

TABLE OF CHANGES – INSTRUCTIONS
Form I-129, Petition for a Nonimmigrant Worker
OMB Number: 1615-0009
01/22/2016

Reason for Revision: AC21 NPRM.

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Pages 7-18, Part 1. Petition Always Required	<p>[Page 8]</p> <p>General H-1B Requirements</p> <p>Three relevant laws impacting the filing of H-1B and/or L visa petitions; include:</p> <p>1. The American Competitiveness and Workforce Improvement Act (ACWIA), Public Law 105-277 (signed into law on October 21, 1998);</p> <p>2. The Visa Reform Act of 2004 (signed into law on December 8, 2004); and</p> <p>3. Public Law 111-230 (signed into law on August 13, 2010), as amended by Public Law 111-347 (signed into law January 2, 2011).</p>	<p>[Page 8]</p> <p>General H-1B Requirements</p> <p>[no change]</p> <p>2. The H-1B Visa Reform Act of 2004 (signed into law on December 8, 2004); and</p> <p>3. Public Law 114-113 (signed into law on December 18, 2005).</p>

	<p>Because of ACWIA, H-1B and H-1B1 free trade nonimmigrant petitioners must complete the H-1B Data Collection and Filing Fee Exemption Supplement, which is part of this petition. We use this supplement (formerly issued separately as Form I-129W) to collect additional information about the H-1B nonimmigrant workers and the H-1B petitioners, and to determine the applicability of fees mandated by the ACWIA, Visa Reform Act, and/or Public Law 111-230. Moreover, H-1B and H-1B1 petitioners must complete the H-1B Data Collection and Filing Fee Exemption Supplement to determine applicability of the fees mandated under section 214(c)(9) and (12) of the INA, the ACWIA, H-1B Visa Reform Act, and/or Public Law 111-230, as amended by Public Law 111-347.</p> <p>[Page 9]</p> <p>A petitioner seeking initial approval of H-1B or L nonimmigrant status for a beneficiary, or seeking approval to employ an H-1B or L nonimmigrant currently working for another employer, must submit an additional \$500 Fraud Prevention and Detection fee. This fee does not apply to H-1B1 petitions. The Form I-129 will serve as the vehicle for collection of the \$500 fee.</p> <p>Those petitioners required to submit the \$500 Fraud Prevention and Detection fee are also required to submit either an additional \$2,000 (H-1B) or \$2,250 (L-1) fee mandated by Public Law 111-230, as amended by Public Law 111-347, if:</p> <ol style="list-style-type: none"> 1. The petitioner employs 50 or more individuals in the United States; 2. More than 50 percent of those employees are in H-1B or L-1A or L-1B nonimmigrant status; and 3. The petition is filed before October 1, 2015. <p>The Fraud Prevention and Detection Fee and Public Law 111-230 fee, when applicable, may not be waived. Each fee</p>	<p>Because of ACWIA, H-1B and H-1B1 free trade nonimmigrant petitioners must complete the H-1B Data Collection and Filing Fee Exemption Supplement, which is part of this petition. We use this supplement (formerly issued separately as Form I-129W) to collect additional information about the H-1B nonimmigrant workers and the H-1B petitioners, and to determine the applicability of fees mandated by ACWIA (INA section 214(c)(9)), the H-1B1 Visa Reform Act of 2004 (INA section 214(c)(12)), and Public Law 114-113.</p> <p>A petitioner seeking initial approval of H-1B or L nonimmigrant status for a beneficiary, or seeking approval to employ an H-1B or L nonimmigrant currently working for another employer, must submit an additional \$500 Fraud Prevention and Detection fee. This fee does not apply to H-1B1 petitions. The Form I-129 will serve as the vehicle for collection of the \$500 fee.</p> <p>Those petitioners required to submit the \$500 Fraud Prevention and Detection fee are also required to submit either an additional \$4,000 (H-1B) or \$4,500 (L-1) fee mandated by Public Law 114-113, if:</p> <p>[no change]</p> <ol style="list-style-type: none"> 3. The petition is filed on or after December 18, 2015. <p>[Page 9]</p> <p>The Fraud Prevention and Detection Fee and Public Law 114-113, when</p>
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	<p>should be submitted by separate check or money order.</p> <p>To determine if they are subject to any of these three fees, petitioners must complete the H-1B and H1B1 Data Collection and Filing Fee Exemption Supplement discussed below.</p> <p>H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement</p> <p>...</p> <p>2. Determine the appropriate American Competitiveness and Workforce Improvement Act (ACWIA) fee. The ACWIA Fee is a training fee meant to fund the training of U.S. workers. But if the employer has fewer than 25 full-time employees, they must pay only one-half of the required fee at INA 214(c)(9)(B). It also helps to determine whether the beneficiary is subject to the H-1B numerical limitation (also known as the H-1B Cap). Please note that the ACWIA fee may not be assessed to the beneficiary.</p> <p>...</p> <p>[Page 10]</p> <p>Completing Section 2. of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplemental Form</p> <p>...</p> <p>2. The employer is a nonprofit organization or entity related to, or affiliated with an institution of higher education as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. 100(a) are defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. 1001(a). Such nonprofit organizations or entities include, but are not limited to, hospitals and medical research institutions;</p> <p>NOTE: “Related to” or “affiliated with” means the entity is:</p> <p>A. Connected or associated with the institution of higher education through shared ownership or control by the same</p>	<p>applicable, may not be waived. Each fee should be submitted by separate check or money order.</p> <p>To determine if they are subject to any of these fees, petitioners must complete the H-1B and H1B1 Data Collection and Filing Fee Exemption Supplement discussed below.</p> <p>H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement</p> <p>...</p> <p>2. Determine the appropriate American Competitiveness and Workforce Improvement Act (ACWIA) fee. The ACWIA Fee is a training fee meant to fund the training of U.S. workers. But if the employer has fewer than 25 full-time employees, they must pay only one-half of the required fee at INA 214(c)(9)(B). This supplement also helps to determine whether the beneficiary is subject to the H-1B numerical limitation (also known as the H-1B Cap). Please note that the ACWIA fee may not be assessed to the beneficiary.</p> <p>...</p> <p>[Page 10]</p> <p>Completing Section 2. of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplemental Form</p> <p>...</p> <p>2. The employer is a nonprofit organization or entity related to, or affiliated with an institution of higher education as defined in 20 U.S.C. 1001(a). Such nonprofit organizations or entities include, but are not limited to, hospitals and medical research institutions;</p> <p>[no change]</p> <p>A. Connected to or associated with the institution of higher education through</p>
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	<p>board or federation;</p> <p>B. Operated by the institution of higher education; or</p> <p>C. Attached to the institution of higher education as a member, branch, cooperative, or subsidiary.</p> <p>...</p> <p>[Page 11]</p> <p>Completing Section 3. of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplemental Form All petitioners must complete Section 3., Numerical Limitation Information, to determine whether the beneficiary is subject to the H-1B cap.</p> <p>Public Law 110-229 provides that nonimmigrant workers admitted to Guam or CNMI are exempt from the statutory caps for the H visa programs through December 31, 2019.</p> <p>The Form I-129 H Classification Supplement and H-1B Data Collection and Filing Fee Exemption Worksheet require employers to indicate whether they are filing on behalf of beneficiaries subject to this cap exemption.</p>	<p>shared ownership or control by the same board or federation; or</p> <p>[no change]</p> <p>C. Attached to the institution of higher education as a member, branch, cooperative, or subsidiary; or</p> <p>D. A nonprofit entity that has entered into a formal written affiliation agreement with an institution of higher education that establishes an active working relationship between the nonprofit entity and the institution of higher education for the purposes of research and/or education, and a primary purpose of the nonprofit entity is to directly contribute to the research or education mission of the institution of higher education.</p> <p>...</p> <p>[Page 11]</p> <p>[no change]</p> <p>The Form I-129 H Classification Supplement and H-1B Data Collection and Filing Fee Exemption Worksheet require employers to indicate the specific reason for any claimed cap exemption. H-1B petitions may be exempt from the numerical limitations for the following reasons:</p> <ol style="list-style-type: none"> 1. The employer is an institution of higher education as defined in 20 U.S.C. 1001(a); 2. The employer is a nonprofit entity related to or affiliated with an institution of higher education as defined in 8 CFR 214.2(h)(8)(ii)(F)(2);
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	<p><u>H-2A Nonimmigrants</u></p> <p>...</p>	<p>1B nonimmigrant;</p> <p>B. Is applying from abroad to reclaim the remaining portion of the 6 year H-1B period of admission;</p> <p>C. Is seeking an extension beyond the 6-year period of admission limitation based on sections 104(c) or 106(a) of the American Competitiveness in the Twenty-first Century Act (AC21); or</p> <p>8. The petitioner is an employer eligible for the Guam-CNMI cap exemption pursuant to Public Law 110-229.</p> <p><u>H-2A Nonimmigrants</u></p> <p>...</p>
<p>Pages 25-26, What Is the Filing Fee</p>	<p>[Page 25]</p> <p>What Is the Filing Fee</p> <p>The base filing fee for this petition is \$325.</p> <p>American Competitiveness and Workforce Improvement Act (ACWIA) fee for certain H-1B and H-1B1 Petitions</p> <p>A petitioner filing Form I-129 for an H-1B nonimmigrant or for a Chile or Singapore H-1B1 Free Trade Nonimmigrant must submit the \$325 petition filing fee and, unless exempt under Section 2. of the H-1B Data Collection and Filing Fee Exemption Supplement, an additional fee of either \$1,500 or \$750. To determine which ACWIA fee to pay, complete Section 2., of the H-1B Data Collection and Filing Fee Exemption Supplement.</p> <p>A petitioner filing Form I-129 who is required to pay the ACWIA fee may make the payment in the form of a single check or money order for the total amount due or as two checks or money orders, one for the ACWIA fee and one for the petition fee.</p> <p>Fraud Prevention and Detection fee for H-1B, L-1, and H-2B Petitions</p> <p>A petitioner seeking initial approval of H-1B or L nonimmigrant status for a beneficiary, or seeking approval to employ</p>	<p>[Page 25]</p> <p>What Is the Filing Fee</p> <p>[no change]</p> <p>Additional fees for H-1B, L-1, and H-2B Petitions</p> <p>A petitioner seeking initial approval of H-1B or L nonimmigrant status for a beneficiary, or seeking approval to employ</p>

	<p>an H-1B or L nonimmigrant currently working for another petitioner, must submit a \$500 Fraud Prevention and Detection fee. Petitioners for Chile or Singapore H-1B1 Free Trade Nonimmigrants do not have to pay the \$500 fee or the additional fee required under Public Law 111-230.</p> <p>Those petitioners required to submit the \$500 Fraud Prevention and Detection fee are also required to submit either an additional \$2,000 (H-1B) or \$2,250 (L-1) fee mandated by Public Law 111-230, as amended by Public Law 111-347, if:</p> <ol style="list-style-type: none"> 1. The petitioner employs 50 or more individuals in the United States; 2. More than 50 percent of those employees are in H-1B, L-1A or L-1B nonimmigrant status; and 3. The petition is filed before October 1, 2015. <p>Employers filing H-2B petitions must submit an additional fee of \$150.</p> <p>You must include payment of the fees with your submission of this form. Failure to submit the fees when required will result in rejection or denial of your submission.</p> <p>NOTE: The Fraud Prevention and Detection fee and Public Law 111-230 fee, when applicable, may not be waived. Each fee should be submitted in a separate check or money order.</p> <p>...</p>	<p>an H-1B or L nonimmigrant currently working for another petitioner, must submit a \$500 Fraud Prevention and Detection fee. Petitioners for Chile or Singapore H-1B1 Free Trade Nonimmigrants do not have to pay the \$500 fee.</p> <p>Those petitioners required to submit the \$500 Fraud Prevention and Detection fee are also required to submit either an additional \$4,000 (H-1B) or \$4,500 (L-1) fee mandated by Public Law 114-113, if:</p> <p>[no change]</p> <ol style="list-style-type: none"> 2. More than 50 percent of those employees are in H-1B, L-1A, or L-1B nonimmigrant status; and 3. The petition is filed on or after December 18, 2015. <p>Employers filing H-2B petitions must submit an additional fee of \$150.</p> <p>[no change]</p> <p>NOTE: The Fraud Prevention and Detection fee and Public Law 114-113 fee, when applicable, may not be waived. Each fee should be submitted in a separate check or money order.</p> <p>...</p>
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