

USCIS Update

Feb. 24, 2009

Premium Processing Service Expanded for Certain Form I-140 Petitions

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) will expand Premium Processing Service for designated Forms I-140 ([Immigrant Petition for Alien Worker](#)) to include alien beneficiaries who have reached, or are reaching, their limitation of stay in H-1B nonimmigrant status. Currently, only certain alien beneficiaries who are in H-1B nonimmigrant status at the time of filing may request premium processing for Form I-140.

Beginning March 2, 2009, USCIS will accept Form I-907 ([Request for Premium Processing Service](#)) for alien worker petitions filed on behalf of alien beneficiaries who, as of the date of filing the Form I-907:

- Are the beneficiary of a Form I-140 petition filed in a preference category that has been designated for premium processing service;
- Have reached the sixth-year statutory limitation of their H-1B stay, or will reach the end of their sixth year of H-1B stay within 60 days of filing;
- Are only eligible for a further H-1B extension under section 104(c) of the American Competitiveness in the Twenty-first Century Act of 2000 (AC21); and
- Are ineligible to extend their H-1B status under section 106(a) of AC21.

Section 104(c) of AC21 permits applicants to extend their stay in H-1B nonimmigrant status in increments of up to three years, provided they are the beneficiary of an approved Form I-140 and an immigrant visa is not immediately available. Section 106(a) of AC21 permits applicants to extend their stay in H-1B nonimmigrant status in increments of up to one year, provided the Form I-140 petition or underlying labor certification has been pending for at least 365 days.

Premium Processing offers 15 calendar day-processing for designated employment-based petitions and applications upon request. There is a nonrefundable fee of \$1,000 for this service. During the 15-day period, USCIS will issue an approval or denial notice, a notice of intent to deny, a request for evidence, or open an investigation for fraud or misrepresentation.

More details on premium processing for Form I-140 petitions are available in a [Fact Sheet](#).

For more information on USCIS and its programs, visit www.uscis.gov or contact the USCIS National Customer Service Center at (800) 375-5283.

– USCIS –

Fact Sheet

Feb. 24, 2009

PREMIUM PROCESSING SERVICE FOR CERTAIN FORM I-140 PETITIONS BEGINS MARCH 2, 2009

U.S. Citizenship and Immigration Services (USCIS) will expand Premium Processing Service for designated Forms I-140, [Immigrant Petition for Alien Worker](#) to include alien beneficiaries who have reached or are reaching their limitation of stay in H-1B nonimmigrant status. Currently, only certain alien beneficiaries who are in H-1B nonimmigrant status at the time of filing may request Form I-140 Premium Processing Service.

Starting on March 2, USCIS will accept the Form I-907, [Request for Premium Processing Service](#), for Forms I-140 filed on behalf of alien beneficiaries who, as of the date of filing the Form I-907:

- Are the beneficiary of a form I-140 petition filed in a preference category that has been designated for premium processing service;
- Have reached the 6th year statutory limitation of their H-1B stay, or will reach the end of their 6th year of H-1B stay within 60 days of filing;
- They are only eligible for a further H-1B extension upon approval of their Form I-140 petition as prescribed by American Competitiveness in the Twenty-first Century Act (AC21) provisions 104(c)¹; and
- Are ineligible to extend their H-1B status under AC21 §106(a)².

Under the Premium Processing Program, USCIS may place such conditions of availability for the Premium Processing Program. The petitioner must establish that the Form I-140 for which the Form I-907 is filed satisfies these conditions. To facilitate USCIS's determination of whether a particular filing meets the conditions, petitioners can submit:

- Copies of all Forms I-94, Arrival/Departure Record and I-797 H-1B or L approval notices that have been issued on his or her behalf;
- A copy of the relating Form I-140 petition receipt notice if the form was previously filed; and,
- A copy of the labor certification approval letter issued by the Department of Labor, if filing under the EB-2 or EB-3 classifications.

¹ Public law known as the American Competitiveness in the Twenty-first Century Act of 2000 (AC21) permits up to a three-year extension of stay for an H-1B nonimmigrant alien, provided he or she is the beneficiary of an approved Form I-140 petition and otherwise eligible for lawful permanent resident status except that the employment-based preference visa is unavailable.

² USCIS grants an H-1B extension of stay pursuant to §106(a) of AC21, in one-year increments, until such time as a final decision has been made to (1) deny the application for labor certification, or, if the labor certification is approved, to deny the employment-based immigrant petition that was filed pursuant to the approved labor certification; (2) deny the employment based immigrant petition, or; (3) grant or deny the alien's application for an immigrant visa or for adjustment of status.

Form I-907 Premium Processing Service requests that do not clearly meet the conditions will be rejected and returned with the I-907 fee. The Form I-140 petition will be processed according to standard, non-premium processing procedures if the Form I-907 is:

- Submitted without documentation establishing the conditions for availability noted above;
- Incorrectly submitted concurrently with a Form I-140 petition at a USCIS office without geographic jurisdiction over the Form I-140 petition; or
- Submitted to request Premium Processing Service for a Form I-140 petition filed for an alien beneficiary who is eligible to extend his or her H-1B nonimmigrant status under AC21 §106(a) as of the date that the Form I-907 is received by USCIS.

USCIS will accept Form I-907 either together with the Form I-140 petition or after the filing of the Form I-140 petition through the mail or delivery service only. E-filing for Form I-907 will not be available. USCIS expects that adding other classifications to Premium Processing Service at this time would exceed USCIS' capacity to provide timely Premium Process Service. USCIS will continue to evaluate whether it is able to process other groups of cases beyond this limited classification of petitions and will provide notification of any further availability of Premium Processing Service for Form I-140