

H-1B1 VISA OVERVIEW

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MELTZER HELLRUNG
IMMIGRATION SOLUTIONS

H-1B1 VISA OVERVIEW

The H-1B1 nonimmigrant classification is for Singaporean and Chilean citizens sponsored by companies working in occupations that require a bachelor's degree or higher in a specific field(s) directly related to the job's duties. The sponsored employee must hold the relevant degree (or its equivalent) that is necessary to work in the sponsored occupation. The H-1B1 classification is similar to the H-1B.

Unlike the H-1B, an H-1B1 candidate can have an application adjudicated at either the USCIS or at a consulate outside the United States. Most individuals apply for H-1B1 visas outside the United States. The H-1B1 can be adjudicated at any U.S. consulate, not just those consulates located in Chile or Singapore.

THE JOB MUST MEET **ONE** OF THE FOLLOWING CRITERIA TO QUALIFY AS A SPECIALTY OCCUPATION:

- Bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position.
- The degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree.
- The employer normally requires a degree or its equivalent for the position.
- The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

Under the H-1B1 classification the sponsoring employer is required to pay at least the prevailing wage for the occupation in the geographic area where the employee will work, as certified by the Department of Labor.

Period of Approval: An H-1B1 approval is valid for up to one year. There is no limit on the number of times an H-1B1 visa can be issued or renewed.

H-1B1 Transfer: The H-1B1 is transferrable among U.S. employers. A new application is needed for each new H-1B1 employer. The employee cannot begin working until the new H-1B1 application is approved. Unfortunately, premium processing is not available for H-1B1 visas. For this reason, most employees submit H-1B1 applications at a consulate.

H-1B1 Extension: Employers can sponsor an extension of H-1B1 status at the USCIS up to six months ahead of the expiration of the current approval. The employee retains work authorization for up to 240 days past the expiration date while an extension is pending. An employee can apply for a new visa stamp at a U.S. consulate at any time.

Eligibility for Green Card: The H-1B1, unlike the H-1B, is a single intent visa. While employees in H-1B1 status can be sponsored for a green card, they are unable to travel outside the U.S. between the time a Form I-140 petition is filed and the time advance parole is issued.

H-1B1 APPLICATION PROCESS

1 Employer opens a case with Meltzer Hellrung



IN ORDER TO GET STARTED, WE NEED THE FOLLOWING:

- Name of candidate
- Email address
- Job title and job description
- Offered salary
- Work location, including name of client if location is a third-party work site, and including home office if applicable
- Resume

2 Meltzer Hellrung files a Labor Condition Application with the Department of Labor



The Department of Labor takes up to seven calendar days to certify the Labor Condition Application (“LCA”). The employer must also maintain a public access file based on the filing of the Labor Condition Application. This public access documentation must include evidence that notice was provided to employees of the filing of the LCA and the method used to document how the wage requirement was determined. Meltzer Hellrung will provide complete guidance regarding the public access file.

3 Meltzer Hellrung reaches out to the sponsored individual to complete an online questionnaire and provide the required documentation



We will email the candidate with instructions to complete this step.

4 Meltzer Hellrung drafts all necessary forms and letters to file the H-1B1 petition



We will send these forms to the employer and candidate for review.

5 When all forms and letters have been finalized and all required documents have been provided, Meltzer Hellrung will submit the completed petition to USCIS



If the candidate is in the United States, we can also submit an H-4 application for all dependents of the candidate.

6 Governmental review of the H-1B1 petition

An H-1B1 application can be adjudicated in one of two ways: either at USCIS or at a consulate outside the United States.



Option 1: USCIS Review

Generally, the USCIS takes several months to review H-1B1 petitions. H-1B1 petitions are not eligible for premium processing service. While most H-1B1 petitions are routinely approved, the USCIS may first issue a Request for Evidence (“RFE”) seeking additional information before issuing a final decision. Should an RFE be issued, USCIS typically provides about three months to respond. We will send clients a list of documents needed to respond to an RFE, should one be issued.

Option 2: Consular Review

Once the application is completed, we will ship the application to the candidate, who can then schedule an appointment at a U.S. consulate. The candidate will take the completed application to the consulate and apply for the visa. The interview at the consulate typically takes under 10 minutes. If the visa is approved, the consulate will stamp the passport and return it to the candidate.

Skip Steps 7 and 8 under this option.

7 Decision of H-1B1 petition

If the petition is approved, USCIS will send the official Form I-797 approval notice to Meltzer Hellrung’s office. We will forward that approval notice to the employer. If the candidate is already in the United States, that person’s status will typically automatically change to H-1B1.



If the petition is denied, we will discuss the options with the employer, including filing an appeal, motion, or refiling the petition.

8 Acquire visa stamp at local U.S. consulate or embassy



This step is only required for individuals who received H-1B1 status through a USCIS petition and are subsequently traveling abroad. Please note a consular appointment is not needed if the person is currently in the U.S. and a change of status is approved. The consular appointment will only be needed when the individual leaves the U.S. In order to enter the United States in H-1B1 status, the candidate must acquire an H-1B1 visa stamp from a consulate or embassy.

For more complete info, see our [consular processing collateral](#).

TO DO SO, THE CANDIDATE MUST TAKE THE FOLLOWING STEPS:

- File Form DS-160 online [here](#)
- Pay consular fee
- Schedule an appointment
- Attend the appointment with the following documents:
 - > Form I-797 approval notice
 - > Copy of H-1B1 petition sent to the USCIS
 - > Passport
 - > DS-160 confirmation
 - > Two most recent pay stubs or employment verification letter

9 Enter U.S. and obtain Form I-94 from Customs and Border Protection



The Form I-94 is digital and can be found [here](#).

DOCUMENT REQUIREMENTS



Please note that we **do not** need originals of any documents for H-1B1 purposes. All documents should be scanned and uploaded to the candidate's Voyager account.

DOCUMENTS REQUIRED FROM EMPLOYER:

- Signed forms
- Recent financial documents, such as tax return, audited financial statement, SEC 10-K filing, or profit and loss statement
- Marketing materials describing the company
- Employment contract with candidate (if applicable)
- Statement of work or client contract if candidate will be placed at a client's work site

DOCUMENTS REQUIRED FROM ALL CANDIDATES:

- Diploma(s)
- Transcripts
- Education evaluation by professional evaluator:
 - › For a USCIS petition: Education evaluation needed if degree(s) were earned at educational institutions outside the U.S.
 - › For a consular application: Education evaluation needed if degree(s) were earned at educational institutions outside the U.S. or Australia
 - › If an evaluation is needed, Meltzer Hellrung can help procure one
- Translations of diploma(s) and transcripts if they are not in English
- Passport and current and prior visa stamps
- I-20 forms if candidate is/was a student in the United States
- EAD card(s) if candidate was ever issued an EAD
- Form I-797 approval notice if candidate previously had a visa application adjudicated by the USCIS
- DS-2019 if candidate was ever in J-1 status

DOCUMENTS REQUIRED FROM CANDIDATES CURRENTLY IN THE UNITED STATES:

- Form I-94 found [here](#)
- Last two pay stubs if candidate is currently employed

DOCUMENT REQUIREMENTS (Continued)



Please note that we **do not** need originals of any documents for H-1B1 purposes. All documents should be scanned and uploaded to the candidate's Voyager account.

DOCUMENTS REQUIRED FROM CANDIDATES CURRENTLY IN THE UNITED STATES AS A DEPENDENT:

- Spouse's passport
- Spouse's Form I-94
- Spouse's Form I-797 notices approval notice(s)
- Spouse's last two pay stubs
- Marriage certificate

DOCUMENTS REQUIRED FOR H-4 VISAS FOR DEPENDENT SPOUSE AND CHILDREN UNDER 21:

- Passport for each person, including U.S. visa stamps
- Form I-94 for each person
- Form I-797 notices, if any
- EAD card(s), if any
- Marriage certificate for spouse
- Birth certificate for child



MELTZER HELLRUNG

IMMIGRATION SOLUTIONS

Meltzer Hellrung challenges conventions to deliver better outcomes.

Founded with the belief that immigration can be a strategic advantage, we understand the complexities of immigration and respond with innovative solutions to meet business and talent needs. Our unique solution - skilled immigration professionals delivering responsive service to clients through Voyager®, our proprietary immigration management platform, delivers the best immigration experience to companies, employees and their families.

