

## FAQ Presidential Proclamation Restricting Entry of New H-1B Workers

On 19 September 2025, President Donald Trump issued a Proclamation restricting the entry of new H-1B workers, unless their H-1B petition is accompanied by a US\$100,000 annual fee or they qualify for a National Interest Exception. While further guidance is expected to be issued by the Department of Homeland Security (DHS), the following are the key takeaways of the Proclamation:

- It applies to new H-1B workers, not existing H-1B visa holders or persons in H-1B status as of 21 September 2025.
- It applies to individuals who are physically *outside of the United States* seeking initial entry in H-1B status as of 12:01 AM Eastern Daylight Time (EDT) on 21 September 2025.
- It *does not* revoke H-1B status or employment authorization or require payment of US\$100,000 fees for those already in the United States.
- It goes into effect immediately and will have a 12-month duration.

### Who is Directly Affected?

- Persons outside the United States for whom an initial H-1B petition is submitted on or after 21 September 2025. Such H-1B petitions will not be approved without either the US\$100,000 annual payment or an exception from DHS that applies to the individual, company, or industry sector.
- Certain persons in H-4 status<sup>[1]</sup> may be impacted as well. Although the Proclamation only refers to H-1Bs, under current law, dependents are subject to the same entry limitations as the principal, and H-4s cannot enter unless they are either joining or accompanying the H-1B holder.

### Who is Not Affected?

- Anyone already granted H-1B classification or an H-1B visa as of 21 September 2025.
- Any H-1B workers who are currently physically present in the United States.
- H-1B workers who travel abroad with a valid H-1B visa or Advance Parole authorization.
- Current or future H-1B petitions filed on behalf of those who already have H-1B status.
- Other nonimmigrant employment categories (L-1, O-1, TN, etc.).

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<sup>[1]</sup> H-4 status may be granted for the legal spouse or dependent unmarried minor children under the age of 21 of an H-1B holder.

### **Can H-1B Workers Already in the United States Travel Abroad?**

International travel should be reviewed on a case-by-case basis. Generally speaking, H-1B workers should not travel abroad until and unless the administration clarifies in writing that the restrictions do not apply to them. Any H-1B worker who travels abroad and is impacted by the restriction will be barred from re-entry while the Proclamation is in effect, unless the US\$100,000 fee is paid or a waiver is obtained from DHS.

### **What About Extensions or Changes of Status?**

The only H-1B petitions impacted by this Proclamation are petitions submitted on behalf of individuals who have not previously held H-1B classification or who are abroad at the time of filing. No petitions for existing H-1B holders are impacted (whether changes of status, extensions, amendments, etc.) unless the foreign national beneficiary is outside the United States when such petition is filed or adjudicated. The only affected H-1B petitions are those submitted for new H-1B holders or petitions submitted on behalf of someone who is abroad when the petition is filed or adjudicated.

### **Are There Any Exceptions?**

The Proclamation authorizes DHS to waive these restrictions for individuals, companies, or industry sectors if the agency determines that employing such individual(s) in H-1B status is “in the national interest and does not pose a threat to the security or welfare of the United States.” Guidance on seeking these waivers is expected to be issued by DHS in the future.

### **How Long Will This Last?**

The Proclamation takes effect 21 September 2025 at 12:01 AM EDT and will remain in force for 12 months, expiring on 21 September 2026, unless extended or terminated earlier.

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