



**Re: H-1B Employer Information Sheet**

H-1B is a nonimmigrant temporary worker visa classification for specialty occupation workers granted to your employee based on your company's petition/request to U.S. government. This information sheet contains information and obligations that H-1B employers must be aware before sponsoring an H-1B employee.

1. Labor Condition Application (LCA)

Prior to filing H-1B petition, an employer must file a labor condition application with the U.S. Department of Labor (DOL) and certify the following:

- Your company will pay at least the local prevailing wage or the actual wage, whichever is higher, pay for non-productive time, and offer same benefits as U.S. workers.
- H-1B's employee's working conditions will not adversely affect the working conditions of other similarly employed workers.
- There is no strike, lockout, or work stoppage in the job position.
- Notice to union or to worker has been or will be provided and that a copy of the LCA will be provided to the H-1B employee. LCA notice (or LCA) must be posted with required information in two conspicuous locations at the work site for at least 10 consecutive business days. For a union position, the notice must be provided to the appropriate bargaining representative.

DOL usually certifies the LCA within 7 business days. If this is your company's first H-1B petition, DOL must first verify your company's Federal Employer Identification Number (FEIN), which may take an additional 5 business days.

2. Public Access File

The employer must maintain a "public access file" for a public inspection for each H-1B worker as soon as the employer files the LCA. The file should be located at the employer's principal place of business or at the location where the H-1B worker will be employed. The file must contain following documents:

- Completed LCA copy
- Rate of pay for the H-1B worker
- Description or summary of the actual wage system
- Prevailing wage rate and its source
- LCA notice copy (hard copy posted or electronic notice)
- Summary of benefits offered to U.S. workers in the same occupational classification (and explanation for any differences, if any)



If your company undergoes a corporate structure change or if your company is an H-1B dependent employer/willful violator, additional documents may be necessary.

The public access file need not contain confidential or proprietary information such as actual wage data or payroll record. However, that information must be retained for possible enforcement purpose.

### 3. H-1B Petition

The H-1B petition packet will be accompanied by Form I-129, H Supplement, and Data Collection Supplement. The packet will also include a letter describing the job duties to be performed in detail. The position must require theoretical and practical application of a body of highly specialized knowledge and a bachelor's or higher degree in the specific specialty.

The government filing fee for H1B may range from \$460 to \$3,685 depending on several factors, including the number of full-time employees, initial/extension/transfer/amend H-1B petition, premium processing request, and the number of your current H-1B or L-1 employees. Typical H-1B filing fee is either \$1,710 (less than 25 full-time U.S. employees) or \$2,460 (25 or more full-time U.S. employees).

Cap-subject H-1B should be filed before June 30, if selected, to start H-1B employment on October 1. Usually, USCIS issues a receipt notice within 2 weeks of case filing. However, it is common for USCIS to take 1 month or more to issue the initial receipt notice if there is an H-1B lottery. USCIS will take about 3-6 months to review the H-1B petition.

For cap-exempt H-1B, the employer may submit the H-1B petition at any time during the year. New H-1B employee may start employment from the start date. Or, in the case of H-1B change of employer request, the employee may begin working for the new employer upon filing (more preferably upon receipt of H-1B receipt notice).

USCIS may approve H-1B petition for up to 3 years per petition for a total maximum of 6 years. After 6 years, H-1B worker must leave the U.S. for at least one year prior to obtaining the H-1B status again. However, H-1B status may be extended beyond 6 years in limited circumstances.

### 4. Post-approval Obligations

The employer has several obligations after the H-1B approval. Material changes to the H-1B petition, such as worksite change or a significant change in job duty, will require an amended H-1B petition. Also, the employer must complete I-9 at the start of employment.



**SONG & MENG LLP**  
IMMIGRATION LAWYERS

Address: 800 S. Barranca Ave. Suite 328  
Covina, CA 91723  
Phone: (626) 339-9363  
E-mail: [info@songmenglaw.com](mailto:info@songmenglaw.com)  
Website: [www.songmenglaw.com](http://www.songmenglaw.com)

The employer may not bench H-1B employees. If the employer lays off the H-1B worker prior to the end of H-1B period, the employer may be obligated to pay the costs of return transportation to the H-1B worker's home country.

Failure to meet its obligation can result in fines, penalties, back wages payment, and debarment from sponsoring foreign workers for an extended period.

If you have any question or concern, please do not hesitate to contact us. Thank you.

Sincerely,

Song & Meng LLP