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USCIS Announces Significant H-1B and L-1 Petition Fee Increases

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On Jan. 12, 2016, **United States Citizenship and Immigration Services, USCIS**, formally announced the implementation of new fee increases for certain **H-1B** and **L-1** petitioners, as set forth in the Consolidated Appropriations Act signed into law on Dec. 18, 2015. As of this date, certain petitioners – specifically those who employ 50 or more employees in the United States and for whom more than 50 percent of such employees hold H-1B or L nonimmigrant status – must submit an additional fee of \$4,000 or \$4,500 for H-1B and L-1 petitions, respectively, requesting an initial designation of non-immigrant status, or authorization to change employers while holding such status. The above-mentioned fees must be submitted in addition to existing H-1B and L-1 petition fees, including the base processing fee, the Fraud Prevention and Detection fee, the **American Competitiveness and Workforce Improvement Act (ACWIA)** fee (where applicable), and the premium processing fee (where applicable).

Notably, for thirty days from Jan. 12, 2016, USCIS may issue a Request for Evidence (RFE) to determine whether the new fees apply to a particular petition, allowing petitioners to retain the original filing date as the date of receipt. To best navigate the new policy, petitioners should wait for an RFE before independently submitting the additional fee or explaining why it does not apply, and carefully complete Item Numbers 1.d. and 1.d.1 of Section 1 of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement and Item Numbers 4.a. and 4.b. of the L Classification Supplement. Petitioners who do not complete the above-referenced item numbers, or submit the additional fees (where applicable), when submitting affected petitions may receive rejections as of Feb. 11, 2016. Importantly, USCIS is also in the process of revising Forms I-129 and I-129S to properly reflect the new statutory requirements and changed fee structure.

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Article By
[Nataliya Binshteyn Dominguez](#)
[Greenberg Traurig, LLP](#)
[Inside Business Immigration](#)
[Immigration](#)
[Labor & Employment](#)
[All Federal](#)