

SUMMARY OF REQUIREMENTS FOR H-1B VISA FOR SPECIALTY OCCUPATIONS

Basic Requirements:

- Job must require a college degree or equivalent
- Alien must have a college degree or equivalent
- Salary must meet the prevailing wage paid to U.S. workers

Duration of Stay:

- Maximum 6 years (may return after 1 year abroad)

Application Procedures:

- Evaluation of Foreign Credentials (to confirm that the foreign degree is equivalent to a U.S. college degree)
- Request for Prevailing Wage Determination
- Labor Condition Application
- 1-129 Petition filed by the U.S. employer with the USCIS

Supporting documents include the following:

- Supporting letter from the U.S. employer confirming the background of the corporation (type of product or service, date established, number of employees, total assets, gross income, etc.), alien's job duties, and alien's qualifications
- Alien's college degree and resume
- U.S. employer's brochures, business plans, etc.

It normally takes 10-12 weeks for the USCIS to process an H-1B petition. However, if the U.S. employer is willing to pay an extra \$1,000, the USCIS will adjudicate the case within 14 days.

The USCIS approval notice is forwarded to a U.S. consulate abroad where the alien gets an H-1B visa stamp in his/her passport.

If alien is already in the United States on another visa, the alien can change status to H-1B in the United States. The USCIS approval notice is kept in the passport until the next trip abroad, when the alien goes to a U.S. consulate to have the H-1B visa stamped in his/her passport.

"Dual intent rule" permits simultaneous processing of green card application and extension of an H-1B visa.

Under AC21, an H-1B employee may accept and start new or concurrent employment with a second employer as soon as the new H-1B petition is filed with the USCIS. Previously, new employment could not begin until the new petition was approved.

The employer is required to pay the reasonable costs of return transportation of the alien abroad.

H-1B CHECKLIST

Applies to persons offered jobs in occupations that generally require a **B.A. or B.S. or higher degree** in the specific specialty as a minimum for entry into the occupation. H-1B status is generally allowed **for two 3-year stays** in the United States (may seek 6 more years in H-1B status after one full year abroad).

Documents from U.S. Company

1. Copy of company's latest financial statements and/or tax forms
2. Copies of introductory materials about company or company's current brochure
3. Company's general information:
 - Year established
 - Number of employees
 - Gross and net annual income
 - Employer tax ID number
4. Job descriptions, title and rate of pay for the prospective employee
5. Title of the prospective employee's immediate supervisor

Documents from Prospective Employee

1. Individual's detailed resume listing relevant education and working background
2. Proof of education
 - Certificate of Graduation or Diploma
 - Transcript of academic record
 - Special licenses or certificate
3. Proof of experience, if any
 - Certificates of former employment
 - Certificates of training/experience
 - Certificates of any awards/prizes
4. Copies of passport, visa and I-94, if applicable
5. Copies of Form I-20, if applicable
6. Copy of Employment Authorization Document (EAD), if any
7. Copies of prior H-1B petition and approval notice, Form I-797, if any
8. Copy of U.S. Social Security Number Card, if any
9. Individual's current U.S. and foreign addresses and phone numbers
10. If married, please provide name, date of birth, place of birth and address of spouse and children. In addition, please provide a copy of the passport data page, current visa stamp, and I-94 for each such family member.