

NPZ LAW GROUP Webinar: **H-1B Visa LOTTERY 2025-2026**

Presented by:

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(VISASERVE)

Immigrant vs. Nonimmigrant Visas

No Status	Nonimmigrant	Immigrant (Green Card)	Naturalization
DACA	B Visitors	EB-1 Outstanding Research & Professors	After 3 or 5 years
U Visa	E Treaty Trade / Investor	EB-2 Advanced Degree Professionals	
245(i) benefit	F Student	EB-3 Bachelors Degree & Skilled Workers	
Asylum, etc.	H Specialty Workers	EB-4 Religious Workers	
	J Trainees	EB-5 Investors	
	L Intercompany Transferee	Family Based Immigration	
	O Extraordinary Ability		
	P Performing Artists		
	R Religious Workers		
	TN For Canadian & Mexican Nationals (not dual intent)		

H-1B Visas

Temporary Professional Visas

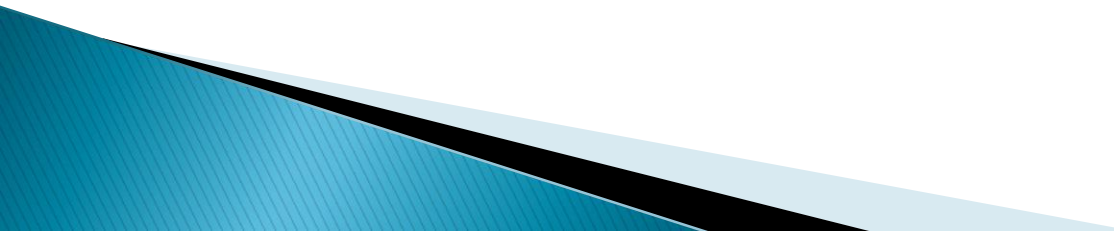
- ▶ For Professional-Level workers who are coming to the US to work for a US employer in a specialty occupation
 - Alien must possess at least the equivalent of a US Bachelor's Degree AND
 - Job offer must require at least a Bachelor's Degree
 - “Three for One Rule”- 3 years of work experience can be substituted for 1 year of academic study in order to equate the work experience to a Bachelor's Degree

Examples of Specialty Occupations

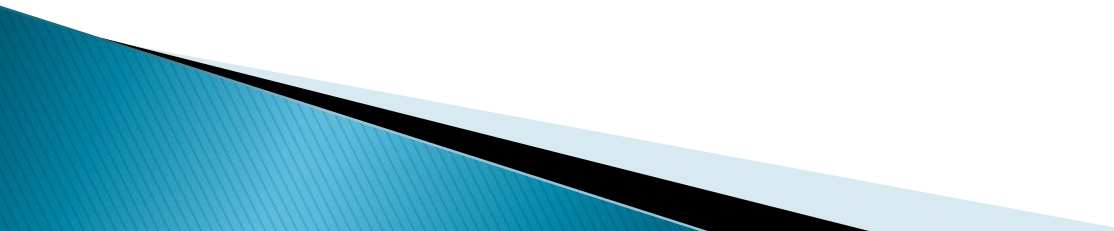
- ▶ Some occupations in the regulations:
Chemist, biologist, engineers, physicists, software developers, system analysts, accountants, economists, teachers, architects, lawyers, graphic designers, among others.

If an occupation is not in the regulations, is a Bachelor's Degree normally required?

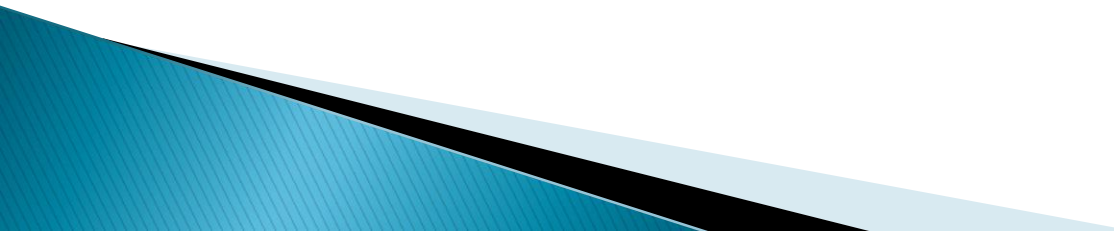
How to prove a Bachelor's degree is normally required?

- ▶ U.S. Department of Labor – Dictionary of Occupational Titles (DOT) – look for SVP: of 7 or more
 - ▶ U.S. Department of Labor – Occupational Outlook Handbook (OOH) – mention of minimum educational requirements
 - ▶ O*Net – online job zones
 - ▶ Other comparable positions from newspapers or online listings
 - ▶ Does the employer require a Bachelor's Degree?
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Cap on H-1B Visas

- ▶ Numerical Limitation: 65,000 annually.
 - ▶ Additional 20,000 visas for those with US advanced degrees.
 - ▶ Cap was met during the registration period for FY 2024-2025 receiving over Approximately 470,342 registrations for both advanced and Bachelor's degrees.
 - ▶ Roughly 36.6% of eligible registrations requested consideration under the Advanced degree quota.
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Who Should Apply for H-1B Cap case?

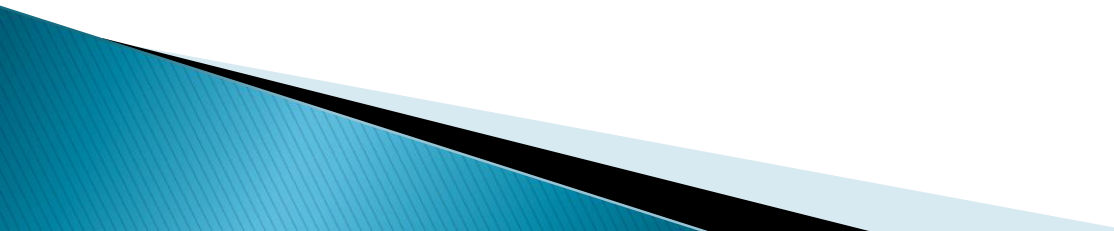
- ▶ OPT (regular or STEM)
 - ▶ F-1 with equivalent US Bachelor's degree
 - ▶ TN under USMCA
 - ▶ Employees from overseas with equivalent US Bachelor's degree
 - ▶ H-4s, L-2s,
 - ▶ L-1A or L-1B
 - ▶ Possibly - DACA / TPS / Humanitarian Programs
 - ▶ Previous H-1B want-to-be.
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Looking Ahead to March 2025

The H-1B Lottery Process

- ▶ Business need to identify people early
- ▶ Master's cap and regular cap numbers
- ▶ Pre-registration process
 - Electronic submission using USCIS online account
 - \$215 fee for each beneficiary
 - March 7–24, 2005 (2 weeks)
- ▶ Post-registration process
 - Notification of selection through online account
 - File petitions only for selected beneficiaries


Filing and Start Date

- ▶ Beginning of March - H-1B registration
 - ▶ April 1st filing for cap cases
 - ▶ October 1st – H-1B start date
 - ▶ **Cap-Gap** work through October 1st for pending or approved H-1B Visas
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Fiscal Year 2025-2026 H-1B Cap Season: H-1B REGISTRATION FINAL RULE

- ▶ **Introduction of Beneficiary-Centric Selection Process:**
 - Selections based on individual beneficiaries instead of registrations.
 - Aims to ensure equal selection opportunity for all applicants.

 - ▶ **Start Date Flexibility:**
 - Allows for filing with start dates after October 1, maintaining consistency with current policy.

 - ▶ **New filing fees will go into effect on April 1, 2024**
 - \$780 for employers with 26 or more F/T employees.
 - \$460 for small employers (25 or less) and nonprofit organizations
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Fiscal Year 2025 H-1B Cap Season: H-1B REGISTRATION FINAL RULE

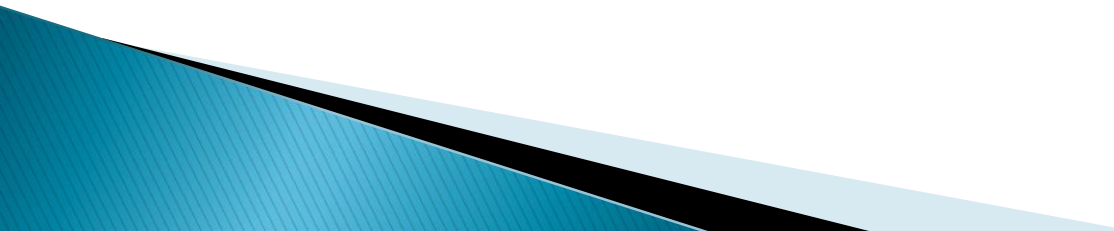
- ▶ **Asylum Program fee:**
 - \$600 for employer with 26 or more F/T employees
 - \$300 for small companies
 - \$0 for nonprofit organizations
- ▶ **Increased Premium Processing fee \$2,805**
- ▶ **New Form I-129 as of January 17, 2025**
- ▶ **Online Filing Launch:**
 - Introduction of online filing for Form I-129 and associated Form I-907 for non-cap H-1B petitions starting February 28, 2024 and April 1, 2024 for H-1B Cap.

Recent H-1B Modernization Changes

Effective January 17, 2025

- ▶ Revised Definition of “Specialty Occupation”:
 - Aligns degree fields more closely with job duties.
- ▶ Codification of “Deference” Policy:
 - Smoother renewals with reduced RFEs and denials.
- ▶ Liberalization for Cap-Exempt Employers:
 - Easier pathways for work in academic or government research roles.
- ▶ Support for Entrepreneurs:
 - Allows >51% ownership in startups; 18-month increments.
- ▶ Increased Site Visit Compliance:
 - Ensures adherence to regulations and boosts transparency.
- ▶ Prevents employment gaps for F-1 students by extending status until April 1.

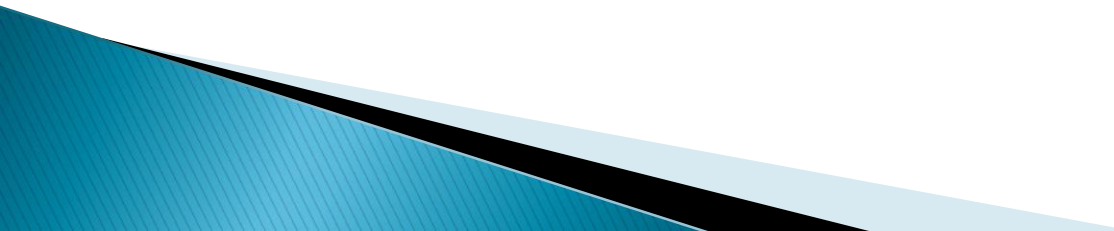
Period of Validity

- ▶ Generally valid for a total of 6 years
 - ▶ Time spent outside of the US can be recaptured
 - ▶ Some exceptions available where additional time in H-1B status will be granted in 3 years increments beyond the 6 years period (AC-21 - I-140 Approval or GC pending for 365 days+)
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Employer Specific

- ▶ H-1Bs are employer specific, but
 - Concurrent H-1Bs are permitted
 - H-1Bs are portable
 - Part-time employment is permitted

Exemptions from the H-1B cap

- ▶ Current H-1Bs seeking extensions or transfers to another employer (the cap limits the number of requests for initial employment that CIS may approve each year)
 - ▶ Statutorily exempt employers such as institutions of higher education and nonprofit research organizations
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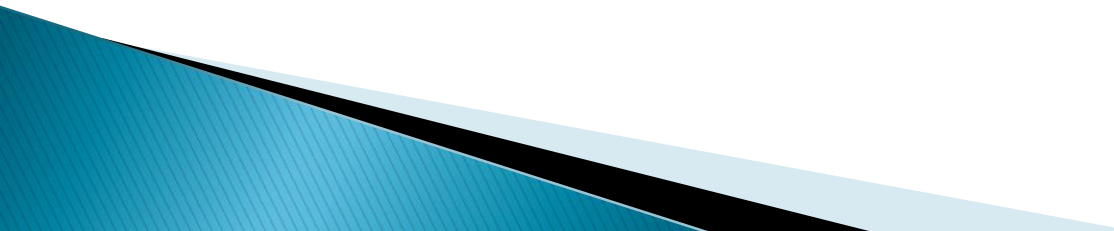
Labor Condition Application (LCA)

- ▶ Sets forth the number of workers, the occupational classification, wage, location, period of employment

Employer attestations:

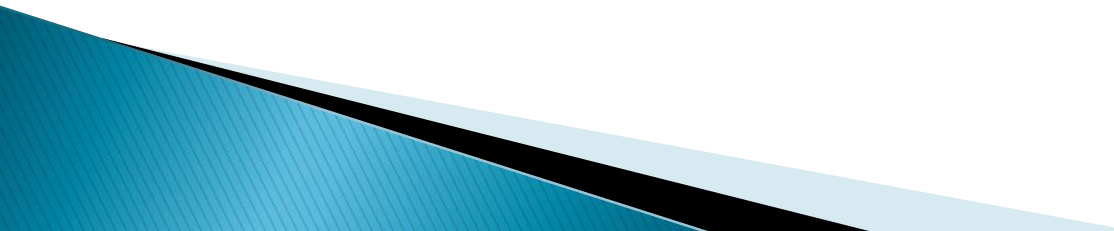
- Pay H-1B the higher of Prevailing Wage or Actual Wage
 - Working Conditions
 - No strikes or lockouts
 - Notice of LCA – (1) Notice to CB Rep or Posting LCA – 2 locations for 10 days; (2) provide a copy to H-1B employee
- ▶ LCA must be available for public inspection w/in 1 day of filing

H-1B Employer Obligations

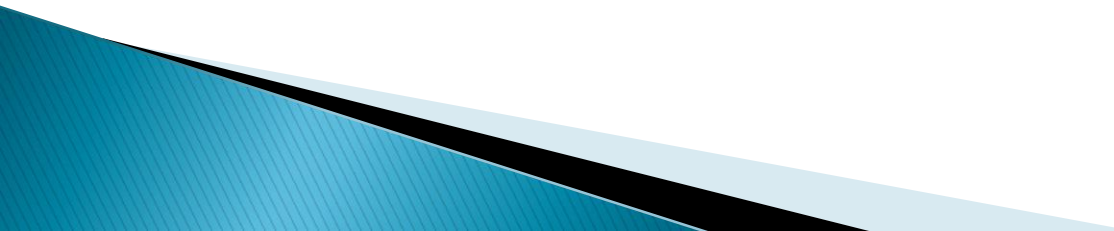
- ▶ Pay for non-productive time
 - ▶ Return Transportation if relationship terminated
 - ▶ Public Access File (PAF) available for inspection 1 day after LCA is filed with DOL
 - ▶ Amend H-1B if material change in employment (job location, wage, FT/PT, significant change in job duties) – *Simeio case*
 - ▶ Update PAF
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Public Access File (PAF)

Documents Included in the (PAF) which must be kept on premises following filing of the LCA with the DOL:

- ▶ Certified & Signed LCA
 - ▶ Prevailing Wage Documentation
 - ▶ Wage Rate Documentation
 - ▶ Explanation of Wage Determination
 - ▶ Notification of LCA posting
 - ▶ Summary of Benefits
 - ▶ Changes in Corporate structure
 - ▶ Requirements for H-1B Dependent Employers and Willful Violators
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Failure to Maintain Proper Public Access File (PAF)

- ▶ Increased scrutiny of your company's H-1B petitions
 - ▶ Potential monetary fines
 - ▶ Disqualification for participating in the H-1B program for a minimum of 1 year
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Form I-9 Compliance

Things HR Managers Should know

- ▶ I-9 for all employees
- ▶ New form 8/1/2023 (expiration date 7/31/26 or 5/31/27)
- ▶ Reverification - H-1B expiring
 - timely filed extension allows continued work for up to 240
- ▶ Reverification – F-1 students during CAP-Gap
- ▶ I-9 for use of Portability Provisions of AC-21

Considerations:

- ▶ Obtain information and do an upfront analysis.
- ▶ Prepare for possible RFE – Requests for Evidence from USCIS.
- ▶ Speak to Clients (HR and Beneficiary) about
 - Cost
 - Timing
 - Fallback positions
- ▶ H-1B Alternatives that may be available
 - Consider filing before H-1B lottery.

H-1B Alternatives & Strategic Advice

- Set expectation with employer earlier in the new year.
- Prepare Plan-B (backup plan) - H-1B Alternatives
 - ▶ E Visa
 - ▶ L Visa
 - ▶ O Visa
 - ▶ P Visa
 - ▶ R Visa
 - ▶ B-1 Visa
 - ▶ TN Visa
 - ▶ E-3 Visa
 - ▶ U Visa
 - ▶ I Visa
 - ▶ J Visa

Questions?

Please contact our office for further information:

info@visaserve.com

201-670-0006 (ext 104)

<http://www.visaserve.com>

Thank You



FY 2026 H-1B Cap Registration Opens on March 7: Key Updates for Employers

POSTED ON FEBRUARY 6, 2025

With the fiscal year (FY) 2026 H-1B cap registration set to open on **March 7, 2025**, U.S. employers must be prepared to navigate the updated process and ensure timely submission of their registrations. The U.S. Citizenship and Immigration Services (USCIS) has introduced several enhancements to streamline the H-1B electronic registration system, including **organizational account improvements** and a **beneficiary-centric selection process**.

Key Dates for H-1B Cap Registration

March 7, 2025 (Noon ET): Initial registration period opens.

March 24, 2025 (Noon ET): Initial registration period closes.

March 31, 2025: USCIS intends to notify petitioners whose registrations have been selected.

Employers must use the USCIS **online account system** to register each **H-1B beneficiary** and pay the **\$215 registration fee per submission**.

What's New for FY 2026?

1. Beneficiary-Centric Selection Process

Registrations are now selected by unique beneficiary rather than individual registrations.

If multiple registrations are submitted for the same beneficiary, **they will be grouped under a single entry** to prevent gaming of the lottery system.

If USCIS receives more registrations than available slots, a random lottery will be conducted.

2. Organizational Account Enhancements

USCIS has introduced **new features for organizational and representative accounts** to streamline the registration process, including:

- ✓ **Paralegals can now assist multiple attorneys** within a single account.
- ✓ **Legal representatives can add paralegals more efficiently** to company accounts.
- ✓ **Certain Form I-129 fields will auto-fill** from the H-1B registration.
- ✓ **Employers can upload beneficiary data via spreadsheet** to pre-populate registration details.

These enhancements aim to **reduce administrative burdens** and **improve accuracy** when filing H-1B petitions.

What Employers Must Do Before March 7

1. Create or Update a USCIS Online Account

New employers must create an **organizational account** before the registration period.

Employers with previous H-1B registrant accounts (from FY 2021–2024) will have their accounts **converted automatically** into organizational accounts.

2. Verify Payment Methods

The **H-1B registration fee is \$215 per beneficiary**.

USCIS has **temporarily increased** the **daily credit card transaction limit to \$99,999.99** to accommodate high-volume payments.

Employers submitting registrations exceeding this limit may use **Automated Clearing House (ACH) payments** but should confirm with their bank to avoid ACH transaction blocks.

3. Prepare for the Lottery Selection

Selections will be **based on unique beneficiaries**, meaning multiple entries for the same worker will not increase their chances.

USCIS will notify selected petitioners by March 31, 2025.

Filing Petitions After Selection

Once selected, petitioners must file a **complete H-1B cap-subject petition**, including:

Form I-129 (Petition for a Nonimmigrant Worker)

Labor Condition Application (LCA) certified by the Department of Labor

Supporting evidence of the beneficiary's qualifications

Only petitioners with **selected registrations** will be eligible to file an H-1B petition for FY 2026.

Conclusion: Be Prepared for FY 2026 H-1B Registration

With the **H-1B cap registration period opening on March 7**, employers should act **now** to set up accounts, ensure compliance, and prepare beneficiary information for submission. Given the **new selection process and system enhancements**, it is crucial to stay updated and file correctly.

How NPZ Law Group Can Assist

Our experienced immigration attorneys are here to guide employers through the **H-1B registration and petition process**, ensuring compliance and accuracy.

Contact NPZ Law Group today for strategic advice on your FY 2026 H-1B cap filings.

Contact Us

For specialty guidance on U.S. and Canadian immigration matters, visit [www.visaserve.com](https://visaserve.com) or call 551-276-1864. The NPZ Law Group stands ready, willing, and able to assist you with your U.S. and Canadian immigration law needs.

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**OVERVIEW OF THE H-1B (FORMERLY, H-1) NONIMMIGRANT
PROFESSIONAL AND SPECIALTY OCCUPATION WORKER (FORMERLY,
DISTINGUISHED MERIT AND ABILITY) VISA PETITION PROCESS**

The H-1B visa (specialty occupation) is required by an employee who is coming to the United States to perform services in a prearranged professional job. To qualify, the alien requires a bachelor's or higher degree (or equivalent) in the specific specialty for which employment authorization is being sought. It is the responsibility of the U.S. Citizenship and Immigration Services ("USCIS") to determine whether the employment constitutes a specialty occupation and whether the alien is qualified to perform the services.

This overview provides a general outline of the necessary procedures for obtaining an H-1B visa. The H-1B process involves two major steps. First, the Petitioner or Sponsoring Company submits a Labor Condition Application ("LCA") to an appropriate Regional Office of the U.S. Department of Labor ("DOL") for certification. Second, the Petitioner or Sponsoring Company files a Petition with the Department of Homeland Security ("DHS"), U.S. Citizenship and Immigration Services ("USCIS") for H-1B visa classification. If the H-1B Applicant is in the United States and holds a valid nonimmigrant visa, he/she may request a change of status. If the H-1B Applicant is outside the U.S., he/she may submit an Application to a U.S. Consular Office overseas to receive multiple-entry H-1B classification.

I. Filing the LCA

By filing the LCA with the DOL, the Petitioner or Sponsoring Company will attest to the following:

1. That for the entire period of authorized employment, the Petitioner or Sponsoring Company will pay all H-1B alien(s) who have similar experience and qualifications for the specific position set forth in the LCA at least the higher of:
 - a. the actual wage level paid by the Petitioner or Sponsoring Company to all other individuals with similar experience and qualifications for the specific position in question; or
 - b. the prevailing wage level for that specific occupational classification by all employers in the geographic area of intended employment.

2. That for the entire period of authorized employment, the employment of the H-1B alien will not adversely affect the wages and/or working conditions of workers similarly employed in the area of intended employment; and
3. That, on the date the LCA is signed and submitted, there was not a strike, lockout, or work stoppage in the course of a labor dispute in the relevant occupation at the place of employment; and
4. That, on or before the date of the LCA, notice of the application was posted in two conspicuous locations at the employer's establishment.

The LCA procedure is complaint driven; that is, an investigation into the accuracy of the LCA may occur if a complaint is filed by an aggrieved party; however, administrative agencies may conduct random audits in their discretion. If a complaint is filed, the DOL Wage and Hour Administrator will investigate the complaint. In the event of a violation of the LCA, the Administrator may (1) impose a \$1,000 fine per violation; (2) bar the employer from obtaining future visas for a period of at least one year; and (3) order the employer to provide for payment of back wages (additionally, administrative agencies may conduct audits of other of the Petitioner or Sponsoring Company's Federal and State Law compliance requirements). Material misrepresentations on the LCA can subject the signer to penalties for perjury including fines and incarceration. We will file the LCA on your behalf.

A. Posting Notice of the Application

Notice of the LCA must be posted in at least two conspicuous locations at the place of employment for ten (10) consecutive business days. The Petitioner or Sponsoring Company must provide a notice of the filing of the labor condition application to its employees by posting a notice in at least two conspicuous locations at each place of employment where any H-1B nonimmigrant will be employed. We will provide the Petitioner or Sponsoring Company with the paperwork to post.

B. Satisfying Documentation Requirements

Within one working day of the filing of the LCA, upon request by any person, the Petitioner or Sponsoring Company must make available for inspection certain documentation about the LCA. We will prepare a "Public Access" folder for the Petitioner or Sponsoring Company to keep for this purpose. This folder must be retained for one year beyond the end of the period of employment specified on the LCA.

In addition to the public access documentation, the Petitioner or Sponsoring Company must maintain certain documents for DOL to review in the event of a complaint. In addition to these documents, the Petitioner or Sponsoring Company must maintain payroll records for each foreign national and any other individuals with experience and qualifications similar to that of the foreign national at the place of employment. The Petitioner or Sponsoring Company must maintain the payroll records for a period of three (3) years from the date of the creation of the records.

Prevailing wage level information must be updated every 24 months for the duration of the LCA (i.e., up to six years). The Petitioner or Sponsoring Company should note that 22 months from the date of obtaining the initial prevailing wage determination it may have to obtain new prevailing wage information.

II. The H-1B Petition and Issuance of the H-1B Visa

Once the LCA has been approved, our office shall complete and file the H-1B Petition with the USCIS. The Petition will consist of the Form I-129, the Petitioner or Sponsoring Company's letter of support outlining the position duties and requirements, and supporting documentation, including information about the Petitioner or Sponsoring Company. It typically takes anywhere between three (3) and six (6) months for the USCIS to approve an H-1B Petition. However, with Premium Processing available (additional \$2500 filing fee), this time can be reduced to fifteen (15) days.

As you may be aware, the H-1B Law, commonly referred to as the American Competitiveness in the 21st Century Act ("AC-21"), contains an H-1B "portability" provision that purports to allow a prospective H-1B employee to commence employment with a new employer upon the approval of an LCA and the filing of the Petition with the USCIS. Initial (CAP subject) H-1B petitions are not covered under the "AC-21" provisions. At this time, however, we are not recommending that employers/employees utilize the "portability" provisions since there is a high degree of risk (potential civil liabilities) for an employer and the employee if the H-1B is subsequently denied by the USCIS. In addition to the foregoing, at the present time, there are no regulations that interpret the "portability" provisions promulgated in AC-21.

Under regulations promulgated in 1991, in the event the Petitioner or Sponsoring Company dismisses the foreign national from employment before the end of the period of authorized admission, the Petitioner or Sponsoring Company may be responsible for the reasonable costs of return transportation to his/her residence abroad.

Pursuant to the Omnibus Appropriations Act (effective December 8, 2004), the Department of Labor's ("DOL") Training Fee, originally implemented pursuant to ACWIA, has been

reinstated. The fee was raised to \$1,500.00 for employers that employ over 25 full-time employees (determined by taking into account an organization's affiliates or subsidiaries). However for employers that employ 25 full-time employees or less, the training fee is \$750.00.

Additionally, the H-1B Reform Act of 2004 and Omnibus Appropriations Act instituted a new Fraud Prevention and Detection Fee in the amount of \$500.00, which took effect on March 8, 2005 and which must be paid by an employer seeking a beneficiary's first grant of H-1B or L classification or by an employer seeking to change the Beneficiary's employer. Only petitions to amend or extend status filed by an existing H-1B or L employer for an existing H-1B or L employee, will be exempt from this fee.

It is the employer's responsibility to notify us regarding any changes in wages, working conditions, or characteristics of the employment position, or if the foreign national changes jobs. Likewise, please notify us if there are any changes in the organizational structure or ownership of the Petitioner or Sponsoring Company, or if any kind of labor dispute occurs. Such changes can affect both the LCA and the H1B Petition, both of which refer to a specific job and to a specific person.

If you should have any questions about any of the foregoing, please do not hesitate to contact us.

Rev. 2/2023 (SB)