

OVERVIEW OF THE L-1



MELTZER HELLRUNG
IMMIGRATION SOLUTIONS

OVERVIEW OF THE L-1

The L-1 nonimmigrant classification enables a U.S. employer to transfer an executive, manager, or professional employee with specialized knowledge relating to the organization's interests from one of its related foreign offices to one of its offices in the United States.

TO QUALIFY FOR L-1 CLASSIFICATION IN THIS CATEGORY, THE EMPLOYER MUST:

- ⇒ Have a qualifying relationship with a foreign company (parent company, branch, subsidiary, or affiliate, collectively referred to as qualifying organizations); and
- ⇒ Currently be, or will be, doing business as an employer in the United States and in at least one other country directly or through a qualifying organization for the duration of the Employee's stay in the United States as an L-1. While the business must be viable, there is no requirement that it be engaged in international trade.

Doing business means the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad. Passive investment alone, such as stock or land purchases, will not suffice as doing business for the purpose of an L-1 visa.

L-1A

TO QUALIFY, THE NAMED EMPLOYEE MUST:

- ⇒ Generally have been working for a qualifying organization abroad for one continuous year within the three years immediately preceding his or her application to the United States; and
- ⇒ Be seeking to enter the United States to provide service in an executive or managerial capacity for a branch of the same employer or one of its qualifying organizations.

Executive capacity: Generally, executive capacity refers to the employee's ability to make decisions of wide latitude without much oversight. Employees in executive roles typically receive only general supervision from higher-level executives, the board of directors, or stockholders of the organization. Executive employees are responsible for establishing the goals and policies of the organization, department, or function.

Managerial capacity: Generally managerial capacity can refer to two types of managers — staff managers and functional managers.

Staff Managers: Staff managers supervise and control the work of professional employees and manage the organization, department, subdivision, function, or component of the organization. Subordinates of a staff manager must be professionals (possessing at least a bachelor's degree) or managers themselves.

Functional Managers: Functional managers oversee an essential function of the organization at a high level, without direct supervision of others. Functional managers have discretion over the day-to-day operations of their function but are relieved from non-qualifying operational duties. These employees manage an area of the organization that is critical to the overall operations of the entity. Examples of a functional manager include a Chief Financial Officer who oversees outside accountants and book keepers but does not have any direct reports within the organization, or a Procurement Director who does not have any direct reports, but rather delegates portions of the function to other teams and outside vendors.

L-1B

TO QUALIFY, THE NAMED EMPLOYEE MUST:

- ⇒ Generally have been working for a qualifying organization abroad for one continuous year within the three years immediately preceding his or her application to the United States; and
- ⇒ Be seeking to enter the United States to provide services in a specialized knowledge capacity to a branch of the same employer or one of its qualifying organizations.

Specialized knowledge means either high-level or unique level understanding possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application, or an advanced level of knowledge or expertise in the organization's processes and procedures. Specialized knowledge is a difficult term to define and requires an exploration of the company's technology, individual employee's history and role for each petition.

USCIS L-1 APPLICATION PROCESS OVERVIEW

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 both at the U.S entity and foreign entity
- Information regarding subordinates and projects
- Offered salary at the U.S. location and current salary at the foreign entity
- Work location, including name of client if location is a third-party work site
- Resume
- Proposed start date

2 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.

3 Meltzer Hellrung drafts all necessary forms and letters to file the L-1 petition



We will forward these forms and letters to the employer for review. The employer may choose to share these draft documents with the employee. This step may require multiple rounds of document edits depending on the complexity of the case. This step represents one of the most time-consuming portions of the process.

4 Once all forms and letters have been finalized and all required documentation provided, Meltzer Hellrung will ship the completed petition to USCIS



We can also prepare L-2 petitions for all dependent family members (spouse and children under 21 years of age) of the applicant. For petitions submitted to USCIS, an I-539 petition will need to be filed on behalf of his/her dependents that are currently in the U.S.

5 USCIS review of the L-1 petition



Generally, USCIS takes several months to process L-1 petitions unless the employer chooses to add premium processing for an additional government filing fee, which requires USCIS to issue a response within 15 calendar days. Once filed USCIS may not immediately approve a petition. USCIS may first issue a Request for Evidence (“RFE”). Should an RFE be issued, USCIS provides about three months to respond. If we receive an RFE, we will analyze the RFE and reach out to the respective parties with a list of documents needed. Once received, we will draft the response and submit to USCIS. Once submitted, USCIS typically issues a decision within 60–90 days, unless premium processing has been added. For L-1 petitions with premium processing, USCIS will issue a decision within 15 days of receiving the RFE response.

6 Post filing outcomes

Approval

USCIS will approve L-1 petition and will issue an I-797 approval notice. If the approval notice is issued on Form I-797A, it will have an I-94 located on the bottom of the notice. Visa stamping is not required unless the employee has a trip abroad scheduled and does not have a valid L-1 visa stamp in his/her passport.



If the approval was issued on Form I-797B for consular processing and does not have the I-94 on the bottom of the notice, the employee will need to attend a visa stamping interview abroad, obtain the L-1 visa stamp, and enter the U.S., presenting that stamp, in order to utilize L-1 status.

The employer will receive an I-797C, a courtesy copy informing employer of the approval.

Denial

USCIS can determine that the L-1 petition is not approvable. Typically, an RFE is issued prior to a denial. If USCIS denies the L-1 petition, a written decision is issued outlining the reasons for denial. If a denial is received, Meltzer Hellrung, employee, and employer will have a post-decision call to determine if there were any deficiencies in the application and the next steps for moving forward.



CANADIAN L-1 APPLICATION PROCESS OVERVIEW

Please note that only initial Canadian L-1 Applications will be filed directly with Customs and Border Protection officers at a port of entry. Extensions will follow the process outlined on the previous pages for filings with USCIS.

1 Employer opens a case with Meltzer Hellrung



IN ORDER TO OPEN A CASE, WE NEED THE FOLLOWING INFORMATION:

- Name of candidate
- Email address
- Job title and job description both at the U.S entity and foreign entity
- Information regarding subordinates and projects
- Offered salary at the U.S. location and current salary at the foreign entity
- Work location, including name of client if location is a third-party work site
- Resume
- Proposed start date

2 Meltzer Hellrung reaches out to the employee to complete an online questionnaire and provide the required documentation



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

3 Meltzer Hellrung drafts all necessary forms and letters to file the L-1 petition



We will forward these forms and letters to the employer for review. The employer may choose to share these draft documents with the employee. This step may require multiple rounds of document edits depending on the complexity of the case. This step represents one of the most time-consuming portions of the process.

4 Once all forms and letters have been finalized and all required documentation provided, Meltzer Hellrung will ship the completed petition to USCIS



We can also prepare L-2 petitions for all dependent family members (spouse and children under 21 years of age) of the applicant.

5 CBP review of the L-1 petition



Once the application is completed, we will ship the application to the employee, who can then apply for the L-1 visa directly at a border crossing or pre-flight inspection prior to entering the U.S. We recommend arriving at the airport at least 4 hours prior to your flight. The interview typically takes 5–7 minutes, and the officer will let you know immediately whether the petition is approved or denied.

Individuals should consult Meltzer Hellrung regarding where to apply for their visas. Many ports of entry are not staffed with CBP officers familiar with the L-1 regulations.

6 Post filing outcomes

Approval

The officer will review the package prepared by Meltzer Hellrung and ask the applicant questions regarding the company, position, and the applicant's qualifications. Upon review of the information, the officer may approve the petition and allow the candidate to proceed with entering the U.S. on the L-1 visa.



Withdrawal/Denial

The officer may determine that the L-1 visa is not clearly approvable due to the employee's responses or the materials in the application. The officer may not explain his/her decision. The applicant should request a written document for the denial and forward this documentation to Meltzer Hellrung. If during this time, the officer provides the applicant with an opportunity to withdraw the application, we recommend withdrawing the application. In the case of denial, the Meltzer Hellrung attorney, the applicant, and the employer will have a phone call to discuss next steps.



BLANKET L-1 APPLICATION PROCESS OVERVIEW

In order to utilize this expedited application process directly at the U.S. consulate abroad, the company must have a Blanket L Approval Notice.

IN ORDER TO BE ELIGIBLE FOR THE BLANKET L, THE FOLLOWING CRITERIA NEED TO BE MET:

- ⇒ Petitioner and each of the qualifying organizations (parent, subsidiary, or affiliates) engaged in commercial trade or services;
- ⇒ Petitioner has an office in the U.S. which has been doing business for at least one year;
- ⇒ Petitioner has three or more domestic and foreign branches, subsidiaries, and affiliates; and
- ⇒ One of the following criteria:
 - Obtained at least 10 L-1 approvals during the previous 12-month period;
 - Combined annual sales of at least \$25 million in the U.S.; or
 - U.S. workforce of at least 1,000 employees.

1 Employer opens a case with Meltzer Hellrung



IN ORDER TO OPEN A CASE, WE NEED THE FOLLOWING INFORMATION:

- Name of candidate
- Email address
- Job title and job description both at the U.S entity and foreign entity
- Offered salary at the U.S. location and current salary at the foreign entity
- Work location, including name of client if location is a third-party work site
- Resume
- Proposed start date

2 Meltzer Hellrung reaches out to the employee to complete an online questionnaire and provide the required documentation



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

3 Employee completes the Form DS-160 and forwards to Meltzer Hellrung for review prior to submission



Employee completes the Form DS-160 at ceac.state.gov/genniv and forwards login information to Meltzer Hellrung attorney to review prior to submission. After Meltzer Hellrung reviews the DS-160, employee will be asked to submit the DS-160. Meltzer Hellrung will provide timeline for scheduling the visa stamping appointment

4 Employee will submit DS-160, pay MRV fee, and schedule consular interview appointment and notify Meltzer Hellrung of the appointment date



In some countries there are specific consulates that are designated to review Blanket L-1 applications. In addition to the L-1 interview appointments, applicants in Mexico and India, will also need to attend a Visa Application Center (VAC) appointment.

5 Meltzer Hellrung drafts all necessary forms and letters to file the L-1 Blanket petition



We will forward these forms and letters to the employer for review. The employer may choose to share these draft documents with the employee. This step may require multiple rounds of document edits depending on the complexity of the case. As such, this tends to be the most time-consuming step in the process.

6 Once all forms and letters have been finalized and all required documentation provided, Meltzer Hellrung will ship the completed to petition to the employee



We can also prepare L-2 petitions for all dependent family members (spouse and children under 21 years of age) of the applicant. For applications at the consulate, dependent family members will need to complete the Form DS-160 and supporting documentation will be included in the primary application package.

7 Preparation phone call with applicant



Prior to attending the consular appointment, the applicant and Meltzer Hellrung will have a 15-minute phone call to discuss the interview process.

8 Attending the Consular Appointment

We recommend wearing business casual attire to the appointment. The interview itself will last about 6–8 minutes. At the interview, it is important to appear calm and confident. The consular officer will review the application Meltzer Hellrung prepared and ask questions regarding the purpose of the trip, the offered position, and the employee's background.



9 Post filing outcomes

Approval

Officer will approve L-1 petition, will provide employee with endorsed I-129S, and employee will receive an L-1 visa stamp in passport within a few business days. Upon issuance of the L-1 visa stamp, the employee may proceed with entering the U.S. and beginning employment with the company. The I-94 record which governs the applicant's period of authorized stay is issued electronically and can be found at tinyurl.com/record-i-94. Please forward a copy of the endorsed I-129S, I-94 and L-1 visa stamp to Meltzer Hellrung upon entry.



221(g) or "Administrative Processing"

Officer may determine that the L-1 is not immediately approvable and may ask employee for additional documentation or may simply place the application through additional review. Process can take up to 60 days to receive approval.



Denial

Officer may determine the L-1 is not clearly approvable due to employee's responses or the material in the application. Officer may not explain his/her decision. Employee should request a written document for the denial and forward this documentation to Meltzer Hellrung. In the case of a denial, Meltzer Hellrung, employee, and employer will have a post-decision call to determine if there were any deficiencies in the application or interview responses.



L-1 APPLICATION DOCUMENT REQUEST OVERVIEW



L-1A EXECUTIVE, FUNCTIONAL, OR STAFF MANAGER DOCUMENTS REQUESTS DOCUMENTS TO BE PROVIDED BY EMPLOYEE:

- Non-blank pages of passport
- Documentation of any previous U.S. immigration status (I-797 approval notices, electronic I-94 if already in the U.S.)
- Diplomas and Transcripts (consolidated mark sheets preferred), if available
- Resume
- Certifications or awards, technical training in company's process and technologies
- Manager letter signed by foreign manager (template will be provided)
- Organizational chart showing employee's foreign position
 - It should specifically identify where the employee is, who they manage (by name, position title, and education level), and who they report to. This chart should include the c-suite executive of the function/dept.
- 1 year of the employee's foreign pay stubs to prove tenure at the foreign entity
- Emails/proof of communication from employee to direct/indirect reports showing managerial authority; may also show recommendations on salary, vacation, termination
- U.S. Manager letter detailing the need for the employee's transfer to the U.S. and proposed position (template will be provided)
- Organizational chart of the employee's proposed position in the U.S.
 - It should specifically identify where the employee is, who they manage (by name, position title, and education level), and who they report to. This chart should include the c-suite executive of the function/dept

L-1 APPLICATION DOCUMENT REQUEST OVERVIEW (continued)



DOCUMENTS TO BE PROVIDED BY COMPANY:

- Diplomas/resumes of direct and indirect reports of U.S. entity (if available)
- Diplomas/resumes of direct and indirect reports of foreign entity
- 3 most recent redacted pay stubs, most recent W-2, and/or signed employment contract or offer letter for reports of U.S. and foreign entity
- Documents regarding contracts, purchase orders, MSAs
- Documents regarding marketing materials, presentations, press releases, pitch slide decks, brochures, process outlines, etc.
- Documents about the company/proprietary product in journals and technical publications, white papers
- Patents for proprietary products
- Documents about company financials, corporate structure, and Blanket L Approval Notice (if available)

L-1B SPECIALIZED KNOWLEDGE TRANSFEREE



DOCUMENTS TO BE PROVIDED BY EMPLOYEE:

- Non-blank pages of passport
- Documentation of any previous U.S. immigration status (I-797 approval notices, electronic I-94 if already in the U.S.)
- Diplomas (Must have a degree if a Blanket L application), Transcripts (consolidated mark sheets preferred)
- Resume
- Certifications or awards, technical training in company's process and technologies
- Manager letter signed by foreign manager (template will be provided), describing:
 - Proprietary product
 - Employee's tenure with foreign entity
 - Employee's unique and expert-level knowledge of proprietary product (specific area preferred)
- Organizational chart showing employee's foreign position.
 - Should specifically identify who the employee reports, on what team, and education levels. This chart should include at least the c-suite executive of the function/dept.
- 1 year of the employee's foreign pay stubs to prove tenure at the foreign entity
- U.S. Manager letter detailing the need for the employee's transfer to the U.S. (template will be provided)
- Organizational chart of the employee's proposed position in the U.S.
 - It should specifically identify who the employee reports, on what team, and education levels. This chart should include at least the c-suite executive of the function/dept.
- Technical documentation
 - Provide technical documentation of the employee's specialized knowledge in the product and the company's processes, including timelines, screenshots of the product, graphics showing overall process at high-level and at the micro level. This list is not exhaustive.
- This could be shown by a graphic/example — and then a short description of what is being depicted and what the result is/will be and how it contributes to the success of the company.
- Or it could be a project write-up which would include: the name, man hours, timeline, description, process, result and benefit and then provide the corresponding examples (if available), quantify everything when possible.
 - This technical documentation needs to establish: the employee was given a significant assignment, which have enhanced the company's product, reputation, financial position, etc.; and that the knowledge acquired at the foreign entity is extensive, expert-level, and could only be acquired through experience at the foreign company.

L-1B SPECIALIZED KNOWLEDGE TRANSFEREE (continued)



DOCUMENTS TO BE PROVIDED BY COMPANY:

- Documents regarding contracts, purchase orders, MSAs
- Documents regarding marketing materials, presentations, press releases, pitch slide decks, brochures, process outlines, etc.
- Documents about the company/proprietary product in journals and technical publications, white papers
- Patents for proprietary products
- Documents about company financials, corporate structure, and Blanket L Approval Notice (if available).