

On Friday, September 19, 2025, the Trump administration announced a new \$100,000 fee related to the entry of H-1B workers. While the text to the proclamation and some preliminary guidance from the U.S. Citizenship & Immigration Services (USCIS) and Customs and Border Protection (CBP) has been provided, as well as a FAQ from the Department of State, there continue to be unanswered questions.

Below is a summary of some of the details outlined in the above referenced sources that must be considered moving forward:

1. The administration, via the USCIS and CBP guidance, is indicating that the proclamation and related fee only applies to petitions that are filed with the USCIS after 12:01am EDT on September 21, 2025 and for individuals who are outside the United States. In theory, any petitions that were previously filed and approved should not be subject to the proclamation. Note, this language is not entirely consistent with the Executive Order, so if an employee departs the United States, there is some possibility that the employer could be subject to the payment as a result of the departure.
2. The plain language in the proclamation also indicates that it should not apply to individuals who are in the United States and applying for change of status since it requires proof of payment to be submitted prior to filing a petition on behalf of an alien outside of the United States. It is unclear if that person would then become subject to the payment if s/he travels abroad.
3. The proclamation is set to expire (unless extended) in 12 months.

The proclamation indicates that there will be “national interest exemptions” available to its applicability. However, there has been no guidance to date as to what activities may qualify for this exemption.

The proclamation will likely be the subject of litigation, but that often takes at least a few weeks to get organized and it could be a few months before there are any sort of impactful results. One possible outcome of any litigation is that the federal court could enjoin the proclamation such that it will not go into effect over the long term. However, arriving at that point may take some time.

H-1B visa holders should consider the possible complications that could arise as a result of this proclamation as it pertains to international travel until the long-term implications of this proclamation are clearer.



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