SUBSTANTIAL FEE INCREASE FOR H-1B WORKERS

President Trump issued a proclamation requiring employers to pay an **annual $100,000 fee per H-1B worker** for entry into the U.S., effective September 21, 2025.

Memoranda issued by The US Citizenship & Immigration Services and the U.S. Customs and Border Protection clarified that the restrictions on international travel do not apply to those individuals with current, valid H-1B visas and should not apply for to those who have current, pending H-1B petitions. These memos also indicate that the $100,000 fee would only apply to new H-1B petitions and not to individuals who change employers or to those whose H-1B petitions are being renewed. According to these memoranda, this proclamation applies only to those who are newly applying for H-1B visas.

Employers must document proof of payment, and failure to do so will result in denial of entry for H-1B employees. Limited exemptions may be granted if the Secretary of Homeland Security determines the hiring is in the "national interest."

- Legal challenges are expected immediately, but the rule is effective for now.
- The proclamation is initially set to last **12 months**, with the option to renew.
- It is paired with instructions to **r**evise prevailing wage levels upward and prioritize high-paid, high-skilled applicants.

Impact on small and mid-sized employers include:

Cost Barrier:
- Large corporations (Amazon, Microsoft, Meta, etc.) may absorb the $100k fee, but small and mid-sized employers cannot.
- Many may be effectively priced out of hiring H-1B talent, reducing their competitiveness, especially in tech, healthcare, and engineering.

Talent Shortages:
- The H-1B program fills roles requiring advanced technical skills, particularly in IT and STEM. Smaller employers may lose access to these workers, worsening existing skills gaps

Retention Issues:
- Current H-1B employees may choose to leave smaller firms for larger ones that can cover the cost, creating employee flight risk for SMBs.

Operational Disruption:
- International travel restrictions for H-1B workers could disrupt business operations, particularly for firms with overseas clients, training, or project work.

H-1B Visa Program Snapshot

- **Annual Cap**: 65,000 visas + 20,000 for advanced degrees = **85,000 total**.
- **Demand**: Far exceeds supply. In FY 2025, USCIS received **over 750,000 registrations** for those 85,000 slots.
- **Approval Concentration**: The majority go to large tech firms. In 2025, Amazon had 10,000 approvals; Microsoft and Meta each exceeded 5,000.
- **Speed of Fill**: The H-1B cap typically fills within days of the application window opening each spring.

Recommended Employer Actions

- **Short-Term Compliance & Risk Mitigation**
- **Inventory current H-1B workforce**: Identify who might be at risk if traveling or requiring visa renewal.
- **Budgeting**: Model the financial feasibility of paying the $100k fee vs. alternative staffing.
- **Talent Strategy Adjustments**
- **Explore domestic pipelines**: Strengthen relationships with U.S. universities, apprenticeships, and retraining programs.
- **Hybrid outsourcing**: Consider remote arrangements with talent abroad instead of relocation.
- **Retention planning**: Communicate clearly with foreign national employees to reduce uncertainty and flight risk.
- **Legal & Advocacy Engagement**
- Stay engaged with immigration counsel and industry associations as litigation unfolds.
- Consider participating in amicus briefs or lobbying efforts—courts will weigh industry pushback.
- **Contingency Planning**
- **Scenario model**: Plan for outcomes if the rule is upheld, delayed, or struck down.
- **Succession planning**: Identify U.S. employees who could step into critical roles if H-1B staff cannot continue.

Outlook

- **Short-Term**: High uncertainty, legal battles likely, but immediate disruption risk is real.
- **Medium-Term**: If upheld, small and mid-sized businesses will lose near-total access to the H-1B program, widening the talent gap with large corporations.
- **Long-Term**: Could accelerate offshoring and reduce U.S. competitiveness in STEM fields if talent is diverted to other innovation hubs (e.g., Canada, EU, India).

If you have additional questions or need a sample letter to provide to employees currently on H-1B visas, please contact the Solutions Team at solutions.team@aaimea.org