
# Administration Proposes New Fees on H1-B Petitions

***Updated 27 August 2026***

**Action:** On August 25, the Department of Homeland Security (DHS) proposed a rule establishing a $103,265 fee for most new H-1B petitions, including petitions eligible for the advanced-degree exemption, in addition to existing fees.[1]

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- The fee would apply to employers seeking new H-1B workers subject to the annual cap. The cap generally covers 65,000 workers, plus 20,000 additional slots for qualifying US advanced-degree holders per fiscal year (FY). Existing H-1B workers who have already been counted against the cap generally would not be subject to the new fee for extensions or changes of employment.
- DHS projects the fee would generate approximately $8.8 billion annually, with revenue supporting enforcement of immigration laws, including adjudication, vetting, immigration courts, consular functions, and labor enforcement.[2] Unlike traditional fees tied more directly to agency processing costs, the proposal would allocate H-1B fee revenue across the broader immigration system.
- The proposed fee will affect employer demand. DHS acknowledges that some employers may file fewer petitions and estimates a significant economic impact on 11,051 small entities, or 76% of small businesses that filed H-1B petitions in FY2025. The agency argues that a higher employer cost could reduce reliance on H-1B workers where qualified US workers are available.
- This announcement follows the Administration's attempt in 2025 to impose a $100,000 H-1B charge.[3] In this proposed rule, DHS argues that Section 286(m) of the Immigration and Nationality Act authorizes fees to recover the costs of immigration adjudication and naturalization services. The earlier attempt for a $100,000 fee was voided by a court because it was imposed by the President rather than Congress; that litigation remains pending.[4] This new proposal therefore raises a narrower question of whether DHS can use its existing fee authority to allocate broader immigration-system costs to H-1B petitions subject to the cap.
- Comments on the proposed rule are due by September 24, 2026.[5]

- **What This Means for CEOs:**
  - The proposal increases the relative cost of one pathway for accessing specialized talent. Employers may need to reassess how immigration policy fits into broader decisions about recruiting, workforce location, and skills development.
  - The effects may be most significant where employers, particularly small and midsized firms, have limited alternatives for recruiting specialized workers or where jobs can be located across jurisdictions. The proposal could therefore influence how and where companies organize work.
  - The longer-term business impact will depend on whether the fee survives likely legal challenges and whether it becomes part of a broader, more stable framework for employment-based immigration.

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1. https://www.federalregister.gov/documents/2026/08/25/2026-17324/fee-for-certain-h-1b-petitions
2. https://www.uscis.gov/newsroom/news-releases/dhs-proposes-additional-h-1b-fee
3. https://www.whitehouse.gov/presidential-actions/2025/09/restriction-on-entry-of-certain-nonimmigrant-workers/
4. https://news.bloomberglaw.com/daily-labor-report/first-circuit-denies-trump-bid-to-pause-order-tossing-h-1b-fee
5. https://www.federalregister.gov/documents/2026/08/25/2026-17324/fee-for-certain-h-1b-petitions#open-comment