



# H-1B FOR EMPLOYERS

## HIRING FOREIGN NATIONALS

### What positions qualify?

H-1B petitions can only be filed for positions that meet the definition of “specialty occupation.” A specialty occupation is one requiring the theoretical and practical application of highly specialized knowledge, and the attainment of at least a Bachelor’s degree in the specialty.

### Who qualifies?

Foreign nationals who hold a Bachelor’s degree or higher in the specific area of study required for the position qualify for an H-1B visa.

### Special considerations

- Employer must bear the costs of preparing and filing an H-1B petition.
- Employer must pay the same wage and benefits provided to U.S. workers in similar jobs.
- H-1B petitions must be approved by U.S. Citizenship and Immigration Services (USCIS).
- Petitions are typically approved up to three years, with extensions possible up to a total of six years.
- H-1B petitions are employer, position, and location-specific.
- Holding H-1B status is dependent on continued employment.

### Private industry employers

The U.S. government limits the number of H-1B petitions approved each year for private industry employers. The limit, also known as the H-1B cap, is 65,000 petitions per fiscal year. The first 20,000 petitions with beneficiaries holding a Master’s or higher degree from a U.S. institution do not count against the cap. Citizens of Chile or Singapore also have a special allocation.

Cap-subject employers must register during March, and if selected, will file H-1B petitions based upon the federal government’s fiscal year with a start date of October 1.

### Cap-exempt employers

The following employers are not subject to the 65,000 petitions per year limit and may file an H-1B petition at any time:

- Higher education employers
- Non-profit organizations related to an institution of higher education
- Non-profit research organizations
- Governmental research organizations

### What is the timeline for getting an H-1B petition approved?

Processing times can take several months. However, USCIS has a premium processing service for an extra fee, which reduces the processing time significantly.

### Do all foreign nationals need an H-1B visa?

No. Students on F-1 visas may be eligible for Curricular Practical Training (CPT) during their studies. After program completion they are also eligible for one year of Optional Practical Training (OPT) and, if their degree is in a qualifying STEM field, an additional two years of OPT. CPT and OPT have no cost to the employer.

Students on J-1 visas may be eligible for Academic Training for up to three years during or after their studies, also at no cost to the employer.

### How much does it cost to file an H-1B petition?

Costs vary widely and depend the most on attorney fees. Basic fees include:

- \$460 filing fee
- \$500 fraud prevention fee
- ACWIA fee of either \$750 or \$1,500 (private employers)
- \$2,500 premium processing fee (optional)

Additional fees apply for employers with 50+ employees and more than 50% of their workforce in H or L status.

