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## Working in the United States

### Temporary Workers

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# H-1B Fiscal Year (FY) 2016 Cap Season

## The H-1B Program

U.S. businesses use the H-1B visa program to employ foreign workers in specialty occupations that require the theoretical or practical application of a body of highly specialized knowledge, including but not limited to: scientists, engineers, or computer programmers. For more information about the H-1B program, visit our [H-1B Specialty Occupations](#) Web page.

### Email Updates

To sign up for updates or to access your subscriber preferences, please enter your contact information below.

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## How USCIS Determines If an H-1B Petition Is Subject to the FY 2016 Cap

We use the information provided in Sections 2 and 3 (or Part C) of the H-1B Data Collection and Filing Fee Exemption Supplement.

This information helps us determine whether a petition is subject to the regular congressionally mandated cap of 65,000 H-1B visas. An advanced degree exemption is available for the first 20,000 petitions filed for a beneficiary who has obtained a U.S. master's degree or higher. Once that limit is reached, any petitions filed for beneficiaries with a U.S. master's degree or higher will count against the regular cap, unless exempt for other reasons.

### Where do I find it?

What version of Form I-129 are you using?	Find Sections 2 and 3 (or Part C) of the H-1B Data Collection and Filing Fee Exemption Supplement on:
Revision date of Oct. 23, 2014	Pages 19-21
Revision date on/after Nov. 23, 2010, but before	Oct. 23, 2014

## FY 2016 H-1B Cap Count

Cap Type	Cap Amount	Cap Eligible Petitions	Date of Last Count
H-1B Regular Cap	65,000		
H-1B Master's Exemption	20,000		

## Cap Eligible Petitions

This is the number of petitions that USCIS has accepted for this particular type of cap. It includes cases that have been approved or are still pending. It does not include petitions

**AILA Doc. No. 15031362. (Posted 3/13/15)**

- Extension of Post Completion Optional Practical Training (OPT) and F-1 Status for Eligible Students under the H-1B Cap-Gap Regulations
- H-1B Specialty Occupations, DOD Cooperative Research and Development Project Workers, and Fashion Models
- Premium Processing

## More Information

- Questions & Answers: USCIS Issues Guidance Memorandum on Establishing the "Employee-Employer Relationship" in H-1B Petitions
- Questions about Same or Similar Occupational Classifications Under the American Competitiveness in the Twenty-first Century Act of 2000 (AC21)
- Frequently Asked Questions about Part 6 of Form I-129, Petition for a Nonimmigrant Worker

## News Items

- USCIS Will Accept H-1B Petitions for Fiscal Year 2016 Beginning April 1, 2015
- USCIS Reaches FY 2015 H-1B Cap

## Forms

- Employment-Based Forms
- I-129, Petition for a Nonimmigrant Worker
- Direct Filing Addresses for Form I-129, Petition for Nonimmigrant Worker
- Form M-735, Optional Checklist for Form I-129 H-1B Filings (255 KB PDF)

## Other USCIS Links

- TITLE 8 CODE OF FEDERAL REGULATIONS (8 CFR)
- Health Care Worker Certification

Workers	
TN NAFTA Professionals	
<b>Permanent Workers</b>	▼
<b>Students and Exchange Visitors</b>	▼
<b>Temporary Visitors for Business</b>	▼
<b>Information for Employers &amp; Employees</b>	▼

that have been denied.

### Cap Amounts

The current annual cap, as set by Congress, on the H-1B category is 65,000. Not all H-1B nonimmigrant visas are subject to this annual cap. Please note that up to 6,800 visas are set aside from the 65,000 each fiscal year for the H-1B1 program under the terms of the legislation implementing the U.S.-Chile and U.S.-Singapore free trade agreements. Unused visas in this group become available for H-1B use for the next fiscal year.

H-1B workers performing labor or services in the Commonwealth of the Northern Mariana Islands (CNMI) and Guam may also be exempt from the H-1B cap (see the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110-229). H-1B workers in Guam and the CNMI are exempt from the H-1B cap if their employers filed the petition before December 31, 2019. Employers cannot file a petition or an extension request for an employee more than six months before the intended employment start date.

### When to File an FY 2016 H-1B Cap-Subject Petition

We will begin accepting H-1B petitions that are subject to the FY 2016 cap on April 1, 2015. You may file an H-1B petition no more than six months before the employment start date requested for the beneficiary.

### How to Ensure You Properly File Your H-1B Cap-Subject Petition

Please follow these steps:

1. Complete all sections of the Form I-129 petition, including the H Classification Supplement and the H-1B Data Collection and Filing Fee Exemption Supplement.

#### Where do I find it?

What version of Form I-129 are you using?	The H Classification Supplement is on:	The H-1B Data Collection and Filing Fee Exemption Supplement is on:
Revision date of Oct. 23, 2014	Pages 13-14	Pages 19-21
Revision date on/after Nov. 23, 2010, but before Oct. 23, 2014	Pages 11-12	Pages 17-19

2. Make sure each form has an original signature, preferably in black ink.
3. Include signed checks or money orders with the correct fee amount.
4. Submit all required documentation and evidence with the petition at the time of filing to ensure timely processing.
5. Ensure there is only one H-1B position for the beneficiary of each petition.
6. you must file the petition to the correct USCIS service center. See the section below on **Where to Mail Your H-1B Cap-Subject Petition.**

Note: It is your responsibility to ensure that Form I-129 is completed accurately and submitted properly.

### Additional Documents Required With Your Petition

#### Labor Condition Application (LCA)

You must submit a certified Department of Labor LCA (Form ETA 9035) at the time you file your petition. A copy of the LCA is acceptable.

Note: USCIS encourages petitioners to keep Department of Labor LCA processing times in mind when preparing the H-1B petition and plan accordingly. If the LCA is certified for multiple workers, you must provide the name and USCIS case receipt number of any foreign worker who has previously used the LCA.

Petitioners must sign the LCA before submitting it with the petition to USCIS.

Please see the Department of Labor's [Office of Foreign Labor Certification](#) website for more information on the LCA process.

### Evidence of Beneficiary's Educational Background

**AILA Doc. No. 15031362. (Posted 3/13/15)**

- **Conrad 30 Waiver Program**
- **VIBE Program**
- **Numerical Limitation Exemption for H Nonimmigrants Employed in the CNMI and Guam (51 KB PDF)**

#### Non-USCIS Links

- **Visa Bulletin (Department of State)**
- **Foreign Labor Certification (U.S. Department of Labor)**

You must submit evidence of the beneficiary's education credentials at the time of filing. If all of the requirements for a degree have been met, but the degree has not yet been awarded, you may submit the following alternate evidence:

- A copy of the beneficiary's final transcript; or
- A letter from the registrar confirming that all of the degree requirements have been met. If the educational institution does not have a registrar, then such a letter must be signed by the person in charge of educational records where the degree will be awarded.

If you indicate that the beneficiary is qualified based on a combination of education and experience, please provide substantiating evidence at the time of filing.

### A Copy of the H-1B Petition

If the beneficiary will be applying for a nonimmigrant visa abroad, you should submit a copy of your H-1B petition with your petition. If you are issued a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) then you should also submit a copy of your response.

You may also submit a copy of the petition and any subsequent response to a RFE or NOID even if the beneficiary is requesting a change of status to H-1B or an extension of stay. This may assist the beneficiary if he or she later decides to seek a visa abroad or the H-1B petition is approved but the change of status or extension of stay request is denied.

Please note, failure to submit a copy may result in delays in processing this petition or in visa processing abroad. You can check the [Department of State](#) website to make sure the consulate indicated on Form I-129 is able to process the beneficiary's nonimmigrant visa application. You can also check for any instructions specific to that consulate.

### Multiple or Duplicative Filings

According to an interim rule announced on March 19, 2008, employers may not file multiple or duplicative H-1B petitions for the same employee. To ensure fair and orderly distribution of available H-1B visas, USCIS will deny or revoke multiple or duplicative petitions filed by an employer for the same H-1B worker and will not refund the filing fees.

### Where to Mail Your H-1B Petition

You must file your petition with the correct service center, depending on the H-1B beneficiary's work location(s) as specified in the petition. We have specific mailing addresses for cases that are subject to the H-1B cap. To determine where you must mail your petition, see our Web page [Direct Filing Addresses for Form I-129, Petition for Nonimmigrant Worker](#).

Note: We have a separate mailing address for certain types of educational or nonprofit organizations that file cap-exempt H-1B petitions.

Please read the filing instructions very carefully. If you file your petition incorrectly, we will reject it. Rejected petitions will not retain a filing date and will not be counted toward the H-1B cap.

### Required Fees

There are different fees depending on the type of H-1B petition you are submitting. Please refer to the H-1B Data Collection and Filing Fee Exemption Supplement for detailed instructions on fees.

The following fees may be required with a petition subject to the cap:

Base filing fee:

- \$325

### Where do I find the instructions on fees ?

What version of Form I-129 are you using?	Find the H-1B Data Collection and Filing Fee Exemption Supplement on:
Revision date of Oct. 23, 2014	Pages 19-21
Revision date on/after Nov. 23, 2010,	Pages 17-19

**AILA Doc. No. 15031362. (Posted 3/13/15)**

but before Oct. 23, 2014	
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**American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) fee:**  
(see H-1B Data Collection and Filing Fee Exemption Supplement, Part B):

- \$750 for employers with 1 to 25 full-time equivalent employees, unless exempt
- \$1,500 for employers with 26 or more full-time equivalent employees, unless exempt

**Where do I find the ACWIA fee information?**

What version of Form I-129 are you using?	Find ACWIA fee information in:
Revision date of Oct. 23, 2014	Section 2
Revision date on/after Nov. 23, 2010, but before Oct. 23, 2014	Part B of the H-1B Data Collection and Filing Fee Exemption Supplement

**Fraud Prevention and Detection Fee:**

- \$500 to be submitted with a request for initial H-1B status or with a request for a beneficiary already in H-1B status to change employers. (This fee does not apply to Chile/Singapore H-1B1 petitions.)

**Public Law 111-230:**

- \$2,000 to be submitted by a petitioner that employs 50 or more employees in the United States, if more than half of those employees are in H-1B or L-1 nonimmigrant status.
- must be submitted with a request for initial H-1B status or a request for a beneficiary already in H-1B status to change employers

**Premium Processing Fee:**

- \$1,225 for employers seeking Premium Processing Service

**Checks**

Check must be:

- Payable to the Department of Homeland Security,
- Dated within the last six months, and
- Include the proper amount and signature.

**Money Orders**

Money orders must be properly endorsed.

**Incorrect Filing Fee**

USCIS will reject all petitions submitted with the incorrect filing fee.

NOTE: Failure to submit a premium processing fee will not result in a rejection; rather, services for premium processing will not be rendered.

**Premium Processing Service**

H-1B petitioners may choose to file a [Form I-907, Request for Premium Processing Service](#) to have their petition processed within 15 calendar days. To request premium processing, submit:

- The Form I-907; and
- The premium processing fee of \$1,225. (This fee is in addition to the required base filing fee and other applicable fees that cannot be waived.)

You can file the Form I-907 and pay the premium processing fee:

- At the same time as you file Form I-129; or
- At any time after you file Form I-129 while it is still pending.

If filed after the Form I-129, be sure to include the receipt number (for example, EAC 15 123 51234) of the Form I-129 in Part 2, question 2 of Form I-907.

Note: We will only accept a Form I-907 with an edition date of Aug. 10, 2009 or later.

**AILA Doc. No. 15031362. (Posted 3/13/15)**

Please see our [Premium Processing](#) page for more information.

## Organizing Your H-1B Package

Clearly label all H-1B cap cases, preferably in red ink, on the top margin of Form I-129. Use the following codes:

- Write "Regular Cap" on petitions subject to the 65,000 regular cap, not including Chile/Singapore cap cases.
- Write "C/S Cap" on Chile/Singapore H-1B1 cases.
- Write "U.S. Master"s on petitions subject to the 20,000 exemption for beneficiaries with U.S. master's degrees or higher.

A separate check is preferred for each filing fee (Form I-129, Premium Processing, Fraud Fee, ACWIA fee, and Public Law 111-230). Staple checks to the bottom right corner of the top document.

### Preferred order of documents at time of submission:

1. Form I-907 (if filing for Premium Processing Service)
2. Form G-28 (if represented by an attorney or accredited representative)
3. Form I-129, Petition for a Nonimmigrant Worker
4. Addendums/Attachments
5. H Classification Supplement to Form I-129 and/or Free Trade Supplement (for H-1B1 Chile-Singapore petitions)
6. H-1B Data Collection and Filing Fee Exemption Supplement
7. All supporting documentation to establish eligibility. Provide a table of contents for supporting documentation and tab the items as listed in the table
8. Arrival-Departure Record (Form I-94) if the beneficiary is in the United States
9. SEVIS Form I-20 if the beneficiary is a current or former F-1 student or F-2 dependent
10. SEVIS Form DS-2019 if the beneficiary is a current or former J-1 or J-2
11. Form I-566 if the beneficiary is a current A or G nonimmigrant
12. Department of Labor certified LCA, Form ETA 9035
13. Employer/attorney/representative letter(s)
14. Other supporting documentation
15. Copy of the petition, if necessary. Clearly mark it as "COPY" so that it is not mistaken for a duplicate filing.

### How to mail multiple petitions together

If you will include multiple petitions in the same package, please place the individual petitions into separate envelopes within the package. Mark the individual petition envelopes with the following labels to identify the type of petition:

- Master's Premium
- Master's
- Regular Premium
- Regular
- Chile/Singapore

## Filing Tips

### Form G-28, Notice of Entry of Appearance as Attorney or Representative

If the petitioner will be represented by an attorney or other accredited representative, submit a properly completed Form G-28, Notice of Entry of Appearance as Attorney or Representative. Please make sure you file the most recent version of the [Form G-28](#) (edition date: 03/04/2015). For further information on Form G-28, please see our [Filing Your Form G-28 page](#).

### Form I-129, Petition for a Nonimmigrant Worker

- Complete all sections of the form accurately.
- H-1B cap petitions and advanced degree exemption petitions for the FY 2016 cap must include an employment start date of no earlier than October 1, 2015. Do not file petitions earlier than six months before the requested employment start date. We will reject H-1B petitions requesting an earlier employment start date or a start date of "As Soon As Possible" or "ASAP."
- Ensure that the petition is properly signed. Please see the Related Links section for more information on properly signing the petition.

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- Petitioners should enter their own address in Part 1, question 3 of the Form I-129. This will ensure that the I-797 receipt and approval notices are sent to the petitioner, and, if applicable, to the attorney/representative.

Please note: Using an address other than the petitioner’s address as the mailing address may cause processing delays related to USCIS’s Validation Instrument for Business Enterprises (VIBE). VIBE automatically uses the address provided on the petition to validate the petitioner’s current location. If petitioners use an attorney’s address on the Form I-129 petition, include a cover letter that clearly indicates the current address of the petitioner. This information will assist immigration services officers in completing a manual check in VIBE using the petitioner’s address. If a petitioner uses an attorney’s address as their mailing address on the form, then the petitioner will not receive any I-797 notices.

- Ensure that the beneficiary’s name is spelled properly and that his or her date of birth is displayed in the proper format (mm/dd/yyyy). Also, review the country of birth and citizenship and the I-94 number (if applicable) for accuracy.
- If the beneficiary will seek a visa at a consular office abroad, include a copy of the petition and supporting documentation with the filing. For cases where the beneficiary will seek a change of status or extension of stay in the United States, you may still submit a copy. You may choose to do this in case the beneficiary decides to seek a visa at a consular office abroad after the change of status or extension of stay is approved.
- If the beneficiary is seeking an extension or change of status, the petition should include evidence (such as a Form I-94 or Form I-797 approval notice) to establish that the beneficiary will have maintained a valid nonimmigrant status through the employment start date being requested.
- The petitioner should include a copy of the beneficiary’s valid passport.

**H Classification Supplement to Form I-129**

- Please be sure to complete all sections of the form accurately.
- In listing previous periods of stay in H or L nonimmigrant classification (question 3), please also include the actual nonimmigrant classification held (such as H-1B or L-1).
- The petitioner must sign the form, preferably in black ink.

**Where do I find it?**

What version of Form I-129 are you using?	Find the H Classification Supplement on:
Revision date of Oct. 23, 2014	Pages 13-14
Revision date on/after Nov. 23, 2010, but before Oct. 23, 2014	Pages 11-12

**H-1B Data Collection and Filing Fee Supplement**

**Where do I find it?**

What version of Form I-129 are you using?	Find the H-1B Collection and Filing Fee Supplement on:
Revision date of Oct. 23, 2014	Pages 19-21
Revision date on/after Nov. 23, 2010, but before Oct. 23, 2014	Pages 17-19

- Please be sure to complete all sections of the form accurately.
- Make sure the Form I-129 has a revision date of November 23, 2010, or later.
- Be sure to answer if the beneficiary has earned a master’s degree or higher from a U.S. educational institution as defined in 20 U.S.C. 1001(a).

**Where do I answer?**

What version of Form I-129 are you using?	Answer in H-1B Data Collection and Filing Fee Exemption Supplement:

**AILA Doc. No. 15031362. (Posted 3/13/15)**

Revision date of Oct. 23, 2014	Section 1, question 2, and * Section 3, question 2
Revision date on/after Nov. 23, 2010, but before Oct. 23, 2014	

\* If you answer "No" to the question about whether the beneficiary will be assigned to work at an off-site location, then you do not need to respond to the remaining two questions in the section.

**Where do I find this question?**

What version of Form I-129 are you using?	This question is:
Revision date of Oct. 23, 2014	The first question in Section 4 on page 21.
Revision date on/after Nov. 23, 2010, but before Oct. 23, 2014 .	The first question in Part D on page 19

**Form I-907, Request for Premium Processing**

- Please be sure to complete all sections of the form accurately with original signatures. Note: We will only accept the Aug. 10, 2009 or later edition of Form I-907.
- The representative may sign in both Parts 3 and 4 of the Form I-907 if there is a valid Form G-28 with the filing. Otherwise, the petitioner's signature is required. Preferably, signatures should be in black ink.
- If you file the Form I-129 before the Form I-907, please include a copy of the Form I-129 receipt notice along with the Form I-907.

Find this page [http://www.uscis.gov/h-1b\\_count](http://www.uscis.gov/h-1b_count)

Last Reviewed/Updated: 03/12/2015



**U.S. Citizenship and Immigration Services**



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