

The **H-1B visa** is a non-immigrant visa category in the United States under the Immigration & Nationality Act, section 101(a)(15)(H). It allows U.S. employers to seek temporary help from skilled foreigners. The *H-1B* classification is for "specialty occupations" only.

The occupation must require a bachelor's degree or equivalent for the application of theoretical and highly specialized knowledge. Likewise, the foreign worker must possess at least a bachelor's degree or its equivalent and state licensure, if required to practice in that field.

H-1B work-authorization is strictly limited to employment by the sponsoring employer.

The regulations define a "specialty occupation" as requiring theoretical and practical application of a body of highly specialized knowledge in a field of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, law, accounting, business specialties, theology, and the arts, and requiring the attainment of a bachelor's degree or its equivalent as a minimum.

H-1B Visas

An H-1B visa, known as the "professional worker's visa," is reserved for people within "specialty occupations," who are considered for admission on the basis of their professional education or their skills, or both. It permits U.S. companies to enhance their workforce by employing highly skilled foreigners. It is the most common and, usually, the easiest non-immigrant visa to obtain.

Eligibility for H-1B Visa

- College degree holders or higher,
- Its equivalent in work experience,
- In rare instances, certain people in specific occupations, such as supermodels,
- A job offer from a U.S. company that agrees to sponsor the visa holder.
- In a position with the sponsoring company that requires the person to hold a four-year degree or its equivalent in experience and the wage paid is the prevailing wage for such a job within that jurisdiction
- The spouse and unmarried, minor children of the H-1B visa holder are eligible for H-4 visas, though they will not be permitted to work in the US.

Limitations of H-1B

The visa is good for a maximum of three years, which may be extended another three years. After six years in H-1B status, the person must remain outside the United States for one year before being eligible to apply for another H-1B visa. The visa-holder may only work for the sponsoring employer in the job specified in the sponsoring employer's petition. If visa holders wish to change jobs, they must obtain a new H-1B visa. This can be done without leaving the United States by filing a new petition with the U.S. Immigration and Naturalization Service. With the October 17, 2000 enactment of the American Competitiveness in the Twenty-First Century Act of 2000, applicants may begin working at their new job immediately upon filing the petition. Previously, applicants had to wait for approval before beginning work for their new employer. If the new petition is denied, work authorization ceases.

Procedure to get H-1B

- The sponsoring employer must first inquire at a state or local level what the prevailing wage is for the position expected to be filled by the visa holder.
- Sponsoring employer files a labor condition application with the U.S. Department of Labor that outlines specific information about the job, including the prevailing wage and the working conditions.
- Sponsoring employer then files an I-129 petition with the U.S. Immigration and Naturalization Service (INS) accompanied by a \$110 filing fee, as well as an additional \$500 fee imposed under the American Competitiveness and Workforce Improvement Act of 1998.
- Once the INS approves the I-129 petition, the visa seeker may then apply for the H-1B visa.