



# Immigration Update for Employers: ICE Enforcement and Visa Program Changes

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# Introduction

- New H-1B fee and regulation
- Other immigration program changes
- Enforcement trends
- Preparing for ICE visits
- Best practices for compliance
- CHNV & TPS update
- Future planning

# Impact of Federal Government Shutdown

- Enforcement agencies can continue to operate based on their “essential” law enforcement work.
- Fee based agencies continue to operate, though increased processing times expected.
  - USCIS
  - Dept. of State Consular services
- E-Verify not functional.
  - In the past, USCIS allowed for late E-Verify filings.
  - State E-Verify laws still apply.

## Impact of Federal Government Shutdown

- Department of Labor resumed processing of LCAs, PERM Labor Certification Applications, and Prevailing Wage Determination requests on October 31, 2025.
- DOL confirmed special accommodations for PERM cases impacted by the month-long shut down.

## The \$100,000 Surprise

- Proclamation issued Friday September 19, 2025, with effective date of September 21, 2025.
  - \$100,000 fee required for new H-1B petitions.
- USCIS issued clarifying guidance on October 20, 2025.
  - Proclamation not as broad as initially believed.

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## When the New Fee **Does NOT** Apply

- Petitions filed before September 21, 2025.
  - Includes H-1B cap cases filed in 2025.
  - Fee not triggered by future H-1B visa processing and U.S. re-entry.
- Petitions filed on or after September 21, 2025, where the petition is approved for a change of status to H-1B, or an amendment or extension of stay in H-1B status.
  - Fee not triggered by future H-1B visa processing and U.S. re-entry.
- Individuals who currently hold valid H-1B visas, whether they were in or outside of the United States on September 21, 2025.

## When the New Fee **DOES** Apply

- Petitions filed for individuals who are outside of the United States and who do not hold a valid H-1B visa.
- Petitions filed for individuals in the United States with a request for consular notification, port of entry notification, or pre-flight inspection.
- Petitions filed for individuals in the United States where USCIS denies the request for a change of status to H-1B, H-1B amendment, or extension of H-1B status.
- Evidence of fee payment required with H-1B filing ([www.pay.gov](http://www.pay.gov)).

# National Interest Exceptions

- Secretary of Homeland Security can grant an exception to the fee only where the Secretary determines:
  - Individual's presence in the United States as H-1B worker is in the national interest;
  - No U.S. worker is available to fill the role;
  - Individual does not pose threat to the security or welfare of the United States; *and*
  - Requiring the petitioning employer to pay the \$100,000 fee on the individual's behalf would significantly undermine the interests of the United States.



## Key Takeaways

- Future H-1B cap cases should not be subject to the \$100,000 fee if approved for a change of status.
- Fee does not apply to H-1B “change of employer” petitions for individuals currently in the United States and maintaining H-1B status.
- No exceptions for small employers, non-profit employers, or cap-exempt employers.
- Unclear whether fee will apply where the individual is within a regulatory grace period (e.g., OPT or H-1B).

## Waiting For Answers

- Attorneys continue to share reports of successful petitions and visa processing.
- AILA and other groups are seeking guidance on unresolved issues.
- Litigation filed in October (multiple cases).
  - Court could enjoin the new fee while litigation is in process.

## Recommendations

- Reassure current H-1B workers that they will not be impacted by the new fee requirement.
- Urge H-1B workers, and those transitioning to H-1B, to inform you of all international travel plans.
- Develop potential “national interest exception” strategies.

## Proposed H-1B Regulation

- Offered wage information would be required as part of lottery registration filing.
- Would weigh lottery chances based on where offered wage fits within DOL prevailing wage data (Levels 1 – 4).
  - Higher wage = more chances of selection.
- Separate master's degree pool would continue.
- *Proposed* rule: comments on proposed rule accepted through October 24, 2025.

## The “Gold Card”

- The Trump Gold Card proposal requires individual applicants to make a donation of \$1 million to the U.S. Treasury. In return, participants can receive a pathway to U.S. permanent residency (green card).
  - Donors would apply in the EB-1 (Extraordinary Ability) or EB-2 (National Interest Waiver) green card categories.
- Companies can sponsor employees for a \$2 million donation.



## The “Gold Card”

- The Gold Card is not promulgated by statute or regulation.
  - A new President can cancel the program.
- New regulations would be needed in order to change EB-1 and EB-2 criteria.
- Likely challenged in the Courts by other EB-1 and EB-2 applicants as the quota numbers will come from their categories.

## EAD Renewals Rule

- Previously, certain EADs were able to be extended for up to 540 days while a timely filed renewal was pending.
  - This included people holding TPS, asylum applicants, and individuals with pending I-485 adjustments.
- Automatic extensions have now ended for applications filed after October 30, 2025.
- Renewal applications can be filed up to 6 months before expiration; some processing times are more than 6 months.

## Enforcement Trends

- New quotas: ICE offices were informed that each office must detain at least 75 noncitizens every day, or more than 1,800 per day nationwide.
  - Per Stephen Miller, quota is now 3,000 daily.
  - In 2023, ICE arrested about 460 people per day nationwide.
- U.S. Supreme Court decision allows ICE to detain based on race and other profiling factors.
- Agents from DEA, FBI, ATF, and other federal agencies supporting ICE enforcement actions.



## Enforcement Trends

- Worksite “raids” on the rise.
- Most arrests still happening in public places or private residences.
  - Parking lots, bus stops, etc.
- I-9 Audits on employers have increased dramatically since January.

## Other Changes

- Rescinded the Memos that provided guidance on enforcement priorities and prosecutorial discretion.
- “One Big Beautiful Bill Act” authorizes \$170 billion for immigration and border enforcement.
- State and local government pushback
  - Prohibitions against use of city, county property for ICE activities.
  - California law prohibits federal officers from wearing masks during their operations.

## What Does This Mean?

- More enforcement expected as budget and detention facilities increase.
- Less prioritization in enforcement actions.
  - Broader definition of “criminal” – would cover anyone who has entered U.S. illegally.
  - Long term U.S. residents and those without arrests or convictions detained.
  - Confirmed reports of U.S. citizen and permanent resident detentions.

## How to Handle an ICE Visit: Pre-arrival

- Have pre-visit protocol in place: who will meet with government official; contact numbers for priority contacts (attorney, owner, managers).
- Train receptionist and any staff who normally meet visitors on the visit protocols.
- Request all visitors comply with safety protocols.

## How to Handle an ICE Visit: Arrival

- Keep calm.
- Ask agents why they are at the business.
- Ask agents for identification, badge #, business card.
- Ask if they can wait for owner, manager, attorney to arrive or be present via telephone.
- Have them wait in a waiting area or other non-production space.
- Immediately contact owners, manager, and/or attorney.
- Accompany agents at all times.

# How to Handle an ICE Visit: Request for Documents, Person

- Agent may want to apprehend a person.
  - Ask to see arrest warrant or search warrant.
  - Know the difference between judicial warrant and administrative warrant.
  - Bring listed person to agent if possible.
- Agent may ask for documents.
  - Ask to see subpoena or search warrant.
  - Limit access to only the location or documents listed.
  - Make a copy of any documents before agent removes the documents.

## SAMPLE OF JUDICIAL WARRANT ICE CAN ENTER YOUR HOME

AD-93 (Rev. 12-13) Search and Seizure Warrant

### UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

Case No.

A search warrant is needed to  
search and enter premises; an  
administrative warrant  
doesn't allow entry

Check that the warrant has  
your correct name and address

### SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search  
of the following person or property located in the \_\_\_\_\_ District of \_\_\_\_\_  
(Identify the person or describe the property to be searched and give its location)

Officers typically can only  
search the specified person or  
property described.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property  
described above, and that such search will reveal (Identify the person or describe the property to be seized).

The search is only allowed at  
the stated time and date.

YOU ARE COMMANDED to execute this warrant on or before \_\_\_\_\_ (not to exceed 14 days)  
☐ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the  
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the  
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory  
as required by law and promptly return this warrant and inventory to \_\_\_\_\_  
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.  
§ 2703 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose  
property, will be searched or seized (check the appropriate box)

☐ for \_\_\_\_\_ days (not to exceed 15) ☐ until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued: \_\_\_\_\_ Judge's signature \_\_\_\_\_

City and state: \_\_\_\_\_  
A warrant is only valid with a judge's signature.  
Without it, you can refuse the search.

## SAMPLE OF ADMINISTRATIVE WARRANT ICE CANNOT ENTER YOUR HOME

U.S. Department of Justice

Immigration and Customs Enforcement

Warrant of Removal/Deportation

Important: An administrative warrant allows for the arrest of the  
person named, NOT a search of private property. You can refuse  
if an officer tries to search your home with this warrant.

File No: \_\_\_\_\_

Date: \_\_\_\_\_

This warrant is valid  
only for the arrest of  
the person named.

To any officer of the United States Immigration and Customs Enforcement

(Full name of alien)

Who entered the United States at \_\_\_\_\_ on \_\_\_\_\_  
(Place of entry) (Date of entry)

Is subject to removal/deportation from the United States, based upon a final order by:

- ☐ An immigration judge in exclusion, deportation, or removal proceedings
- ☐ A district director or district director's designated official
- ☐ The Board of Immigration Appeals
- ☐ A United States District or Magistrate Court Judge

And pursuant to the following provisions of the Immigration and Nationality Act:  
Section 241 (a) (5) of the Immigration and Nationality Act (Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in  
the Attorney General under the laws of the United States and by his or her direction com-  
mand you to take into custody and remove from the United States the above-named alien,  
pursuant to law at the expense of the appropriation. "Salaries and Expenses Immigration  
and Customs Enforcement" including the expense of an attendant if necessary.

(Signature of ICE Official)

(Title of ICE Official)

(Date and Office Location)

It must be signed by an  
immigration officer to be valid

## How to Handle an ICE Visit: I-9 Audit

- If agent requests I-9 forms, they should provide a “notice of inspection” to you.
- You have **3 days** to provide I-9 forms after receiving written request for the I-9 forms.
- Contact legal counsel immediately to discuss timing/ location of I-9 turnover and possible corrections to I-9 forms.
- Locate I-9 forms; review; make corrections if needed.



## Best Practices for Employment Authorization Verification

- Consider keeping copies of I-9 documents; may reduce penalties if audited.
- Self audit Forms I-9 annually and correct errors.
- Maintain a “reminder” system to alert employees regarding upcoming reverification obligations.
- Consider use of electronic I-9 systems and E-Verify to improve compliance.

# Best Practices for Employment Authorization Verification

- Have protocols in place for dealing with visits/investigations by government agencies.
- Train human resources and hiring personnel on employment authorization and immigration rules.
- Create policy on employment verification procedures and social security number mismatch notice response.
- ***Regularly check I-9 Central ([uscis.gov](https://uscis.gov)), especially for TPS employees and employees presenting receipts.***

## CHNV Parole & TPS Programs Terminated

- In March, DHS announced termination of parole programs for Cuba, Haiti, Nicaragua, and Venezuela (CHNV).
- Also announced termination of TPS for several countries.
- Termination initially paused due to litigation.
- On May 30, district court confirmed that CHNV Parole is revoked, including EADs.
- Extensive litigation filed and still in process challenging TPS terminations.

## Recent TPS Terminations

- Venezuela TPS: most have lost TPS authorization.
- Afghanistan TPS ended July 14, 2025.
- Cameroon TPS ended August 4, 2025.
- Nepal TPS ended August 20, 2025.
- Nicaragua & Honduras TPS ended September 8, 2025.
- Syria scheduled to end November 17, 2025
- South Sudan scheduled to end January 5, 2026.
- Haiti TPS scheduled to end February 3, 2026.

## Future Planning

- Expect loss of workers, especially in agriculture, construction, hospitality, manufacturing, and restaurant industries.
- Evaluate hiring and/or retraining needs ASAP.
- Consider use of staffing agencies, outside vendors.
- ***New immigration categories/options for employment not likely.***

# Questions?

# Presenters

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