



PROGRAM MATERIALS

Program #3274

March 10, 2022

H1B Season is Back! An informative Session on the H-1B 2022- 2023 Updates and Filing Process

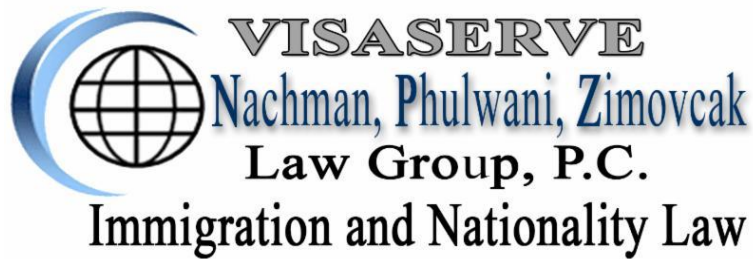
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OVERVIEW OF THE H-1B (FORMERLY, H-1) NONIMMIGRANT PROFESSIONAL AND SPECIALTY OCCUPATION WORKER (FORMERLY, DISTINGUISHED MERIT AND ABILITY) VISA PETITION PROCESS

The H-1B visa (specialty occupation) is required by an employee who is coming to the United States to perform services in a prearranged professional job. To qualify, the alien requires a bachelor's or higher degree (or equivalent) in the specific specialty for which employment authorization is being sought. It is the responsibility of the U.S. Citizenship and Immigration Services ("USCIS") to determine whether the employment constitutes a specialty occupation and whether the alien is qualified to perform the services.

This overview provides a general outline of the necessary procedures for obtaining an H-1B visa. The H-1B process involves two major steps. First, the Petitioner or Sponsoring Company submits a Labor Condition Application ("LCA") to an appropriate Regional Office of the U.S. Department of Labor ("DOL") for certification. Second, the Petitioner or Sponsoring Company files a Petition with the Department of Homeland Security ("DHS"), U.S. Citizenship and Immigration Services ("USCIS") for H-1B visa classification. If the H-1B Applicant is in the United States and holds a valid nonimmigrant visa, he/she may request a change of status. If the H-1B Applicant is outside the U.S., he/she may submit an Application to a U.S. Consular Office overseas to receive multiple-entry H-1B classification.

I. Filing the LCA

By filing the LCA with the DOL, the Petitioner or Sponsoring Company will attest to the following:

1. That for the entire period of authorized employment, the Petitioner or Sponsoring Company will pay all H-1B alien(s) who have similar experience and qualifications for the specific position set forth in the LCA at least the higher of:
 - a. the actual wage level paid by the Petitioner or Sponsoring Company to all other individuals with similar experience and qualifications for the specific position in question; or

- b. the prevailing wage level for that specific occupational classification by all employers in the geographic area of intended employment.
2. That for the entire period of authorized employment, the employment of the H-1B alien will not adversely affect the wages and/or working conditions of workers similarly employed in the area of intended employment; and
3. That, on the date the LCA is signed and submitted, there was not a strike, lockout, or work stoppage in the course of a labor dispute in the relevant occupation at the place of employment; and
4. That, on or before the date of the LCA, notice of the application was posted in two conspicuous locations at the employer's establishment.

The LCA procedure is complaint driven; that is, an investigation into the accuracy of the LCA may occur if a complaint is filed by an aggrieved party; however, administrative agencies may conduct random audits in their discretion. If a complaint is filed, the DOL Wage and Hour Administrator will investigate the complaint. In the event of a violation of the LCA, the Administrator may (1) impose a \$1,000 fine per violation; (2) bar the employer from obtaining future visas for a period of at least one year; and (3) order the employer to provide for payment of back wages (additionally, administrative agencies may conduct audits of other of the Petitioner or Sponsoring Company's Federal and State Law compliance requirements). Material misrepresentations on the LCA can subject the signer to penalties for perjury including fines and incarceration. We will file the LCA on your behalf.

A. Posting Notice of the Application

Notice of the LCA must be posted in at least two conspicuous locations at the place of employment for ten (10) consecutive business days. The Petitioner or Sponsoring Company must provide a notice of the filing of the labor condition application to its employees by posting a notice in at least two conspicuous locations at each place of employment where any H-1B nonimmigrant will be employed. We will provide the Petitioner or Sponsoring Company with the paperwork to post.

B. Satisfying Documentation Requirements

Within one working day of the filing of the LCA, upon request by any person, the Petitioner or Sponsoring Company must make available for inspection certain documentation about the LCA. We will prepare a "Public Access" folder for the Petitioner

or Sponsoring Company to keep for this purpose. This folder must be retained for one year beyond the end of the period of employment specified on the LCA.

In addition to the public access documentation, the Petitioner or Sponsoring Company must maintain certain documents for DOL to review in the event of a complaint. In addition to these documents, the Petitioner or Sponsoring Company must maintain payroll records for each foreign national and any other individuals with experience and qualifications similar to that of the foreign national at the place of employment. The Petitioner or Sponsoring Company must maintain the payroll records for a period of three (3) years from the date of the creation of the records.

Prevailing wage level information must be updated every 24 months for the duration of the LCA (i.e., up to six years). The Petitioner or Sponsoring Company should note that 22 months from the date of obtaining the initial prevailing wage determination it may have to obtain new prevailing wage information.

II. The H-1B Petition and Issuance of the H-1B Visa

Once the LCA has been approved, our office shall complete and file the H-1B Petition with the USCIS. The Petition will consist of the Form I-129, the Petitioner or Sponsoring Company's letter of support outlining the position duties and requirements, and supporting documentation, including information about the Petitioner or Sponsoring Company. It typically takes anywhere between six (6) to twelve (12) weeks for the USCIS to approve an H-1B Petition. However, with Premium Processing available, this time may be significantly curtailed.

As you may be aware, the H-1B Law, commonly referred to as the American Competitiveness in the 21st Century Act ("AC-21"), contains an H-1B "portability" provision that purports to allow a prospective H-1B employee to commence employment with a new employer upon the approval of an LCA and the filing of the Petition with the USCIS. At this time, however, we are not recommending that employers/employees utilize the "portability" provisions since there is a high degree of risk (potential civil liabilities) for an employer and the employee if the H-1B is subsequently denied by the USCIS. In addition to the foregoing, at the present time, there are no regulations that interpret the "portability" provisions promulgated in AC-21.

Under regulations promulgated in 1991, in the event the Petitioner or Sponsoring Company dismisses the foreign national from employment before the end of the period of authorized admission, the Petitioner or Sponsoring Company may be responsible for the reasonable costs of return transportation to his/her residence abroad.

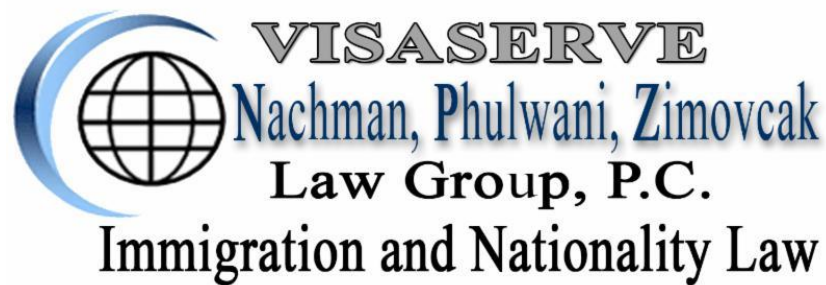
Pursuant to the Omnibus Appropriations Act (effective December 8, 2004), the Department of Labor's ("DOL") Training Fee, originally implemented pursuant to

ACWIA, has been reinstated. The fee was raised to \$1,500.00 for employers that employ over 25 full-time employees (determined by taking into account an organization's affiliates or subsidiaries). However for employers that employ 25 full-time employees or less, the training fee is \$750.00.

Additionally, the H-1B Reform Act of 2004 and Omnibus Appropriations Act instituted a new Fraud Prevention and Detection Fee in the amount of \$500.00, which took effect on March 8, 2005 and which must be paid by an employer seeking a beneficiary's first grant of H-1B or L classification or by an employer seeking to change the Beneficiary's employer. Only petitions to amend or extend status filed by an existing H-1B or L employer for an existing H-1B or L employee, will be exempt from this fee.

It is the employer's responsibility to notify us regarding any changes in wages, working conditions, or characteristics of the employment position, or if the foreign national changes jobs. Likewise, please notify us if there are any changes in the organizational structure or ownership of the Petitioner or Sponsoring Company, or if any kind of labor dispute occurs. Such changes can affect both the LCA and the H1B Petition, both of which refer to a specific job and to a specific person.

If you should have any questions about any of the foregoing, please do not hesitate to contact us.



Quick step-by-step overview of the H-1B visa process

THE NEW SYSTEM NOW REQUIRES THAT:

- Petitioners/Employers first register online for the H-1B CAP lottery.
- The Registration Period will open in March.
- The USCIS Registration fee is: \$10.00 per registration.
- If selected, the Petitioner will have 90 days to submit the full H-1B petition for each selected Beneficiary/Employee.

Our Legal for H-1B registration is \$550.00 and if selected, \$200.00 will be credited towards the H-1B filing.

AFTER THE LOTTERY SELECTION:

If an Employee is selected, the legal fee for the preparation of the full H-1B petition will be \$2,750.00. The government filing fees are as below:

The government filing fees are:

\$460 (for I-129),

\$1500 (for I-129 W) if company has over 25 Employees OR \$750 if company has 25 or less employees.

\$500 (For fraud investigations) (For New H-1B only)

\$2500 (For Premium Processing) **Optional** – Expedite Request



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Law Group, P.C.
Immigration and Nationality Law
H-1B EMPLOYER
CHECKLIST

Please complete the checklist below and provide our office with the following items:

H-1B Position:

1. H-1B Job Title:
2. Detailed job description of the position offered. (Please ensure this is sufficiently complex and includes duties that would normally be required from someone having a bachelor's degree in the field). *Provide us the job duties electronically via email.*
3. Is this a Full-Time or Part-Time position?
4. Number of hours worked per week:
5. Salary offered for the position:
6. What is the minimum experience requirement?
7. What is your normal degree requirement for the position? Please list specific degrees. (e.g. *Bachelor's in Chemical Engineering or related degree etc.*)
8. Name and Title of employee's immediate supervisor in the U.S.;
9. Will the H-1B employee supervise any individual? If so, please indicate number of reports and their job titles.
10. Please provide a copy of offer letter (if available).
11. Name and Address of all locations where the H-1B employee will work:

Location of Work	Address	Client location/Telecommute (if applicable)

12. Will the employee be working from home (full time or part time)?
If so, please provide us the home address.
13. Please advise if you would like to file the case under premium processing (expedite process). USCIS charges an additional filing fee of \$2,500.00 to process the case in 15 calendar days from date of filing.

Premium Processing: ☐ YES ☐ NO

Employer/Sponsor Organization:

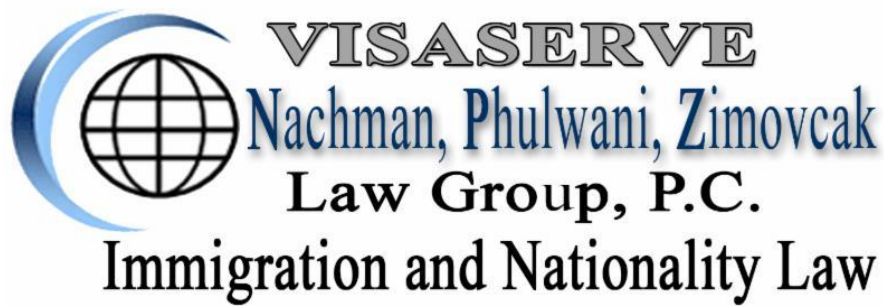
14. Full Legal Name of the Organization:
15. Full Doing Business As (d/b/a) name of the Organization, If applicable:
16. Full Address of the Organization:
17. Address of U.S. Corporate Headquarter (if different from above):
18. Federal Employment Identification Number (FEIN):
19. Year company was established:
20. NAICS (North America Industrial Classification Standard) Code for Organization (<http://www.naics.com/search.htm>).
21. Type of your organization's business:
22. Most recent gross **and** net annual income of the Organization:
23. Total Number of employees in the Organization:
- How many employees currently in H-1B visa status (if any)?
 - How many employees currently in L-1 visa status (if any)?

24. Is your company H-1B dependent and if so are you a willful violator?
25. Are there any unions?
26. Name and title and email address of the authorized person who will be signing the documents.
27. Please provide the following:
- ☐ Company Letterhead (2-3 sheets or a soft copy in PDF or Word format)
 - ☐ Promotional literature of the Company (pamphlets, brochures, etc.)

For First Time H-1B Employers:

Important:** Department of Labor (DOL) has a new procedure in place where the employer has to verify the company's FEIN Number prior of filing the Labor Condition Application "LCA" (**the first step in the H-1B visa process**). In order for the employer to verify the FEIN, please provide evidence that displays the FEIN and the name of the employer. The DOL suggested the following documents: documentation from IRS noting assignment of FEIN Federal or State tax return (only acceptable with a pre-printed label) or a pre-printed tax coupon; **or** documentation from employer's financial institution showing employer's FEIN Articles of Incorporation; business license, or other certifications of business existence; **or** Secretary of State registration documents Official and/or government documents. **Please provide one or two of the documents suggested by DOL.

Rev. 02/02/21



H-1B 2023 CAP REGISTRATION INTAKE SHEET

Please complete all 2 pages of this packet.

Employer (Petitioner):

Legal Name of the prospective petitioner Company or Organization:

What is the Doing Business As (D/B/A) if applicable?

Federal Employer Identification Number (FEIN):

Primary US office address of Employer:

Place of H-1B Employment if different from above:

Legal name, Title, phone number and email of authorized signatory for the H-1B registration:

***USCIS will require a non-refundable \$10.00 registration fee for each registration submitted.**

Employee (Beneficiary):

Give Name (First Name):

Middle Name:

Family Name (Last Name):

Gender:

Is the beneficiary eligible for the Master's CAP filing because beneficiary has a U.S. Master's Degree or higher degree from a qualifying institution? **A qualifying institution is a public or other nonprofit institution.**

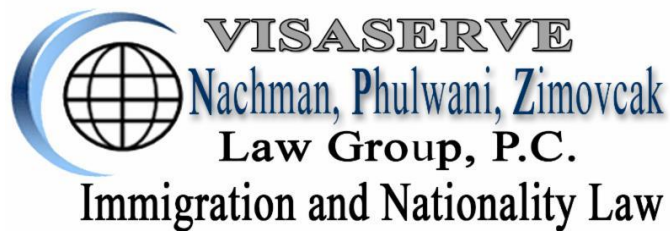
Date of Birth:

Country of Birth:

Country of Citizenship:

Passport Number:

Rev. 3/2/21



H-1B Articles:

USCIS UPDATE: FY 2023 H-1B Cap Initial
Registration Period Opens on March 1

https://visaserve.com/lawyer/2022/01/28/H-1B-Visa/USCIS-UPDATE-FY-2023-H-1B-Cap-Initial-Registration-Period-Opens-on-March-1_bl42786.htm

ABC's OF H-1Bs (THIS IS PART 1 OF AN 8 PART
SERIES) H-1B FILING SEASON (FOR THE 2022
DEADLINE ON APRIL 1st) GETS INTO FULL-
SWING FOR H-1B EMPLOYERS AND
PROSPECTIVE H-1B EMPLOYEES.

[https://visaserve.com/lawyer/2021/12/10/H-1B-Visa/ABC%E2%80%99s-OF-H-1Bs-\(THIS-IS-PART-1-OF-AN-8-PART-SERIES\)-H-1B-FILING-SEASON-\(FOR-THE-2022-DEADLINE-ON-APRIL-1st\)-GETS-INTO-FULL-SWING-FOR-H-1B-EMPLOYERS-AND-PROSPECTIVE-H-1B-EMPLOYEES. bl42640.htm](https://visaserve.com/lawyer/2021/12/10/H-1B-Visa/ABC%E2%80%99s-OF-H-1Bs-(THIS-IS-PART-1-OF-AN-8-PART-SERIES)-H-1B-FILING-SEASON-(FOR-THE-2022-DEADLINE-ON-APRIL-1st)-GETS-INTO-FULL-SWING-FOR-H-1B-EMPLOYERS-AND-PROSPECTIVE-H-1B-EMPLOYEES. bl42640.htm)

ABC's OF H-1Bs (THIS IS PART 2 OF AN 8 PART SERIES). HOW MUCH DO PROSPECTIVE H-1B EMPLOYERS NEED TO PAY TO H-1B EMPLOYEES AND WHY THE FEDERALLY MANDATED PREVAILING WAGE IS SO IMPORTANT.

[https://visaserve.com/lawyer/2021/12/23/H-1B-Visa/ABC%E2%80%99s-OF-H-1Bs-\(THIS-IS-PART-2-OF-AN-8-PART-SERIES\).-HOW-MUCH-DO-PROSPECTIVE-H-1B-EMPLOYERS-NEED-TO-PAY-TO-H-1B-EMPLOYEES-AND-WHY-THE-FEDERALLY-MANDATED-PREVAILING-WAGE-IS-SO-IMPORTANT. bl42676.htm](https://visaserve.com/lawyer/2021/12/23/H-1B-Visa/ABC%E2%80%99s-OF-H-1Bs-(THIS-IS-PART-2-OF-AN-8-PART-SERIES).-HOW-MUCH-DO-PROSPECTIVE-H-1B-EMPLOYERS-NEED-TO-PAY-TO-H-1B-EMPLOYEES-AND-WHY-THE-FEDERALLY-MANDATED-PREVAILING-WAGE-IS-SO-IMPORTANT. bl42676.htm)

ABCs OF H-1Bs (THIS IS PART III OF AN VIII PART SERIES): WHAT H-1B EMPLOYERS NEED TO KNOW ABOUT THE LCA TO AVOID POTENTIAL DOL COMPLIANCE PITFALLS.

[https://visaserve.com/lawyer/2022/01/14/H-1B-Visa/ABCs-OF-H-1Bs-\(THIS-IS-PART-III-OF-AN-VIII-PART-SERIES\)-WHAT-H-1B-EMPLOYERS-NEED-TO-KNOW-ABOUT-THE-LCA-TO-AVOID-POTENTIAL-DOL-COMPLIANCE-PITFALLS. bl42733.htm](https://visaserve.com/lawyer/2022/01/14/H-1B-Visa/ABCs-OF-H-1Bs-(THIS-IS-PART-III-OF-AN-VIII-PART-SERIES)-WHAT-H-1B-EMPLOYERS-NEED-TO-KNOW-ABOUT-THE-LCA-TO-AVOID-POTENTIAL-DOL-COMPLIANCE-PITFALLS. bl42733.htm)