

Impact of Executive Order Restricting Entry of H-1B Employment-Based Nonimmigrants

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The White House has issued a new executive order titled “[Restriction on Entry of Certain Nonimmigrant Workers.](#)” This order is directed at foreign nationals seeking entry into the U.S. in H-1B status, suspending entry of such travelers unless a fee of \$100,000 has been paid.

Who Is Affected by This Executive Order?

Since issuing the executive order titled “[Restriction on Entry of Certain Nonimmigrant Workers,](#)” requiring H-1B travelers to pay a fee of \$100,000 to enter the U.S., the U.S. Department of Homeland Security has issued additional guidance through its component agencies, U.S. Citizenship and Immigration Services (USCIS) and U.S. Customs and Border Protection (CBP).

The updated guidance, in the form of memoranda from the USCIS director and the executive director, Admissibility and Passenger Programs at the CBP Office of Field Operations, now confirms that the restrictions regarding the \$100,000 fee payment only apply to petitions filed during the 12 months beginning September 21, 2025. **H-1B nonimmigrants who are the beneficiaries of petitions filed prior to the effective date, who are the beneficiaries of currently approved petitions, or who hold validly issued H-1B nonimmigrant visas will not be affected by this order.**

USCIS memorandum. The subsequent [memorandum](#) from the USCIS advises that the \$100,000 fee requirement “only applies prospectively to petitions that have not yet been filed.” The memorandum states:

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.

CBP memorandum. Similarly, the memorandum from the CBP (released to the public through a [post on X.com](#), formerly Twitter) advises that the proclamation regarding the \$100,000 fee “only applies prospectively to petitions that have not yet been filed.” The memorandum further states:

It does not impact aliens who are the beneficiaries of currently approved petitions, any petitions filed prior to 12:01 a.m. ET on September 21, 2025, or aliens in possession of validly issued H-1B non-immigrant visas...The

Proclamation does not impact the ability of any current visa holder to travel to or from the United States. CBP will continue to process current H-1B visa holders in accordance with all existing policies and procedures.

Remaining Questions

Guidance from the [White House](#), issued in the form of FAQs, provides further modifications to the applicability of the order, stating that “This Proclamation...does not change any payments or fees required to be submitted in connection with any H-1B renewals. The fee is a one-time fee on submission of a new H-1B petition.” This guidance strongly suggests that petitions filed to extend current H-1B status (whether a continuation without change, an amendment, or a change of employer) would not be affected by this new fee requirement. However, the government has not yet defined what would be considered a “new H-1B petition,” so we continue to anticipate further guidance to clarify for which petitions the \$100,000 fee is required.

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