



Making Sense of the H-1B Visa Category in a Time of Change

Over the past several months the Trump Administration has made profound changes to the H-1B visa category through executive action.

The first of these occurred in September when a new \$100,000 filing fee was announced. There were concerns that this would decimate the H-1B category, but the application of this fee has since been substantially limited by U.S. Citizenship & Immigration Services (USCIS). The legality of this fee remains under challenge in multiple federal lawsuits, although one federal judge has ruled that the fee is legal.

When does the \$100,000 fee not apply?

The new \$100,000 fee does not apply in the following circumstances:

- **Those Previously Approved for H-1B Status** — For people who have already been approved for H-1B status prior to September 19, 2025 seeking to amend their status, extend their status, or change their employer; and
- **New H-1B filings** (made subsequent to September 19, 2025) are also not subject to the enhanced filing fee if the beneficiary is presently in the United States and is eligible for a change of status.

When does the \$100,000 H-1B filing fee apply?

The enhanced filing fee applies to those who have not been previously approved for H-1B status prior to September 19, 2025 in the following two key circumstances:

- Beneficiary is outside the United States
- Beneficiary is present in the United States, but is not eligible for a change or extension of status

H-1B Lottery Standards to Change Favoring More Highly Compensated Positions

More recently, USCIS issued a new rule to change how selections are made in the H-1B lottery. The new rule is to go into effect in time for the March 2026 H-1B lottery.

The key elements of the new rule are that it will give preference to potential beneficiaries that are more highly compensated within their occupational categories. The rule utilizes the U.S. Department of Labor (DOL) system for categorizing the prevailing wage for a position, which classifies salary levels Level I, Level II, Level III and Level IV depending on the level of experience of the employee with Level I being the most entry level and Level IV being the most experienced. An employer's wage offer at Level I results in one entry into the lottery pool. A wage offer at Level II results in two entries, with Level III resulting in three entries and Level IV four entries.

USCIS to Increase Premium Processing Fees

Premium processing fees will increase effective on March 1, 2026. The increased fees are to account for inflation. For example, premium processing fees for an H-1B petition or I-140 Petition will rise from \$2,805 to \$2,965. Full details can be found [here](#).

<https://www.uscis.gov/newsroom/alerts/uscis-to-increase-premium-processing-fees>.

U.S. Department of Labor Launches "Project Firewall" to Assure H-1B Compliance by Employers

In September the DOL announced that it would increase oversight of employer compliance with Labor Condition Application (LCA) rules relating to the H-1B program. Typically, DOL investigations in this area largely are the result of worker complaints. The change in policy empowers the Secretary of Labor to use her authority to authorize investigations when there is "reasonable cause" to suspect employer noncompliance. Employers may see heightened scrutiny to assure that H-1B workers are (1) being paid the wages promised, (2) that their job duties properly correspond to the H-1B petition and LCA, (3) that employer record keeping and posting requirements are followed; and (4) that U.S. workers are not being improperly displaced. This may be a good time for employers to self-audit their LCA Public Inspection files.

Online Presence Review Results in Postponement of H-1B/H-4 Visa Appointments

Over the past month U.S. consulates, particularly those in India, have acted to reschedule interviews of H-1B and H-4 visa applicants. In many cases appointments originally scheduled for December 2025 and January 2026 have been postponed to March 2026 and some as late as June 2026. The U.S. Department of State has indicated that these actions resulted from a new requirement to review the online presence of H-1B and H-4 visa applicants. The additional vetting has limited the number of visa applicants that can be handled on a daily basis. H-1B and H-4 visa applicants in the coming months should take note of this and proceed accordingly, particularly those who are engaging in non-essential travel or are applying for their very first H-1B or H-4 visa.

Diversity Visa Lottery Suspended

The Trump Administration announced that it was suspending the Diversity Visa Lottery indefinitely for a national security review in response to the arrest of a Portuguese national for the school shooting at Brown University because he obtained permanent residence through this program many years ago. The program, which is enshrined in law and allows for 55,000 people to immigrate to the United States on an annual basis, is effectively halted until the Trump Administration chooses to resume it. The hold also applies to pending Adjustment of Status Applications from lottery winners.

USCIS Pauses Decisions on Applications for Individuals From 39 Travel Ban Countries

In recent days and weeks, the Trump Administration has acted to suspend immigration adjudications from suspect countries in separate actions taken by USCIS and the State Department. Initially, USCIS paused adjudications on all filings for people from the 39 travel ban countries. The purported purpose of this pause is to engage in additional vetting of pending applications. This action has had profound effects across the board. Naturalization oath ceremonies for people from these countries have been canceled. Permanent residence interviews have been canceled. Additionally, other standard applications that are routinely field such as I-129, I-140, I-765, and I-131 remain on hold. As with the Diversity Visa Lottery suspension, this resulted from the actions of a single individual who committed a violent crime. The 39 travel ban countries include the following nations:

Afghanistan	Gambia	Somalia
Angola	Haiti	South Sudan
Antigua and Barbuda	Iran	Sudan
Benin	Laos	Syria
Burkina Faso	Libya	Tanzania
Burundi	Malawi	Republic of the Congo
Chad	Mali	Togo
Cote d'Ivoire	Mauritania	Tonga
Cuba	Myanmar	Turkmenistan
Dominica	Niger	Venezuela
Equatorial Guinea	Nigeria	Yemen
Eritrea	Senegal	Zambia
Gabon	Sierra Leone	Zimbabwe

In addition, this past week the U.S. State Department has indefinitely paused immigrant visa applications for people who are nationals of 75 different countries. These include the 39 travel ban countries, as well as other major countries such as Bangladesh, Brazil, Colombia, Guatemala, Jamaica, Jordan, Morocco, Pakistan, and Thailand. [Read more](#). The State Department indicated that the reason for this pause is to reassess procedures on preventing admitting immigrants who would "take welfare and public benefits."

Ohio Enacts E-Verify for Nonresidential Construction Contractors

Starting March 19, 2026 non-residential construction contractors in Ohio will be required to utilize E-Verify for newly-hired employees. This applies regardless of the size of the employer. It also applies to subcontractors and labor brokers. Employers who fail to comply can be fined. Those who knowingly employ workers without proper authorization can be subject to a revocation of their business license.

If you have any questions regarding the USCIS Registration Requirement, please contact attorneys from NGC's Immigration Group – [Brad Ortman](#), [Karen Moss](#) or [Anne Grove](#).

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