



Visa Process and Requirement for Interns & Researchers

2026 Annual Meeting &
AG PRO EXP National Alliance
of Independent Crop Consultants

Presented by: Brandon Davis

Phelps at-a-glance

1853

Phelps is established

17

offices across the Gulf South and London

425+

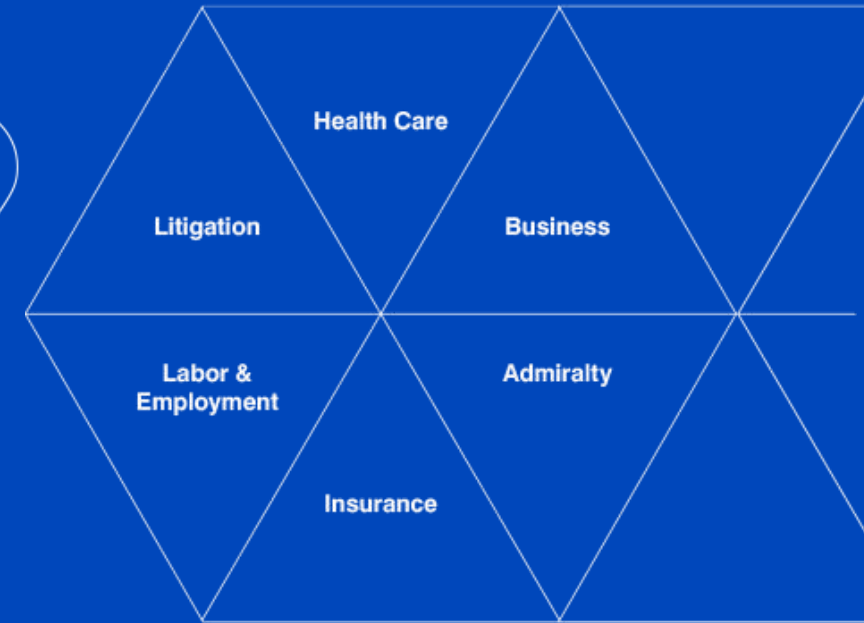
lawyers

400+

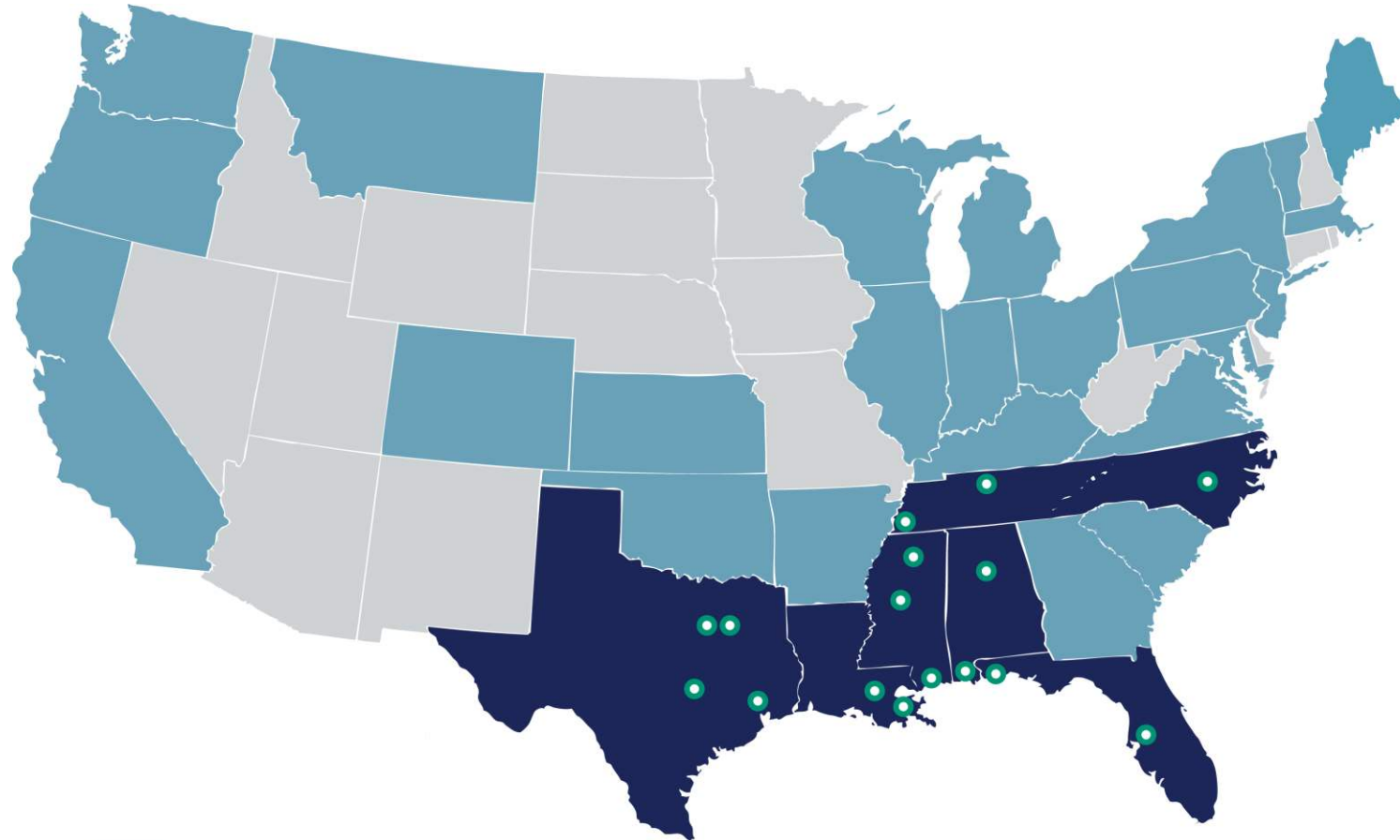
staff members



6 primary areas of focus



Locations



 Our Locations

 At least one Phelps lawyer licensed to practice

- **Austin**
- **Baton Rouge**
- **Birmingham**
- **Dallas/Fort Worth**
- **Fort Worth**
- **Gulfport**
- **Houston**
- **Jackson**
- **London**
- **Memphis**
- **Mobile**
- **Nashville**
- **New Orleans**
- **Pensacola/Destin**
- **Raleigh**
- **Tampa**
- **Tupelo**

Recent U.S. Immigration Changes: Terminations, Suspensions and New Policies

- Termination of parole programs (CHNV, Uniting for Ukraine, FRPs, CBP One)
- Termination of TPS (Venezuela, Haiti, Cameroon, Afghanistan, Honduras, Nicaragua and others)
- Suspension of U.S. Refugee Admissions Program

Enforcement and Detention: Expansion of Expedited Removal

- On January 20, 2025, President Donald Trump signed an executive order titled “Protecting the American People Against Invasion” which, among many other actions, orders a significant expansion of expedited removal in the United States.
- Under the expanded expedited removal policy, undocumented immigrants:
 - (1) anywhere in the United States
 - (2) who cannot prove they have resided in the U.S. for at least two years will be subject to an expedited deportation process.
- The expedited removal guidelines apply to undocumented immigrants who have not been admitted to the U.S.

Practical guidance to avoid/resolve a worksite raid

New DOJ Program Offers Incentives for Immigration Tips, Increasing Employer Exposure

- On January 20, 2025, the Department of Homeland Security (DHS) rescinded the Biden Administration's guidelines for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) enforcement actions in or near "sensitive" areas through two directives: The first directive rescinds the Biden Administration's October 27, 2021, Guidelines for Enforcement Actions in or Near Protected Areas. The second directive narrows the scope of humanitarian parole and returns the humanitarian parole program to a case-by-case basis.
- ***"This action empowers the brave men and women in CBP and ICE to enforce our immigration laws and catch criminal aliens—including murders and rapists—who have illegally come into our country. Criminals will no longer be able to hide in America's schools and churches to avoid arrest. The Trump Administration will not tie the hands of our brave law enforcement and instead trusts them to use common sense."***

Today's Agenda

- How you can benefit from this year's H-1B visa process
- How the recent expansion of certain immigration policies benefit Science, Technology, Engineering, and Mathematics (STEM) degree students and graduates

H-1B Visa Program Overview



- 85,000 H-1B visas are issued annually under the cap
 - 65,000 are allocated to professionals who have U.S. bachelor's degrees or the equivalent of a U.S. bachelor's degree
 - 20,000 visas are allocated to professionals who hold a U.S. master's degrees or higher
- H-1B visas are generally valid for up to 6 years, with additional extensions available under certain circumstances
- H-1B visa holders can seek permanent residence
- Because the benefit to employer is so high, the demand is high. Thus, selection is completed by a highly regulated lottery process
- Scientists who receive federal interested government agency J-1 waivers are exempt from the H-1B cap

H-1B Visa Electronic Registration Process

- In 2020, the Trump administration implemented an electronic registration process online.
- To submit an H-1B registration, employers must first create a USCIS online Registrant account. Employers may do so by visiting https://myaccount.uscis.gov/users/sign_up.
- This year's H-1B cap registration process will likely open on March 1, 2026 and will likely continue to run through March 25, 2026.
- A non-refundable fee of \$215 applies to all H-1B registrations. That \$215 applies to each beneficiary for whom a registration is made.
- To register, employers will need to submit basic information about the company and the beneficiary or beneficiaries who will hopefully work in H-1B status.
- Employers may submit registrations for up to 250 beneficiaries.
- Selected registrants will be granted a window of time to file their H-1B petitions which begins as early as April 1, 2026 and ends on June 30, 2026.

H-1B Visa Eligibility

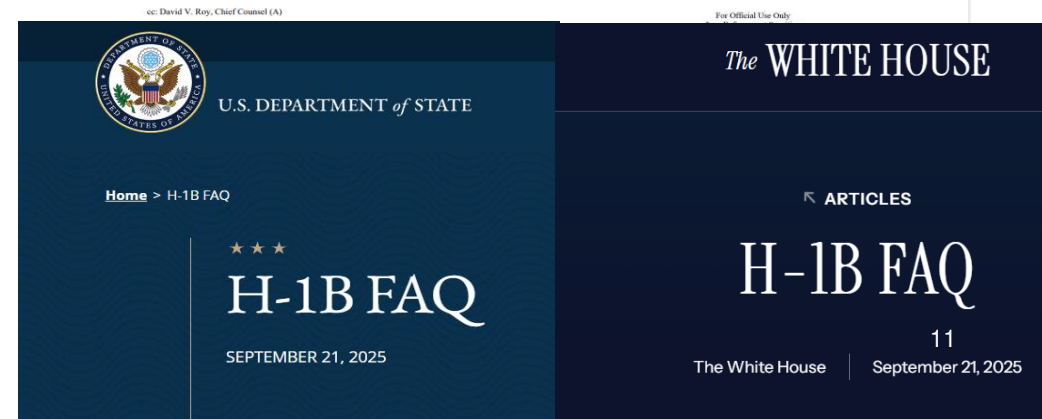
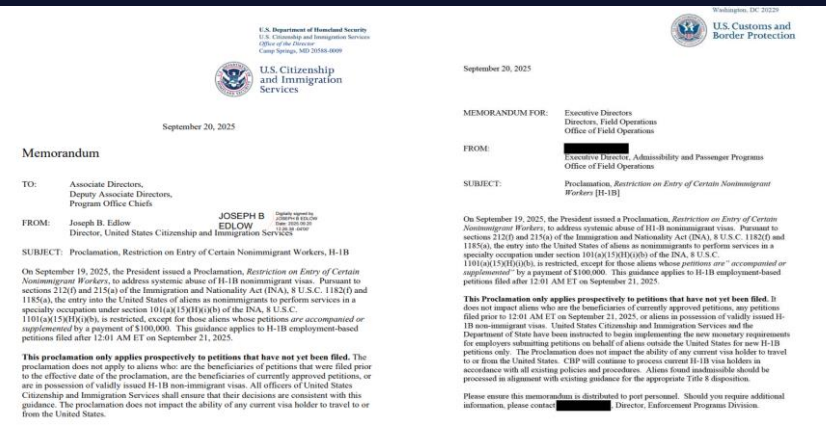
- H-1B visas apply to **specialty occupations**. This normally means **professional jobs** requiring:
 1. A bachelor's degree or higher in a specific field as an entry level requirement;
 2. Theoretical and practical application of a body of highly specialized knowledge;
 3. Employer requirement of bachelor's degree as minimum requirement.
- The job opportunity must be supported by a labor condition application certified by the U.S. Department of Labor that confirms a prevailing wage will be paid to the H-1B beneficiary.
- The employer must pay the petition costs.
- If selected and approved, the employee would be eligible to begin working in H-1B status effective October 1, 2026.



The Policy of H-1Bs

H-1B Proclamation Timeline: What Did We Learn, When?

- On September 19, 2025, President Trump published a [Proclamation](#) titled, “Restriction on Entry of Certain Nonimmigrant Workers.”
- On September 20, 2025, USCIS released a [memorandum](#) seeking to clarify the Proclamation.
- Later that day, CBP also released a [memorandum](#).
- On September 21, 2025, the [DOS](#) and the [White House](#) released FAQ pages related to the Proclamation.



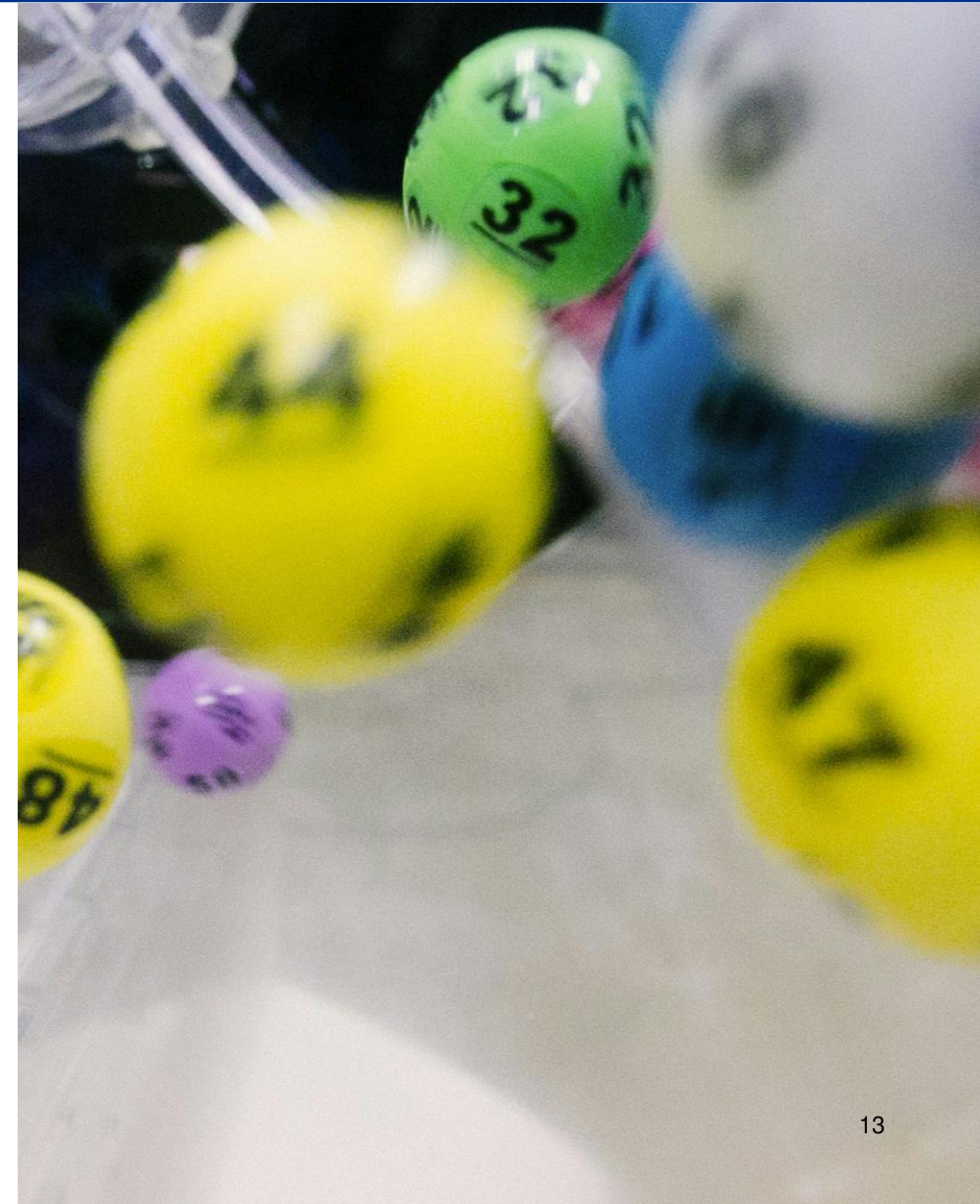
Current Status of the H-1B Proclamation

- The policy is in effect from September 21, 2025 through September 20, 2026.
- The new \$100,000 fee applies only to **new petitions** filed with the government on or after September 21.
- The fee also applies only to **international travel followed by reentry** to the United States.
- The \$100,000 fee must be paid online through the federal government's online portal at [pay.gov](https://www.pay.gov)



New H-1B Lottery Rules

- New lottery rules up the chances for lottery applicants if they are paid higher for their professional classification.
- For example, a level one wage gets one application in the lottery; a level IV wage gets 4 applications in the lottery. This will be published in the Federal Register and will likely eventually stick.
- This new wage system will make it more difficult for new graduates to compete in the H lottery. It will also make it more difficult for small companies to use the H-1B – not that many can afford the \$100k price tag.



New H-1B Lottery Rules

Under the proposed system, lottery registrations must include more information than under the current system;

- The highest OES wage level the proffered wage meets or exceeds
- The occupation (SOC) code for the position offered and area of intended employment (since wages vary by geographic location)
- If a position has multiple worksites, the wage level listed in the registration must reflect the lowest wage level paid

Information contained in the H-1B petition subsequently submitted to USCIS for those selected must match the information provided in the lottery registration. USCIS can deny an H-1B petition if any of the information deviates from what was contained in the registration, the wage level is reduced after selection but before petition submission, or USCIS does not believe that the job offer is bona fide.

Projected Impact

- The proposed rule is a significant departure from the current H-1B lottery process, benefitting employees with positions that require higher skill levels and offer higher wages. Based on these changes, DHS estimates the rule will have the following impact:
 - 48 percent decrease in probability of Level 1 wage registrations being selected
 - 3 percent increase in probability of Level 2 registrations being selected
 - 55 percent increase in probability of Level 3 registrations being selected
 - 107 percent increase in probability of Level 4 registrations being selected

Impact of the H-1B Proclamation

Location	Petition Status	Impact of Changes
Inside the U.S.	Approved Petition	Not impacted.
	Filed Petition (No Decision)	Not impacted.
	Not Yet Filed (new petition/never held H-1B previously)	Potential Future Impact. After travel outside US, must meet new requirements (\$100,000 payment or national interest exemption).
	Amendment / Extension / Change of Employer / Change of Status	Not impacted.
Outside the U.S.	Approved Petition	Not impacted.
	Filed Petition before September 21st (No Decision)	Not impacted.
	Not Yet Filed (new petition/never held H-1B previously)	Impacted. Must meet new requirements (\$100,000 payment or national interest exemption).
	Amendment / Extension / Change of Employer	Not impacted.

Temporary Employment for F-1 Students

F-1 visa holders (students) are typically eligible for up to one year of post-graduate Optional Practical Training (OPT), which allows the F-1 student to gain practical work experience related to their degree. F-1 students who graduate with a STEM degree are eligible for an additional two years of OPT (STEM OPT).

Examples of healthcare professions that qualify for STEM OPT include:

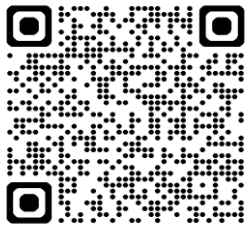
- Cytotechnology/Cytotechnologist
- Clinical Laboratory Science/Medical Technology/Technologist
- Medical Science/Scientist
- Pharmaceuticals and Drug Design
- Medicinal and Pharmaceutical Chemistry
- Natural Products Chemistry and Pharmacognosy
- Clinical and Industrial Drug Development
- Pharmacoeconomics/Pharmaceutical Economics
- Industrial and Physical Pharmacy and Cosmetic Sciences
- Pharmaceutical Sciences
- Environmental Health
- Health/Medical Physics
- Medical Informatics

The Biden-Harris Administration recently expanded the list of academic fields that qualify as STEM degrees with 22 new fields of study added, including but not limited to: **bioenergy, geobiology, general data science, general data analytics, research methodology, and quantitative methods.**



Understanding the I-9 Employment Verification Process and E-Verify

Employers must be cautious when abiding by the Form I-9 requirements enforced by U.S. Immigration and Customs Enforcement by **not violating the anti-discrimination laws** as enforced by the Immigrant and Employee Rights Section (IER), Civil Rights Division of the Department of Justice.



Download the i9 form from [USCIA.gov](https://uscia.gov) here

Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

Read instructions carefully before completing this form. The instructions must be available, either in paper or electronic form, to all employees completing this form. Employers are liable for errors in the completion of this form.

ATTENTION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which individuals are eligible for employment authorization and identity. The refusal to hire or continue to employ an individual who is represented has a future expiration date may also constitute illegal discrimination.

Employee Information and Attestation (Employees must complete and sign Section 1 of this form at the time of employment, but not before accepting a job offer.)

Family Name	First Name (Given Name)	Middle Initial	Other Last Name
Street Number and Name	Apt. Number	City or Town	State
(mm/dd/yyyy)	U.S. Social Security Number	Employee's E-mail Address	Employer's Name

I declare that federal law provides for imprisonment and/or fines for false statements or use of false information with the completion of this form.

Under penalty of perjury, that I am (check one of the following boxes):

Understanding the I-9 Employment Verification Process and E-Verify

- **Completion of Form** - The employee will complete Section 1 of the form no later than his or her first day of work for pay. The employer must complete Section 2 of the form no later than the 3rd business day that the employee starts work.
- **Documents** - The employee may present documents of their choosing from those listed on the most recent Lists of Acceptable Documents, which can be found on the last page of the Form I-9.
- **Reverification** - For employees who attest in Section 1 that their employment authorization expires, employers must reverify employment authorization on or before that date.
- **Rehire** – If an employer rehires an employee within 3 years of the date that a previous Form I-9 was completed, they may complete a new Form I-9 for that employee or complete Section 3 of the previously completed Form I-9.

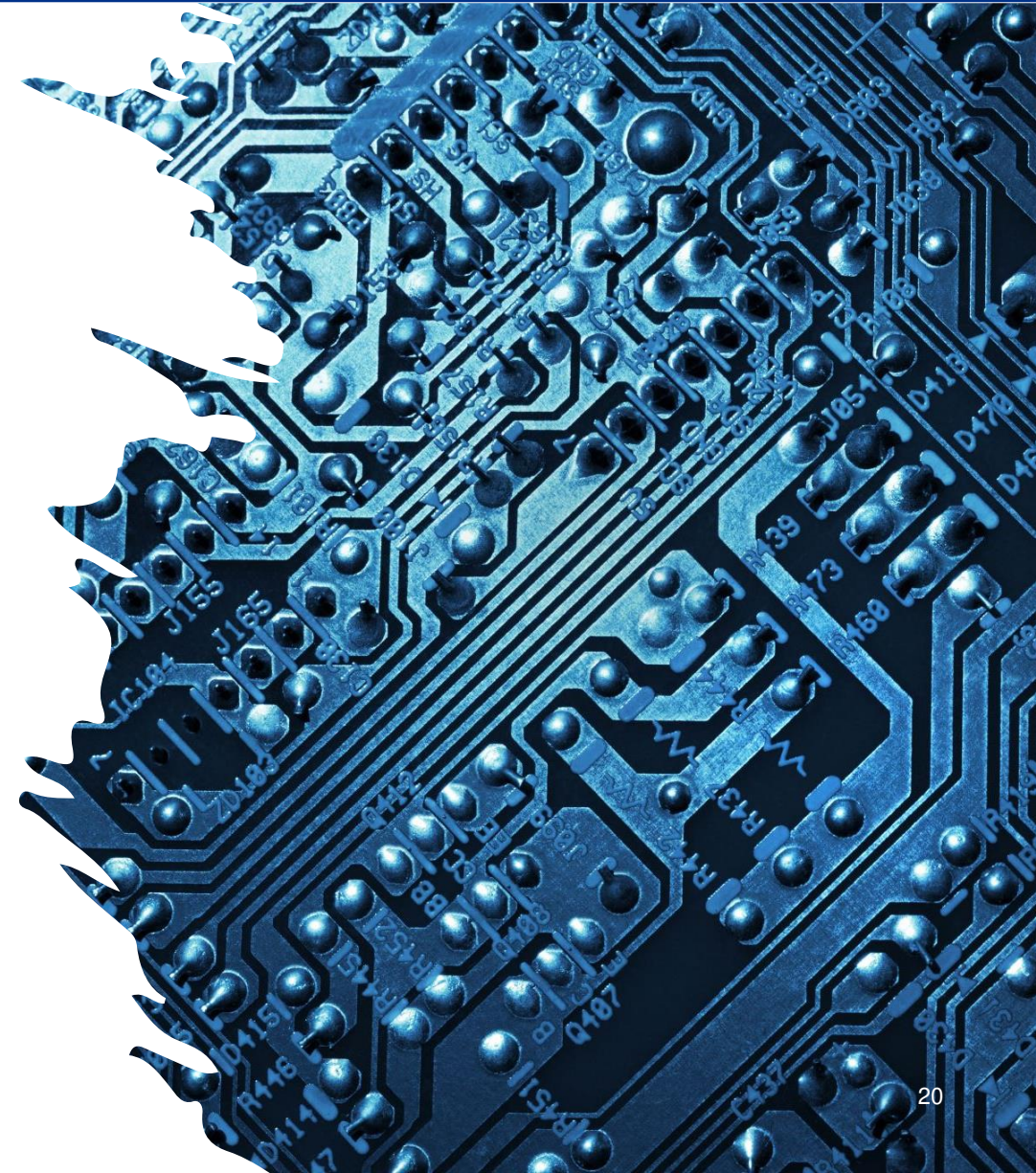


National Interest Exemptions

Exceptions to the \$100,000 payment are granted by the Secretary of Homeland Security in the extraordinarily rare circumstance where the Secretary has determined that:

- a particular worker's presence in the United States as an H-1B worker is in the national interest,
- that no American worker is available to fill the role,
- that the worker does not pose a threat to the security or welfare of the United States, and
- that requiring the petitioning employer to make the payment on the employee's behalf would significantly undermine the interests of the United States.

Petitioning employers who believe their worker satisfies this high threshold may seek an exception by sending their request and all supporting evidence to H1BExceptions@hq.dhs.gov.



O-1 Temporary Work Visa for Healthcare Professionals of Extraordinary Ability

- Individuals in STEM fields should also consider whether they may qualify for an O-1 visa.
- O-1 visas are valid for up to three years, and unlimited one-year extensions are available.
- Must show evidence of national or international recognition in the field (i.e. citations of published work, invitations to speak at a conference, invitations for journal peer review, etc.).
- O-1 visa holders can seek permanent residence.



Green Card for “Schedule A” Occupations

For certain occupations, the DOL has predetermined that there are not sufficient U.S. workers who are able, willing, qualified, and available. These occupations are referred to as Schedule A occupations. The DOL has predetermined that the wages and working conditions of U.S. workers similarly employed will not be adversely affected by the employment of noncitizens in those occupations.

This means that an employer who wishes to hire a person for a Schedule A occupation is not required to conduct a test of the labor market and apply for a permanent labor certification with DOL. Rather, this employer must apply for Schedule A designation by submitting an application for permanent labor certification to USCIS in conjunction with the petition. These occupations include:

- Group I – physical therapists and professional nurses; and
- Group II – immigrants of exceptional ability in the sciences or arts, including college and university teachers, and immigrants of exceptional ability in the performing arts.

All that Glitters: The Gold Card

Gold Card:

- Not a new visa; rather, it is a new pathway to qualify for two existing employment-based green card categories.
- The EO instructs the Department of Commerce to collaborate with DHS to create a new standard of evidence for petitioners in the “extraordinary ability” (EB-1A) and “national interest waiver” (self-sponsored EB-2) green card categories.
- The EO states that an unrestricted gift of \$1 million by the beneficiary, or \$2 million by an employer on behalf of an employee, is to be considered evidence of qualification for a green card in those two categories.
- It is not clear how soon this visa category will be available, nor how much demand there will be for it.



Gold Card vs. EB-5: Key Differences

1

Gold Card

- \$1,000,000 investment
- Derivatives require separate investment?
- Quota backlog in EB-1/2
- Lawful source of funds probably required
- No conditional residence
- Risk of litigation
- Can be changed by executive order
- Taxed on worldwide income
- No return of investment

2

EB-5

- \$800,000 investment
- Includes derivatives
- No quota backlog in EB-5
- Lawful source of funds required
- Conditional residence
- Investors grandfathered
- Can only be changed by legislation
- Taxed on worldwide income
- Expect return of investment

The Gold Card is a non-refundable \$1M contribution with uncertain rules, while EB-5 offers a \$800k investment, derivative coverage, and potential capital return with legislative stability.

Q&A

Thank you!



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