

## Update: Presidential Proclamation on H-1B Restrictions

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October 28, 2025

USCIS has issued new guidance clarifying how the \$100,000 fee under the September 21, 2025, Presidential Proclamation applies to H-1B petitions. (Please see previous coverage by Miller Canfield here.)

### Who Must Pay the Fee

- Petitioners filing new H-1B petitions on or after **12:01 a.m. ET, September 21, 2025**, for beneficiaries **outside the U.S.** who do not already hold valid H-1B visas.
- Petitioners filing new H-1B petitions on or after that date requesting **consular or port-of-entry notification or pre-flight inspection**, for beneficiaries inside the U.S.

### Who Is Exempt

- Beneficiaries with valid, previously issued H-1B visas.
- Petitions filed **before** September 21, 2025.
- Petitions filed **on or after** September 21, 2025, that request an **amendment, change of status, or extension** for beneficiaries lawfully inside the U.S.—including F-1 students changing status to H-1B—if USCIS approves the change. *However, if USCIS does not approved the change of status, the petition will be subject to the new fee.*

The \$100,000 fee must be **paid before filing** and proof of payment submitted with the petition. Petitions lacking proof will be denied. Fees are submitted via [pay.gov](https://pay.gov).

### Limited Exceptions

The Department of Homeland Security may grant exceptions only if the worker's presence is in the national interest, no qualified U.S. worker is available, and payment would undermine U.S. interests. Requests and supporting evidence should be sent to [H1BExceptions@hq.dhs.gov](mailto:H1BExceptions@hq.dhs.gov).

Litigation challenging the legality of the \$100,000 fee is ongoing. Employers should consult the Miller Canfield Immigration Team for guidance as implementation continues to evolve.