



U.S. Citizenship and Immigration Services

H-1B Fiscal Year (FY) 2015 Cap Season

The H-1B Program

U.S. businesses use the H-1B visa program to employ foreign workers in specialty occupations that require 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.

How USCIS Determines If an H-1B Petition Is Subject to the FY 2015 Cap

We use the information provided in Part C of the H-1B Data Collection and Filing Fee Exemption Supplement (pages 17-19 of Form I-129 with a revision date of November 23, 2010, or later). This information helps us determine whether a petition is subject to the regular cap of 65,000 H-1B visas. An advanced degree exemption is provided 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.

FY 2015 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 that have been denied.

Cap Amounts

The current annual cap 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.

When to File an FY 2015 H-1B Cap-Subject Petition

We will begin accepting H-1B petitions that are subject to the FY 2015 cap on April 1, 2014. You may file an H-1B petition no more than six months in advance of 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 (pages 11 and 12 of the form) and the H-1B Data Collection and Filing Fee Exemption Supplement (pages 17-19). Make sure the Form I-129 has a revision date of November 23, 2010, or later. (You can find current versions of forms at www.uscis.gov/forms.)

2. Make sure each form has an original signature, preferably in black ink.
3. Include a signed check or money order 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. Be sure to 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 should be sure to 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

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 must submit a copy of your H-1B petition and any subsequent response to a Request for Evidence or Notice of Intent to Deny with your filing. USCIS will not make a copy if you do not provide one.

You may also submit a copy of the petition and any subsequent response to a Request for Evidence or Notice of Intent to Deny even if the beneficiary is requesting a change of status to H-1B or an extension of stay. You may choose to do this in case the beneficiary 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. 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

To ensure fair and orderly distribution of available H-1Bs, 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. On March 19, 2008, USCIS announced an interim final rule on H-1Bs to prohibit employers from filing multiple or duplicative H-1B petitions for the same employee.

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 which jurisdiction you are in, 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 H-1B petitions for beneficiaries who are exempt from the cap.

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 H-1B Data Collection and Filing Fee Exemption Supplement (pages 17-19 of Form I-129) for detailed instructions on fees.

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

Base filing fee:

- \$325

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

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

Make checks 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.

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 and cannot be waived.)

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

- At the same time as 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 12 123 51234) of the Form I-129 in the Part 2, question 2 of Form I-907.

Note: We will only accept a Form I-907 with an edition date of 08/10/09N or later.

Please see our Premium Processing Web 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:

- Regular Cap (use this code for petitions subject to the 65,000 regular cap, not including Chile/Singapore cap cases)
- C/S Cap (use this code for Chile/Singapore H-1B1 cases)
- U.S. Master's (use this code for 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. Individual petition envelopes should be marked 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 Form G-28 with:

- All sections completed;
- The printed name and signature of the representative; and
- The original signature of the petitioner.

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 2015 cap must include an employment start date of no earlier than October 1, 2014. 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.
- 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 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 an attorney's address is used as the petitioner's mailing address on the form, 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 (pages 11 and 12 of Form I-129)

- Please be sure to complete all sections of the form accurately.
- In listing previous periods of stay in H/L 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.

H-1B Data Collection and Filing Fee Supplement (pages 17-19 of Form I-129)

- 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 in Part A, question 2, and Part C, question 2, 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).
- If the answer to the first question in Part D on page 19 is "No," meaning the beneficiary will not be assigned to work at an off-site location, then no responses are required for the remaining two questions in Part D.

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 08/10/09 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

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