



[www.llmlaw.com](http://www.llmlaw.com)

[immigration@llmlaw.com](mailto:immigration@llmlaw.com)

## **H-1B visa**

### **Overall**

H-1B (specialty worker) visa is the most commonly used visa for U.S. employers that wish to hire foreign nationals to temporarily fill in highly skilled occupations, such as engineers, accountants, financial analysts, and etc. There are total of 65,000 visa numbers available each year for qualified foreign workers that are subject to the cap. Additional 20,000 H-1B visa numbers are created for cap-subject qualified workers with a Master's or higher degree from a U.S. educational institution. These visa numbers are available each year on October 1, but because of the time it takes for the United States Citizenship and Immigration Services (USCIS) to process and adjudicate H-1B visa applications, U.S. employers are permitted to submit the H-1B visa applications 6 months in advance with a job starting date on October 1.

### **Qualifying criteria**

Foreign workers must be entering or staying in the United States temporarily to perform the specialty service. Specialty occupations are those positions normally require a minimum of bachelor degree for the entry into the occupation in the U.S. An equivalent of foreign bachelor degree is acceptable. Foreign workers must have the degree in the field directly related to the occupation. If the foreign workers do not possess the bachelor degree, a combination of degree and experience evaluation may be used in lieu of degree.

U.S. employer petitioning for foreign workers must first obtain a certified Labor Condition Application from the Department of Labor, attesting the following: (1) the U.S. employer agrees to pay foreign workers prevailing wages set by the Department of Labor in the geographic area where he or she will be working; (2) the U.S. employer can't offer a foreign worker less favorable working conditions than any other U.S. employees; and (3) upon termination of the employment, the U.S. employer is liable for the return ticket for the foreign worker.

### **Application procedure**

An H-1B Visa application is a two-step process. The first step is to apply for a Labor Condition Application (LCA) from the Department of Labor. If granted, the U.S. employers then submit a complete set of H-1B Visa application to the USCIS for adjudication. The H-1B Visa, if approved, is typically valid for a period of three years. It may be extended once for a total of six years. The U.S. employers may decide to petition for foreign workers for permanent U.S. residency while they are in valid H-1B status.

### **Filing fees**

The current filing fees for an initial H-1B visa application are \$1,440.00 for companies with less than 25 employees or \$2,190.00 with 25 or more employees. The employer may choose to pay \$1000.00 for premium service to receive a decision within 15 business days.

The fees are broken down as follows:

\$500.00 Fraud Detection Fee

\$750.00 (Training Fee - only for companies with less than 25 employees, otherwise, it's \$1,500.00)

\$195.00 H-1B Application Fee (Form I-129 is the official name of the document)

Please note that the USCIS has proposed to substantially increase filing fees for all applications, including H-1B in the near future.

**Timeframe**

The time frame for the application is about three to four months, but is longer for foreign workers who are not currently in the U.S., as they need to schedule an appointment with their local U.S. Consulate and obtain a visa stamp. This may add another one to three months, depending on the U.S. Consulate or Embassy.