

LEGAL UPDATE

Significant Proposed Changes to the H-1B Visa Program



On Sept. 24, 2025, the U.S. Department of Homeland Security (DHS) announced a [proposed rule](#) amending its regulations governing the process by which the U.S. Citizenship and Immigration Services (USCIS) selects H-1B registrations. The proposed rule would implement a weighted selection process that would generally favor higher-skilled and paid foreign workers.

The proposed rule follows a recent [presidential proclamation](#), signed on Sept. 19, 2025, announcing a new \$100,000 entry fee for each new H-1B visa recipient starting Sept. 21, 2025. According to the Trump administration, the increased fee aims to curb abuses of the H-1B system that may disadvantage the U.S. workforce and lead to wage suppression. The proclamation does not change any required fees in connection with H-1B renewals. More information about the new fee can be found on the U.S. Department of State's [website](#).

Background

The current H-1B visa program allows U.S. employers to hire foreign workers in specialty occupations requiring highly specialized knowledge. Each year, the USCIS allocates 65,000 slots for regular H-1B registrations and 20,000 slots for individuals with a U.S. master's degree or higher. Employers apply by submitting an electronic registration for each candidate they sponsor. The USCIS conducts a random lottery if the number of registrations exceeds the limited H-1B quota.

Key Highlights

The proposed regulation would replace the lottery system with a weighted system prioritizing higher-paying jobs while still awarding H-1B visas at different wage levels. The proposal identifies four wage bands based on the Occupational Employment and Wage Statistics wage levels, as follows:

- Level I—Candidates would be entered into the selection pool one time;
- Level II—Candidates would be entered into the selection pool two times;
- Level III—Candidates would be entered into the selection pool three times; and
- Level IV—Candidates would be entered into the selection pool four times.

Candidates would only be eligible to be selected one time, regardless of the number of entries, through a random, computer-generated selection process.

Employer Takeaway

Comments on the proposed rule are due by **Oct. 24, 2025**. However, it is likely that employers and business groups will challenge the proposal, along with the \$100,000 H-1B fee. Employers should monitor the situation for updates on the proposed rule and any related legal challenges.

Provided by Team Nash

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