



MELTZER HELLRUNG
IMMIGRATION SOLUTIONS

Transitioning Employees to H-1B Status

September 27, 2023



INTRODUCTION



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 **INTRODUCTION**

- **Founded in 2014, Meltzer Hellrung leverages technology, a service-oriented mindset, and a compassionate approach to assist high-growth corporations in scaling their immigration programs, increasing their access to talent, and expanding operations into new markets.**
- **200+ corporate clients w/3000+ matters handled per year – venture-backed, high-growth unicorns in EdTech, FinTech, SaaS, and Logistics and Fortune 500 companies in insurance, transportation, and manufacturing.**
- **Recognized in 2023 by Crain Magazine as top 100 best places to work in Chicago.**

VOYAGER®



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- **Voyager is an immigration program management software platform that is designed to provide a seamless immigration experience for employers and employees.**
- **The Voyager proprietary platform was created for our clients and their employees and is used by our exceptionally skilled attorneys, paralegals, and legal assistants to fulfill our mission of improving the immigration experience.**
- **Voyager was created to drive efficiency, transparency, and information accessibility throughout the immigration process.**

- **Our all-inclusive platform provides:**
 - Transparency throughout all immigration processes
 - Efficient workflows that will save the user time
 - Lifetime information and data storage
 - Intuitive user experience for employers and employees
 - Comprehensive Knowledge Center

Learn more about Voyager at meltzerhellrung.com/voyager

PRESENTERS



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 **PRESENTERS**

MATTHEW HELLRUNG

Co-Founder and Managing Partner

Specializes in scaling immigration programs for high-growth clients via immigration policy creation and stakeholder training.



MATTHEW MELTZER

Co-Founder and Managing Partner

Specializes in assisting foreign companies to enter the U.S. market and building custom solutions for entrepreneurial and high net-worth clients.

AGENDA



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AGENDA

- **H-1B Lottery Review**
- **Types of H-1B Lottery Approvals**
 - Change of Status Approvals
 - Consular Processing Approvals
- **Material Changes to H-1B Status**
- **H-1B Site Visits**
- **H-1B Extensions**
- **Dependents of H-1B Employees**
- **Green Card Policy Creation**



H-1B LOTTERY REVIEW



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- **Electronic submission between March 1st and 17th**
 - USCIS conducted lottery on March 27th from 780,884 entries
 - 110,800 initial selections due June 30th
 - 77,600 additional selections announced on July 27th due October 31st
- **USCIS prioritizes H-1B lottery petitions for processing, endeavoring to approve all lottery petitions by October 1st**
 - Petitions not approved by October 1st are valid upon approval

TYPES OF H-1B LOTTERY APPROVALS



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Types of H-1B Lottery Approvals

- **Change of Status Approvals**

- Contains an action taken by USCIS to change a foreign national's legal status inside the U.S. on the first day of approval validity (Ex.- F-1 to H-1B on 10/01/2024)
- Easily identified by a detachable I-94 in the bottom righthand corner of the approval

- **Consular Visa Processing Approvals**

- Contains an action taken by USCIS to approve a foreign national's eligibility for a visa status pending consular visa processing at a U.S. embassy or consulate abroad (background check)
- Does not contain a detachable I-94 in the bottom righthand corner of the approval
- Current or prospective employee must undergo consular visa processing to assume requested visa status and resume or start work (Ex.- H-1B, L-1, O-1, etc.)

CHANGES OF STATUS H-1B APPROVALS



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Change of Status H-1B Approvals

- **Typically effective on October 1st or upon approval thereafter by USCIS**
 - Employee changes status automatically on approval validity date without undergoing consular visa processing (Ex.- F-1 to H-1B)
 - If not already working for you, employee should start work for you as close to approval start date as possible (Ex.- L-1 to H-1B)
- **Form I-9 Verification Responsibilities**
 - If existing employee, employer must reverify employee's work eligibility by completing Section 3 of Form I-9 (no E-Verify)
 - If a new employee, employer conducts standard I-9 creation and verification responsibilities, including E-Verify if applicable
- **Tax Withholding Responsibilities**
 - F-1, J-1, M-1, and Q-1 employees are all variably exempt from FUTA and FICA based on substantial presence test (5 years for F-1, 2 years all others)
 - H-1B employees are not exempt from FUTA and FICA withholdings



Change of Status H-1B Approvals

- **Other H-1B Lottery Approval Compliance Considerations**
 - Prevailing wage
 - Work location
 - Job title/description



H-1B CONSULAR PROCESSING APPROVALS



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H-1B Consular Processing Approvals

- **Typically effective October 1st or upon approval thereafter pending consular visa processing**
 - Employee **MUST** undergo consular visa processing to activate H-1B status
- **Consular visa processing**
 - Employee must complete Department of State's Form DS-160 online
 - Schedule a visa stamping appointment at a U.S. embassy or consulate abroad (typically in employee's country of residence/birth)
 - Attending consular processing visa stamping appointment (some visa holders may be exempt due to previously held U.S. visas)
 - If approved, employee will receive H-1B visa passport stamp, allowing employee to travel to U.S. and start work upon arrival or within 30 days



H-1B Consular Processing Approvals

- **Form I-9 Verification Responsibilities**

- If existing employee, employer must reverify employee's work eligibility by completing Section 3 of Form I-9 (no E-Verify)
- If a new employee, employer conducts standard I-9 creation and verification responsibilities, including E-Verify if applicable

- **Tax Withholding Responsibilities**

- F-1, J-1, M-1, and Q-1 employees are all variably exempt from FUTA and FICA based on substantial presence test (5 years for F-1, 2 years all others)
- H-1B employees are not exempt from FUTA and FICA withholdings

- **Other H-1B Lottery Approval Compliance Considerations**

- Prevailing wage
- Work location
- Job title/description

MATERIAL CHANGES TO H-1B STATUS



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Material Changes to H-1B Status

- **Worksite relocation (office or home) outside the listed metropolitan area**
 - Any permanent or semi-permanent worksite move beyond 60 business days requires an amendment H-1B petition to be filed
- **Significant change in employee's job title/description**
 - A major shift in an employee's job title and description may require an H-1B amendment (Ex.- accountant to operations analyst)
- **Significant change in employee's salary**
 - Any changes below the offered wage should be discussed with counsel
 - Changes from full-time to part-time, or vice versa
- **Corporate merger or acquisition**
- **Termination of employee**

H-1B SITE VISITS



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H-1B Site Visits

- **USCIS' Fraud Detection and National Security Directorate (FDNS) conducts random worksite visits**
 - Site visits are used to collect evidence to corroborate H-1B lottery petition details filed with USCIS
 - Site visits can be with or without warning and result in additional documents being requested such as pay records, etc.
- **FDNS site visit best practices**
 - Internally or with counsel, create a site visit plan-of-action policy
 - Always check FDNS inspector ID and record identifying information (Ex.- Employee or badge number)
 - Ask that any document requests or questions be sent via email after the interaction to be reviewed internally or with counsel
 - Place FDNS officer in a conference room and bring the employee in question to the officer

H-1B EXTENSIONS



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 **H-1B Extensions**

- **H-1B lottery approvals are typically valid for 3 years of H-1B status, up to a total of 6 years of H-1B status**
- **H-1B Extension petitions can be filed up to 180 days before the H-1B approval expiration date**
- **Meltzer Hellrung recommends initiating H-1B extensions 210 days before the H-1B approval expiration date**

DEPENDENTS OF H-1B EMPLOYEES



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Dependents of H-1B Employees

- **Any legal spouse or child under the age of 21 can assume H-4 dependent status with employee's H-1B**
- **Dependents can acquire H-4 status by filing a change of status (Form I-539) with the employee's H-1B or by applying for an H-4 visa at a U.S. embassy or consulate abroad via consular visa processing**
 - Please notify Meltzer Hellrung about dependent family members if we did not file an H-4 petition, so we can track expiration dates
- **H-4 dependents are issued individual I-94s dictating their H-4 status and they must file extensions of H-4 status, typically along with the employee's H-1B extension**

GREEN CARD POLICY CREATION



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Green Card Policy Creation

- **H-1B visas have a 6-year maximum validity period**
- **To avoid an H-1B employee max-out, employers should consider sponsoring the employee for a green card**
- **To account for this future “employee ask” and reduce turnover due to green card sponsorship restrictions, employers should consider creating a green card sponsorship policy**
 - Employers should at least be prepared to discuss when individual employees are eligible for green card sponsorship and what performance metrics may need to be met.

QUESTIONS?



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ADDENDUM




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Home

 MY PROCESS REQUESTS



+

MARK




Welcome back, **Mark**
Here is today's snapshot

Today's date is:

January 18, 2023

2

OPEN CASES >


1

TASK >

1

PROCESS REQUEST >


My Tasks VIEW ALL TASKS

ACTION	COMPANY	NAME	PROCESS	DEADLINE
Upload Documents (Employer)	Atom LLC	Chris Neutron	H-1B	 Overdue

Recent Cases VIEW ALL CASES


COMPANY	NAME	CREATED	CASE NUMBER	PROCESS	STATUS	PHASE
Atom LLC	Chris Neutron	1/12/23	0074-0001-1	H-1B	Open	Data Collection
Atom LLC	Stephanie Proton	1/12/23	0074-0002-1	PERM: Green Card	Open	Recruitment

Upcoming Status Expirations



Chris Neutron

wevibin+ion@shankhri.com



Atom LLC

H-1B

Exp: 2/17/23

Immigration Preferences

Ship Original Approval Notices

- Company

Provide Permission to Release Copies of ETA 9089's (PERM) to Employees

- Yes

Provide Permission to Release Copies of Petitions and RFE Responses to Employees

- No

Meltzer Hellrung Email Communications With Employees

- A company representative will only be copied on information impacting the company, but will be left off on communication that does not impact the company.

Payment Preferences

Email Address Invoices Should Be Addressed To

- finance@atom.com

Payment Preference

- ACH

Preference for Employees to Pay for Any Part of the Green Card Process

- No

Company Covers the Expense of Dependent EAD Cards

- No

Name Invoices Should Be Addressed To

- Chris Charge

Utilize Premium Processing Service, When Available

- Only on a case-by-case basis

Company Covers the Expense of Dependent Petitions

- Yes

Education Evaluation

- Meltzer Hellrung should reach out to the company to secure permission before requesting an evaluation from vendor

Job Description

EDIT

- Job Title**
Android Software Engineer - Design Systems
- Job Duties**
 - Leverage and elevate our reusable Android component library, to improve the speed and consistency of our designers and engineers, raising the quality of our products
 - Iterating and contributing to the design process, by collaborating with other engineers, designers, product managers, and UX researchers
 - Understand and support the work of other engineers and designers by providing education and mentorship to other teams.
 - Enhance tools and establish patterns to improve developer experience
 - Help us achieve its mission by making sure it's accessible and usable by everyone
- Requirements for Position**
 - Experience with Kotlin and knowledge of Android design patterns
 - Preferable experience in developing Custom View components.
 - Portfolio of published applications on GitHub and/or Play Store
 - Experience with integrating back-end services esp. GraphQL feed integration.
 - Familiarity with push notifications, APIs and cloud messaging
 - Experience with continuous integration
 - Experience working with other Android developers as part of a team
 - Experience with entire product lifecycle duties in an Agile environment
 - Excellent critical thinking, problem solving and communication skills
 - Knowledge of Accessibility (a11y) best practices
 - Excellent written and verbal communication skills
- Degrees Required**
Bachelors, Masters
- Majors Required**
Computer Science or Related Field

SHOW ADVANCED OPTIONS





Start a New Process Request ×

Start Request Select Process Add Details Complete Request

What are the details of this employee's job position?

Job Details

EXISTING JOB CREATE NEW JOB

Offered Salary *
\$145,000

Job Title, Description *
Android Software Engineer - Design Systems

Individual's Start Date *
03/30/2023

Employee's Physical Working Address *
Where is this person physically working from?

1 E Wacker Dr
Suite 3700
Chicago, IL
60601
United States of America

Working Remotely

← NEXT →




M|H
Cases
MY PROCESS REQUESTS
MARK

CASE COMMENTS

We need to look into dependent petition costs.

Jan 12 at 3:06 pm

PERM- Green Card 0074-0002-1 Atom LLC



Stephanie Proton ✉

H-1B Exp. 3/9/23

OPEN

OVERVIEW
TASKS
DOCUMENTS
FORMS
CASE DETAILS
ACTIVITY

Overview




Case Opening
Data Collection
File Prevailing Wage Request
Recruitment
PERM Submission
I-140 Preparation
File I-140
Next Steps
Final Decision

Key Dates

- ✓ Prevailing Wage Request Filing 1/12/23
- PERM Filing Due 1/23/23
- I-140 Filing Due 7/13/23

Open Tasks

You have no tasks to complete 0

-  Shankhri Balaji 5
-  Ruth Ginsburg 1
-  Stephanie Proton 2


Prevailing Wage Case

PWR Case No.
G-100-12345-123456 CHECK

Receipt Numbers

USCIS Receipt No. ETA Case No.
ABC-12-123-12345 A-12345-67890




H-1B Lottery Change of Status
Bachelor's Degree
0074-0001-2
Atom LLC



Chris Neutron ✉


H-1B Exp. 2/17/23

OPEN






OVERVIEW
TASKS
DOCUMENTS
FORMS
CASE DETAILS
ACTIVITY

Overview




Case Opening
Data Collection
Lottery Submission
Lottery Decision
LCA Filing
Forms Preparation
Application Submission
Awaiting Receipt
Final Decision




Key Dates

Lottery Registration 1/18/23




Open Tasks


You have no tasks to complete 0




Cynthia Coulange 2



Ruth Ginsburg 5




Chris Neutron 1




Case Preparation

Lottery Submission Only




Selection Status

Awaiting Selection Notice




Shipment Tracking

No shipments.






















Receipt Numbers


Selection Notice No.	USCIS Receipt No.
-	-



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39

<input checked="" type="checkbox"/>	Enter Foreign National into USCIS Account	Lottery Process	 Cynthia Coulange	 Completed 1/18
<input checked="" type="checkbox"/>	Review Foreign National's Lottery Details in USCIS Account	Lottery Process	 Mark Nucleus	 Completed 1/18
<input checked="" type="checkbox"/>	Submit Lottery Registration via USCIS Account	Lottery Process	 Cynthia Coulange	 Completed 1/18
<input type="checkbox"/>	Confirm Foreign National Selection in USCIS Account	Lottery Process	 Cynthia Coulange	 1/18 - 2/8
<input type="checkbox"/>	Upload Foreign National Lottery Selection Notice from USCIS Account	Lottery Process	 Cynthia Coulange	 Today
	Notify Employer of Foreign National Lottery Selection Status Blocked by: Upload Foreign National Lottery Selection Notice from USCIS Account	Lottery Process	 Cynthia Coulange	 1/19 - 1/20
	Confirm Foreign National Notification Method Blocked by: Upload Foreign National Lottery Selection Notice from USCIS Account	Lottery Process	 Cynthia Coulange	 1/19 - 1/23
	Notify Foreign National Blocked by: Confirm Foreign National Notification Method	Lottery Process	 Ruth Ginsburg	 1/23 - 1/24

 **Education**

 **Diploma(s), Degree(s)** Upload all documents with translations (if applicable). 


[Replica_University_Diploma.jpeg](#) – Uploaded on 1/12/2023

 **Educational Evaluations** Upload all educational evaluation documents. **UPLOAD** 


 [Dec 2022](#) – Uploaded on 1/18/2023

 [Jan 2023.pdf](#) – Uploaded on 1/12/2023

 **School Marks and Transcripts** Upload all school marks and transcripts. **UPLOAD** 



Resources

MY PROCESS REQUESTS
+
MARK


Quick Shortcuts

- [DOS visa appointment wait times](#) >
- [M-274](#) >
- [NACo County Explorer](#) >
- [O*NET](#) >
- [OOH](#) >
- [PERM](#) >
- [USCIS processing times](#) >
- [Visa bulletin](#) >

Knowledge Center

ADJUSTMENT OF
STATUS
INTERVIEW TIPS
(EMPLOYMENT)


ADJUSTMENT OF
STATUS
INTERVIEW TIPS
(FAMILY)

ADJUSTMENT OF
STATUS OVERVIEW

B-1 OVERVIEW


CONSULAR
PROCESSING TIPS

Recent Developments




Final Phase of I-140 Premium Processing Expansion to be Implemented by USCIS

JAN 13, 2023



Department of Homeland Security Proposes Fee Increase for Petitions

JAN 10, 2023



COVID Test Required if Traveling from China Effective January 5th

JAN 4, 2023