RESPONSIBILITY

DEPARTMENTS MUST CONSULT WITH INTERNATIONAL CENTER TO DETERMINE IF H-1B IS THE APPROPRIATE VISA TYPE; FOLLOW PROVIDED GUIDELINES AND SUBMIT COMPLETED FORMS TO INTERNATIONAL CENTER WITH APPROPRIATE FEES.

H-1B PROCESS

THE H-1B PETITION INVOLVES THE FOLLOWING PROCESSING STEPS:
1. DEPARTMENT SUBMITS H-1B/H-4 MATERIALS TO IC;
2. IC FILES THE PREVAILING WAGE (PW) REQUEST WITH THE NATIONAL PREVAILING WAGE CENTER (NPWC) (CURRENTLY, AT LEAST 60 DAYS PROCESSING AT NPWC);
3. AFTER THE WAGE IS DETERMINED, IC CONFIRMS SALARY WITH DEPARTMENT
4. IC FILES A LABOR CONDITION APPLICATION (LCA) WITH THE US DEPARTMENT OF LABOR (CURRENTLY, AT LEAST 1-2 WEEKS PROCESSING AT DOL)

IC/USCIS PROCESSING TIMES

ALTHOUGH INDIVIDUAL CASES VARY AND USCIS PROCESSING TIMES ARE ALWAYS SUBJECT TO CHANGE, GENERALY, H-1B PETITIONS ARE ADJUDICATED WITHIN TWO TO FOUR MONTHS FROM THE TIME A COMPLETE SET OF MATERIALS IS SUBMITTED BY IC TO USCIS.


IC SUGGESTS THAT DEPARTMENTS INITIATE H-1B REQUESTS SIX MONTHS IN ADVANCE OF THE PROSPECTIVE START DATE AND REQUIRES AT LEAST 90-120 DAYS TO PREPARE H-1B PETITIONS FOR SUBMISSION TO THE USCIS.

THE USCIS WILL EXPEDITE THE PROCESSING OF H-1B PETITIONS UNDER THE “PREMIUM PROCESSING” PROGRAM FOR A FEE OF $1,225 IN ADDITION TO THE $325 FILING FEE. GENERALLY, USCIS WILL APPROVE EXPEDITED REQUESTS IN 15 CALENDAR DAYS. HOWEVER, IF USCIS REQUESTS ADDITIONAL INFORMATION ABOUT THE H-1B PETITION, THE USCIS HAS ANOTHER 15 DAYS TO RESPOND.

IC MAY BE ABLE TO EXPEDITE PROCESSING FOR SPECIFIC CASES (SUCH AS AN URGENT CHANGE OF EMPLOYER MATTER).

H-1B FACTS

- IF THE H-1B SCHOLAR’S EMPLOYMENT IS TERMINATED BY UCI PRIOR TO THE END OF THE H-1B PETITION VALIDITY PERIOD, FOR ANY REASON, THE EMPLOYER (UCI) IS REQUIRED TO PAY THE REASONABLE COSTS OF RETURN TRANSPORTATION TO THE WORKER’S RESIDENCE ABROAD.
- REGULATIONS PROVIDE THAT ALIENS IN H STATUS MAY BE ADMITTED TO THE US UP TO 10 DAYS BEFORE THE PETITION APPROVAL START DATE.
- THERE IS NO “OFFICIAL” GRACE PERIOD FOR ALIENS IN H-1B STATUS AFTER THEIR PERIOD OF AUTHORIZED STAY ENDS, OR AFTER THEIR EMPLOYMENT TERMINATES.
- H-1B STATUS INCLUDES A “NO BENCHING” POLICY THAT OBLIGATES THE EMPLOYER (UCI) TO CONTINUE TO PAY THE H-1B IN NON-PRODUCTIVE STATUS UNLESS THE NON-PRODUCTIVE STATUS IS DUE TO CONDITIONS UNRELATED TO EMPLOYMENT (MATERNITY LEAVE, AUTOMOBILE ACCIDENT, CARE FOR ILL FAMILY MEMBER).
- THE H-1B CATEGORY ALLOWS EMPLOYMENT ONLY WITH AN EMPLOYER WHO HAS HAD AN H-1B PETITION APPROVED BY USCIS ON BEHALF OF THE BENEFICIARY.