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## H-1B VISA

### **Overview**

On October 1 of every year, the government grants a maximum number of 65,000 available H-1B Visas for qualified foreign workers. 20,000 additional H-1B Visas are set aside for qualified workers with a Masters or higher degree from a U.S. educational institution. Applications are not accepted before April 1 of the same year. The cap has a history in the past five years of being reached prior to the end of the immigration year.

### **Qualifying criteria**

- **Employer's responsibilities**
  - A U.S. employer agrees to pay a foreign worker at least the prevailing wage set by the Department of Labor in the geographic area where he or she will be working
  - A U.S. employer may not offer a foreign worker less favorable working conditions than any other U.S. employees.
  - Upon termination of the employment, the U.S. employer is liable for the return ticket for the foreign worker.
- **Foreign worker's qualifications**
  - Foreign worker must be coming to the U.S. temporarily to perform the specialty service.
  - Foreign worker must possess the degree required to perform the work.
  - Foreign workers must have at least a U.S. bachelor's degree or its equivalency, or has significant working experience to compensate for the degree requirement.

### **Application procedure**

An H-1B visa application is a two-step process. The first step is to apply with the Department of Labor for a Labor Condition Application (LCA). If granted, you will receive from our office a comprehensive package containing the approved LCA and the application Form I-129 for the foreign worker's H-1B Visa application, as well as supporting documents that we will have drafted for your signature. 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. If a U.S. company is interested, it may sponsor the foreign worker for permanent residency in the United States (a Green Card) while he or she is working for the company in H-1B status.

**Timeframe**

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