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H-1B program: Entry level jobs under more scrutiny, says immigration attorneys



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Level-1 wage H-1B applicants are getting more Request for Evidence (RFEs), in the wake of current administration's stricter take on the work visa program.



Last week, USCIS announced mandatory in-person interviews for green card aspirants who have applied for the change in status from H-1B and L-1 visas. Now, as a latest development, the immigration attorneys have observed an increase in the number of 'Requests For Evidence' (RFEs) from USCIS, Economic Times (<http://economictimes.indiatimes.com/nri/visa-and-immigration/h-1b-visa-applications-see-spike-in-inquiries-from-us-authorities/articleshow/60333076.cms?from=mdr>) reported.

"A new wrinkle in the inquiries is that, as USCIS had warned, they will not accept level-1 wages to be given in H-1B cases easily. They are questioning level-1 wages almost uniformly," said Rajiv S Khanna, managing attorney of Immigration.com, the newspaper reported.

Khanna said that level-1 category is the entry-level job category and level-4 relates to more technical and leadership roles. "It is the USCIS position that level-1 salary indicates a non-professional position that does not require a specific college degree and is a job that would be inappropriate for an H-1B visa," he added.

Another law firm, NPZ Law Group, sees a spike of 55 percent to 65 percent in the RFEs.

The Group's managing attorney David H Nachman said, "The question that continues to arise in the RFEs is to prove that the position that the H-1B applicant will be taking is in a speciality occupation. The new set of questions that we are seeing has to do with why the level-1 wage has been chosen if the position is a 'speciality position' calling for a complex set of duties. As you can see, the US government is requiring us to argue that the position is 'complex' and then, on the other side, asking that if it is so complex why is a lower salary being assigned?"

The increased inquiries would delay and jeopardize the approvals of those visa applicants who have a good work experience but have applied for entry level positions.

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