

Existing H-1B visa holders may continue to travel to the United States under current policies. No visas have been automatically revoked under the Proclamation. The Proclamation will last for 12 months after the effective date, unless extended by the administration.

## What We Do Not Yet Know

While federal agencies have issued guidance on some of the immediate concerns, there are several outstanding issues awaiting clarification.

First, the Presidential Proclamation states that the restriction applies to beneficiaries who are “currently” outside the United States. The administration has indicated that the fee will apply beginning with the 2026 H-1B lottery for individuals newly seeking H-1B status. However, none of the available guidance clarifies whether the fee will apply to beneficiaries of new petitions filed after the effective date who were present in the U.S. before September 21, 2025 in another valid nonimmigrant status (such as F-1, J-1, L-1, TN, or others), or how the restriction will affect individuals who leave the U.S. and later return.

Second, the new proclamation also contains a national interest provision. The Department of Homeland Security may grant exceptions on a case-by-case basis, but criteria and process remain unclear. Further guidance on this exception is expected in the coming days.

Third, it remains unclear whether the new \$100,000 fee will apply to H-1B petitions filed by cap-exempt entities, such as institutions of higher education, non-profit research organizations, governmental research organizations, and non-profit entities related to or affiliated with an institution of higher education.

Additionally, federal agencies have not yet issued detailed guidance on payment procedures or documentation requirements. It is likely that guidance on payment will be issued before the H-1B lottery takes place next spring.

Finally, litigation challenging the Proclamation is anticipated, which could result in judicial orders affecting the duration or enforcement of the restrictions imposed.

## What to Do

Employers should identify any planned new H-1B petitions for candidates outside the U.S. and assess the impact of the fee. While current H-1B visa holders should be able to continue to travel, caution is advised until agency practices are fully established, and both employers and employees should anticipate potential delays and consider carefully whether such travel is advisable. In addition, they should maintain awareness of additional guidance and updates as they become available.

Vorys attorneys are tracking implementation, new changes, and the full impact of the Presidential Proclamation, and will provide updates as they become available.