

New H-1B Fee and Other Recent H-1B Developments

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The Trump Administration recently announced several policy changes affecting the H-1B program. The program allows U.S. employers to hire temporary foreign workers for *specialty occupation* positions (i.e., requiring specialized knowledge and a college degree).

Presidential Proclamation

President Trump issued a [proclamation](#) on September 19, 2025, restricting the entry of new H-1B workers unless sponsoring employers first pay a \$100,000 fee. The proclamation is based on the President's [authority](#) to either suspend entry to the United States or impose entry restrictions that "he may deem to be appropriate."

The proclamation cites abuse of the H-1B program leading to displacement of U.S. workers and threats to national and economic security. The \$100,000 fee is paid to the Department of Homeland Security's (DHS's) U.S. Citizenship and Immigration Services (USCIS) in addition to already existing fees employers pay USCIS, which range from [\\$960 to \\$7,380 for initial H-1B petitions](#) depending on the firm's size, type, and number of H-1B employees.

[USCIS](#) has clarified that the \$100,000 fee applies only to new petitions filed after September 20, 2025, for H-1B workers abroad. Existing H-1B visas, renewals, and petitions to change to H-1B status without leaving the United States (e.g., from F-1 student to H-1B) are generally not subject to it. Changes of status account for [about half](#) of new H-1B petition approvals annually. The fee does not prevent current H-1B visa holders from traveling in and out of the United States, nor does it revoke any H-1B visas. The proclamation allows the DHS Secretary to make exceptions for individuals, companies, or industries when it is "in the national interest and does not pose a threat to the security or welfare of the United States."

Some observers see the new fee as a "[first step](#)" toward more substantive [reform](#). [Stakeholders](#) have expressed concerns that the fee will hinder their ability to recruit workers for hard-to-fill positions. [Medical associations](#) and [higher education groups](#), for example, have requested exemptions, arguing that H-1B workers provide services critical to the national interest, including health care in medically underserved areas and preparing students to work in high-demand fields. The U.S. Chamber of

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Commerce [expressed concern](#) that the fee will limit economic growth and job creation and make hiring H-1B workers especially difficult for smaller businesses; it [then sued](#) the Administration. Some Members of Congress also expressed concerns over potential impacts on [U.S. competitiveness and access to talent](#) and the [U.S.-India relationship](#).

DHS Policy Changes

The proclamation directs DHS to initiate rulemaking “to prioritize the admission of nonimmigrants of high-skilled and high-paid aliens.”

DHS published a [proposed rule](#) on September 24, 2025, to amend the H-1B lottery. Because the number of H-1B petitions routinely exceeds the [65,000 annual cap](#) set in [statute](#), USCIS uses a [lottery](#) to select which cap-subject petitions it will accept for adjudication. DHS proposes replacing the random selection process with a weighted process “[that would generally favor the allocation of H-1B visas to higher skilled and higher paid aliens](#)” by giving petitions for higher skill level jobs a greater chance of selection to incentivize employers to offer higher wages.

One [analysis](#) of the potential impact of this change concludes it would not achieve the stated goal because the skill levels used in weighting measure “relative seniority within a job category, not actual pay.” It found the rule would increase the median H-1B salary by 3%, and would also benefit outsourcing companies (which less frequently petition for H-1B workers at the lowest skill level) and disadvantage foreign students graduating from U.S. universities (who are early-career employees). [DHS estimates](#) total salaries paid to H-1B workers in the first year under the proposed rule would be \$502 million more than under the current selection process.

DOL Policy Changes

The proclamation also directs the Secretary of Labor to initiate rulemaking “to revise the prevailing wage levels to levels consistent with the policy goals of this proclamation consistent with ... [8 U.S.C. 1182\(n\)](#).” This statute requires employers to offer H-1B workers the greater of “(1) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or (2) [the prevailing wage](#) level for the occupational classification in the area of employment.”

Prevailing wages are specific to the occupation, geography (generally the metropolitan statistical area), and skill level of the position. Skill levels are classified in four groups. Level I (“entry level”) prevailing wages are set at approximately the 17th percentile of the wage distribution for each occupation in each geographic area and Level IV (“fully competent”) at approximately the 67th percentile, with Level II (“qualified”) and Level III (“experienced”) in between. There are separate prevailing wages for employees of institutions of higher education and nonprofit research organizations.

A January 2021 [final rule](#) would have increased prevailing wage levels for each occupation in each geographic area. Level I prevailing wages would have increased to approximately the 45th percentile and Level IV to approximately the 95th percentile. The U.S. Chamber of Commerce sued to block implementation of this rule and in June 2021, the Department of Labor (DOL) [requested voluntary remand](#), which [was granted](#). DOL then [withdrew the rule](#).

On September 19, 2025, DOL [announced](#) Project Firewall to “safeguard the rights, wages, and job opportunities of highly skilled American workers” and hold “employers accountable if they abuse the H-1B visa process.”

Senate Inquiry

On September 25, 2025, the chairman and ranking member of the Senate Judiciary Committee [announced](#) an inquiry into the hiring processes of the top 10 H-1B employers. [Letters](#) sent to these employers from Senators Grassley and Durbin requested information and data on recruitment, hiring practices, and variation in salary and benefits between H-1B workers and U.S. employees at these firms. The Senators are cosponsors of the [H-1B and L-1 Visa Reform Act](#), which has been introduced in most Congresses since 2009 with bipartisan support. Among other provisions, it would require employers to pay H-1B workers at least the median wage for all workers in the same occupation and geographic area.

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