



white house issues, clarifies proclamation on h-1b restrictions

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MSK Client Alert

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On September 19, 2025, President Donald J. Trump issued a proclamation, "Restriction on Entry of Certain Nonimmigrant Workers," which imposes certain restrictions on H-1B visas. The proclamation, effective at 12:01 a.m. Eastern Time on September 21, 2025, specifies that no H-1B specialty occupation worker may enter the United States absent proof of an employer petitioner payment of \$100,000. The proclamation also directs consular officers at embassies and consulates abroad not to issue H-1B visas to individuals without proof of payment of the \$100,000 sum, and it directs the US Citizenship and Immigration Services ("USCIS") to suspend the processing of H-1B visa petitions for employees physically located outside the United States unless accompanied by a payment in the same amount.

The proclamation, issued for a one year period and subject to extension, includes an exception provision for individuals, companies, or industries whose entry into the United States the Secretary of Homeland Security determines is in the national interest and not a threat to the security of welfare of the United States. The White House action also charges the Secretary of Labor with initiating a revision on the prevailing wage levels applicable to H-1B workers, seeking to "prioritize the admission as nonimmigrants of high-skilled and high-paid aliens."

The proclamation's language left some vagueness as to whom it applied, and also raised questions regarding the right of existing H-1B visa holders to travel outside and subsequently return to the United States. Accordingly, on September 20, 2025, US Citizenship and Immigration Services Director Joseph B. Edlow issued a guidance memorandum, explicitly providing that the proclamation applies only prospectively to petitions that had not been filed as of its effective date, September 21, 2025. Director Edlow stated that the \$100,000 payment restriction does not apply to individuals who are currently beneficiaries of H-1B petitions (for example, extensions), are the beneficiaries of

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currently approved petitions (for example, individuals outside the United States with USCIS H-1B approvals who are waiting for visa appointments at US embassies and consulates), and those outside the United States who already possess valid H-1B visas in their passports.

Director Edlow further stated that the proclamation does not impact the ability of any current H-1B visa holder to travel to or from the United States.

In a statement made on social media, White House Press Secretary Karoline Leavitt said that the proclamation will be in effect for next year's H-1B lottery, set to take place in the spring of 2026. One unanswered question is as to how and where an employer petitioner may seek a national interest-based waiver of the \$100,000 requirement. As soon as we hear details about the waiver procedure, we will advise.

As of this writing, we understand that litigation is being prepared that will seek to block the implementation of this proclamation. Again, we will advise as to any significant developments along these lines.