



Instructions for Petition for Nonimmigrant Worker: H1 Classification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-129H1
OMB No. 1615-xxxx
Expires xx/xx/xxxx

Purpose of Form I-129H1

This petition is used by an employer to petition U.S. Citizenship and Immigration Services (USCIS) for an alien beneficiary to come temporarily to the United States as an H-1B or H-1B1 nonimmigrant to perform services or labor in the following classifications:

1. **H-1B** – specialty occupation worker; an alien coming to perform services of an exceptional nature that relate to a U.S. Department of Defense-administered project, or a fashion model of distinguished merit and ability; and
2. **Free Trade Nonimmigrants** – H-1B1 specialty occupation workers from Chile or Singapore.

Who May File Form I-129H1?

Employers. A U.S. employer may file this petition to classify an alien as an H-1B or H-1B1 nonimmigrant. A U.S. employer is a person, firm, corporation, contractor, or other association or organization in the United States that:

1. Engages a person to work within the United States;
2. Has an employer-employee relationship with respect to employees under this part, as indicated by the fact that it may hire, pay, fire, supervise, or otherwise control the work of any such employee; and
3. Has an Internal Revenue Service tax identification number.

Agents. A U.S. agent may file an H-1B or H-1B1 petition in certain instances. A U.S. individual or company in business as an agent may file a petition for workers who are traditionally self-employed or use agents to arrange short-term employment on their behalf with multiple employers, and when a foreign employer authorizes the U.S. agent to act on its behalf.

General Instructions

USCIS provides forms free of charge through the USCIS website. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have internet access, you may order USCIS forms by calling the USCIS Contact Center at **1-800-375-5283**. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Signature. Each petition must be properly signed and filed. For all signatures on this petition, USCIS will not accept a stamped or typewritten name in place of a signature. A legal guardian may also sign for a mentally incompetent person. If the request is not signed or if the requisite signature on the request is not valid, USCIS will reject the request. See 8 CFR 103.2(a)(7)(ii)(A). If USCIS accepts a request for adjudication and determines that it has a deficient signature, USCIS will deny the request.

Validity of Signatures. USCIS will consider a photocopied, faxed, or scanned copy of the original, handwritten signature valid for filing purposes. The photocopy, fax, or scan must be of the original document containing the handwritten ink signature.

Filing Fee. Each petition must be accompanied by the appropriate filing fee. (See the **What Is the Filing Fee** section of these Instructions.)

Evidence. At the time of filing, you must submit all evidence required by statute, regulations and/or these Instructions with your petition, as applicable. USCIS may reject or deny your petition for failure to submit evidence or supporting documents in accordance with 8 CFR 103.2(b)(1).

Biometrics Services Appointment for Certain Beneficiaries. After receiving your petition and ensuring completeness, USCIS may inform you in writing if the beneficiary or beneficiaries must submit biometrics. Failure of a beneficiary to appear at a biometrics appointment may result in denial of your petition.

Copies. You should submit legible photocopies of documents requested, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application or petition. If USCIS requests an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

NOTE: If you submit original documents when not required or requested by USCIS, **your original documents may be immediately destroyed after we receive them.**

Translations. If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must also include the translator's signature, printed name, the signature date, and the translator's contact information.

How to Fill Out Form I-129H1

1. Type or print legibly in black ink.
2. If you need extra space to complete any item within this petition, use the space provided in **Part 11. Additional Information** or attach a separate sheet of paper. Type or print the individual petitioner's or the company name, at the top of each sheet; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, "Provide the name of your current spouse"), type or print "N/A" unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None" unless otherwise directed.
4. You should submit a duplicate copy of the petition and all supporting documentation. **Failure to do so may result in delays in processing this petition or in visa processing abroad.**

Information About Form I-129H1

Petition Always Required

The H-1B classification always requires a petition. The three types of H-1B Nonimmigrant classifications are described below.

The evidence listed below for petitions for H-1B or H-1B1 classification and for those petitions seeking a change of status or extension of stay, as applicable, must be included with a petition for a new or concurrent employment or for an extension where there is a change in previously approved employment.

However, a petition for extension based on unchanged, previously approved employment may be filed with only the initial evidence required in the extension of stay instructions.

Naming beneficiaries. The beneficiary must be named.

Liability for Return Transportation

The Immigration and Nationality Act (INA) makes a petitioner liable for the reasonable cost of return transportation for an H-1B beneficiary who is dismissed before the end of the period of authorized admission.

H-1B Nonimmigrants (Three Types)

1. The H-1B classification is for beneficiaries coming to the United States temporarily to perform services in a specialty occupation.

A specialty occupation is one that requires the theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and requires the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

The petition must be filed with:

- A. Evidence that a labor condition application (LCA) has been certified by the U.S. Department of Labor (DOL);
- B. Evidence showing that the proposed employment qualifies as a specialty occupation;
- C. Evidence that the beneficiary has the education, or its equivalent, to qualify for the specialty occupation by submitting either:
 - (1) A copy of the beneficiary's U.S. bachelor's or higher degree as required by the specialty occupation;
 - (2) A copy of the beneficiary's foreign degree and evidence that it is equivalent to a U.S. bachelor's or higher degree as required by the specific specialty; or
 - (3) Evidence of the beneficiary's education, specialized training, and/or progressively responsible experience that is equivalent to completion of a U.S. bachelor's or higher degree in the specialty occupation;
- D. Evidence showing that the beneficiary has the experience and/or special skills required for the position, if applicable;
- E. A copy of any required license or other official permission to practice the occupation in the state of intended employment; and
- F. A copy of any written contract between the petitioner and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed.

If you are filing an H-1B cap petition for a fiscal year that H-1B registration is required, you must provide a valid H-1B Registration Selection Number for the beneficiary included in this petition, along with a copy of the H-1B Registration Selection Notice. This evidence requirement is not applicable to H-1B2 petitions.

Off-site Assignment of H-1B Beneficiaries: Petitioners seeking to place the H-1B beneficiary off-site at a location other than their own location must answer general questions regarding this assignment and petitioners should advise the H-1B beneficiary of the off-site work placement.

2. The H-1B classification is also for beneficiaries coming to the United States to perform services of an exceptional nature relating to a cooperative research and development project administered by the U.S. Department of Defense (DOD).

The petition must be filed with:

- A. A description of the proposed employment;
- B. Evidence that the services and project meet the above conditions;
- C. A statement listing the names of beneficiaries who are currently or have been employed on the project within the past year, along with their dates of employment;
- D. Evidence that the beneficiary holds a bachelor's or higher degree or its equivalent in the field of employment; and
- E. A verification letter from the DOD project manager. Details about the specific project are not required.

3. The H-1B classification is also for beneficiaries of distinguished merit and ability in the field of fashion modeling.

The petitioner must submit evidence that establishes the beneficiary will perform services at events or productions of a distinguished reputation. Such evidence includes:

- A. Documentary evidence (such as certifications, affidavits, and reviews) to establish the beneficiary is a fashion model of distinguished merit and ability. Any affidavits submitted by present or former employers or recognized experts must set forth their expertise of the affiant and the manner in which the affiant acquired such information; and
- B. Copies of any written contracts between the petitioner and the beneficiary or, if there is no written agreement, a summary of the terms of the oral agreement under which the beneficiary will be employed.

H-1B1 Free Trade Nonimmigrants

The H-1B1 classification is for beneficiaries from Chile or Singapore coming to the United States temporarily to perform services in a specialty occupation. See the instructions for H-1B nonimmigrants for the definition of “specialty occupation.”

The H-1B1 classification does not require a petition for new employment if the beneficiary is outside the United States.

Use Form I-129H1 when the beneficiary is physically present in the United States and a change of status, concurrent employment, or an extension of stay is needed.

If requesting an **“Extension of Stay,”** submit evidence, such as a letter describing the continuing employment, as well as evidence of the beneficiary’s continued valid licensing (if required by the profession and/or the state). Also, if this extension is the 6th consecutive extension requested for this beneficiary, a statement to that effect should be provided.

All Classifications – Change of Status or Extension of Stay

For all H-1B and H-1B1 petitions requesting a change of status or extension of stay for the beneficiary, the petitioner must include with the petition evidence of the beneficiary’s maintenance of status, including but not limited to:

1. A copy of the beneficiary’s Form I-94, Nonimmigrant Arrival-Departure Record, passport, travel document, or Form I-797;
2. Evidence showing that the beneficiary qualifies for the specific classification sought;
3. A copy of the beneficiary’s last two pay stubs and most recent W-2, if applicable; and
4. Evidence the beneficiary continues to meet the licensing requirements for the profession or occupation, if applicable.

The beneficiary’s dependent family members (generally, spouses and children under 21 years of age) should use Form I-539, Application to Change/Extend Nonimmigrant Status, to apply for a change of status or extension of stay.

A nonimmigrant who must have a passport to be admitted generally must maintain a valid passport during his or her entire stay. If a required passport is not valid, include a full explanation with your application.

The following nonimmigrants are not eligible to change status:

1. An alien admitted under a visa waiver program;
2. An alien in transit (C) or in transit without a visa (TWOV);
3. A crewman (D);
4. A fiancé(e) (K-1) or his or her dependent (K-2);
5. A spouse of a U.S. citizen (K-3) or his or her dependent (K-4);
6. A J-1 exchange visitor who was admitted in J-1 status for the purpose of receiving graduate medical training;
7. A J-1 exchange visitor subject to the foreign residence requirement who has not received a waiver of that requirement; and

8. An M-1 student to an H classification, if training received as an M-1 helped him or her qualify for H classification.

Specific Itinerary Requirements: Certain I-129H1 petitions must be submitted with a specific itinerary.

1. Services or training in more than one location: A petition that requires the beneficiary to perform services or receive training in more than one location must include an itinerary with the dates and locations where the services or training will take place.
2. Petitions filed by an agent:
 - A. An agent performing the function of an employer must provide an itinerary of definite employment and information on any other services planned for the period of time requested.
 - B. An agent filing a petition as the representative of both the employer and the beneficiary must include a complete itinerary that specifies the dates of each service or engagement, the names and addresses of the actual employers, and the names and addresses of the establishments, venues, or locations where the services will be performed.

General Contract Requirement: All H-1B and H-1B1 petitions must include a copy of any written contract between the petitioner and beneficiary. If a written contract does not exist, USCIS will accept evidence that summarizes the terms of the oral agreement under which the beneficiary will be employed.

Specific Contract Requirements for Agent-Petitioners: The type of agent-petitioner scenario determines the type of contract or summary of the terms of the oral agreement that must be submitted. If the agent:

1. Is performing the function of an employer, then a contractual agreement between the agent and beneficiary that guarantees the wages and other terms and conditions of the employment is required;
2. Represents multiple employers as the representative of both the employers and the beneficiary, then the contracts or the summaries of the terms of the oral agreement between each employer and the beneficiary may be required in questionable cases; and
3. Is filing for a foreign employer, then a contract between the foreign employer and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed is required.

Special Instructions for Certain Beneficiaries in the Commonwealth of the Northern Mariana Islands (CNMI)

An alien who was admitted to the CNMI prior to November 28, 2009, may not currently hold a Federal nonimmigrant classification that permits a change of status. However, in certain situations, a petitioner may request that the beneficiary be granted initial status in the CNMI. This will allow certain beneficiaries who were present in the CNMI prior to the transition date and are currently lawfully present in the CNMI in parole status to be granted an initial nonimmigrant status without having to depart the CNMI.

Specific Instructions

Part 1. Petitioner Information

Item Numbers 1. and 2. If you are an individual or sole proprietor (someone who owns a business, but the business is not organized as a separate legal entity) filing this petition, you must complete **Item Numbers 1. and 2.**, in addition to **Item Numbers 4. - 11.**, as applicable.

Item Number 3. Petitioning Company or Organization Name. If you are a company or an organization filing this application, provide the name of your company or organization.

Item Number 5. Trade Name or “Doing Business As” Name (if applicable). If you are a company or an organization that is known by a different name than the one you provided in **Item Number 3.**, provide your trade name or “doing business as” name.

Item Number 6. Primary U.S. Office Address of Petitioner. Provide the address of the petitioner’s primary office within the United States. The primary U.S. office address must not be the address of petitioner’s outside counsel or clients. Petitions filed with an address that is not the petitioner’s U.S. office address may be rejected or denied. The location of your primary office may determine where the petition must be filed.

Item Number 7. - 8. Mailing Address. Provide the petitioner’s mailing address, if different from the Primary U.S. Office Address.

Item Number 8. Petitioner’s Contact Information. Provide the petitioner’s contact information.

Item Number 10. Tax Payer Identification Numbers. Provide an Employer Identification Number (EIN), Individual Taxpayer Identification Number (ITIN), and/or U.S. Social Security Number (SSN), as applicable. Individual employers and sole proprietors **must** provide a U.S. Social Security Number.

Item Numbers 11. E-Verify Information. If the petitioner participates in E-Verify and will complete Form I-9 for alien beneficiaries to perform services or labor, or to receive training, provide the petitioner’s E-Verify Company Identification Number or Client Company Identification Number. E-Verify is an internet-based system that compares information entered by an employer from an employee’s Form I-9, Employment Eligibility Verification, to records available to Department of Homeland Security (DHS) and the Social Security Administration to confirm employment eligibility. The E-Verify company Identification Number, which consists of four to seven numerical characters, is located on each page of the memorandum of understanding directly below the E-Verify logo. The E-Verify Contact Center is available to assist you if you have additional questions by emailing E-Verify@dhs.gov.

Part 2. Information About This Petition

Item Number 1. Requested Nonimmigrant Classification. Select the box that indicates the H-1B classification you seek.

Item Number 2. H-1B Beneficiary Confirmation Number. If you are filing an H-1B cap petition for a fiscal year that H-1B registration is required, you must provide a valid H-1B Beneficiary Confirmation Number for the beneficiary included in this petition, along with a copy of the H-1B Registration Selection Notice. **NOTE:** This evidence requirement is not applicable to H-1B2 petitions.

Item Number 3. Sixth or Subsequent Free Trade, Chile, or Singapore (H-1B1) Request. If you are filing for a Free Trade beneficiary from Chile or Singapore, indicate whether this is your sixth or subsequent request.

Item Number 4. Basis for Classification. Select **only one** of the following options.

Item A. New employment. Select this box if the beneficiary:

1. Is outside the United States and holds no classification;
2. Will begin employment in the United States for a new employer in a different nonimmigrant classification than the beneficiary currently holds; or
3. Will work for the **same** employer but in a different nonimmigrant classification.

NOTE: Do not select this box if the beneficiary will work for the same employer in the same classification, but there is a material change in the terms and conditions of employment, training, or the beneficiary’s eligibility as specified in the original approved petition. Select **Item F. Amended Petition**, instead.

Item B. Continuation of previously approved employment without change with the same employer. Select this box if you are applying to continue the employment of the beneficiary in the same nonimmigrant classification the beneficiary currently holds and there has been no change to the employment.

Item C. Change in previously approved employment. Select this box if you are notifying USCIS of a non-material change to the previously approved employment, such as a change in job title without a material change in job duties.

Item D. New concurrent employment. Select this box if you are applying for a beneficiary to begin new employment with an additional employer in the same nonimmigrant classification the beneficiary currently holds while the beneficiary will continue working for his or her current employer in the same classification.

Item E. Change of employer for a beneficitation already in the required classification. Select this box if you are applying for a beneficiary to begin employment working for a new employer in the same nonimmigrant classification that the beneficiary currently holds.

Item F. Amended petition. Select this box if you are applying to notify USCIS of a material change in the terms or conditions of employment, training, or the beneficiary's eligibility as specified in the original approved petition.

Item Number 5. Receipt Number. Provide the receipt number for the most recently filed petition or application submitted to USCIS for this beneficiary.

Item Number 6. Requested Action. The following information explains the actions petitioners/employers may request on their petition. Select **only one** action.

Item A. Notify the office in Part 4. so the beneficiary can apply for and obtain a visa or be admitted, if eligible. Select this box if the beneficiary is outside of the United States, or, if the beneficiary is currently in the United States, but he or she will leave the United States to obtain a visa/admission abroad.

Item B. Change the status and extend the stay of the beneficiary because the beneficiary is now in the United States in another status. Select this box if the beneficiary is currently in the United States in a different nonimmigrant classification and is applying to change to a **new** nonimmigrant status.

Item C. Extend the stay of the beneficiary because the beneficiary now holds this status. Select this box if the beneficiary is currently in the United States in a nonimmigrant classification and is requesting an extension of his or her stay in the **same** nonimmigrant classification.

Item D. Amend the stay of the beneficiary because the beneficiary now holds this status. Select this box if the beneficiary is currently in the United States in the same nonimmigrant classification and you are notifying USCIS of any material changes in the terms and conditions of employment, training, or the beneficiary's eligibility as specified in the original approved petition, but you are not seeking a change in previously approved validity dates.

Part 3. Beneficiary Information

Item Number 10. Form I-94, Arrival-Departure Record. If U.S. Customs and Border Protection (CBP) or USCIS issued the beneficiary a Form I-94, Arrival-Departure Record, provide his or her Form I-94 number and date that his or her authorized period of stay expires or expired (as shown on his or her Form I-94). The Form I-94 number also is known as the Departure Number on some versions of Form I-94.

NOTE: If the beneficiary was admitted to the United States by CBP at an airport or seaport after April 30, 2013, CBP may have issued him or her an electronic Form I-94 instead of a paper Form I-94. The beneficiary may visit the CBP website at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport after April 30, 2013, with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website without charge. If the beneficiary cannot obtain their Form I-94 from the CBP website, it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS **does** charge a fee for this service. See the USCIS website at www.uscis.gov/I-102 for more information. You may file the beneficiary's Form I-102 together with your Form I-129H1.

Passport and Travel Document Numbers. If the beneficiary used a passport or travel document to travel to the United States, enter either the passport or travel document information in the appropriate space on the petition, even if the passport or travel document is currently expired.

Item Numbers 11. - 12. Beneficiary's Current U.S. Residential Address. You must provide the beneficiary's current address if the beneficiary is in the United States. USCIS will use this address, unless otherwise updated through the AR-11 process, to notify the beneficiary if USCIS denies a request to change status or extend stay submitted on Form I-129H1.

Part 5. Basic Information About the Proposed Employment and Employer

Item Number 2. Labor Condition Application ETA Case Number. This should match the case number listed on the ETA Form 9035, Labor Condition Application for Nonimmigrant Workers submitted with this petition.

Item Number 3. SOC Code. This is the Standard Occupational Classification (SOC) code. You can obtain the SOC codes from DOL, Bureau of Labor Statistics at www.bls.gov/soc. Type or print the code from left to right, one digit in each of the six boxes.

Item Number 4. NAICS Code. This is the North American Industry Classification System (NAICS) Code. This code can be obtained from the U.S. Department of Commerce, Census Bureau (www.census.gov/epcd/www/naics.htm). Enter the code from left to right, one digit in each of the six boxes. If you use a code with fewer than six digits, enter the code left to right and then add zeros in the remaining unoccupied boxes.

For example, the code sequence 33466 would be entered as: [Each number inside a separate box]

For example, the code sequence 5133 would be entered as: [Each number inside a separate box]

Item Number 23. Select all of the checkboxes that apply.

Item A. Recapture time. This is time the beneficiary spent outside the United States or in a nonimmigrant status other than H-1B, H-2, H-3, or L-1, since first obtaining H-1B status for this cap-subject period and for purposes of calculating the beneficiary's 6-year period of authorized admission.

Item B. 3-year Per-Country Limitations Exemption. This is an exemption under 8 CFR 214.2(h)(13)(iii)(E) to the 6-year maximum period of H-1B admission. A beneficiary may receive this exemption if they are:

1. The beneficiary of an approved immigrant petition granted under INA section 203(b)(1),(2), or (3); and
2. Eligible to be granted immigrant status but for application of the per country limitations.

Item C. 1-year Lengthy Adjudication Delay Exemption. This is an exemption under 8 CFR 214.2(h)(13)(iii)(D) to the 6-year maximum period of H-1B admission. A beneficiary may receive an extension in one-year increments beyond the maximum period of H-1B admission, if at least 365 days have passed since:

1. The filing of a permanent labor certification with the Department of Labor for the purpose of filing an immigrant visa petition under INA section 203(b); or
2. The filing of an immigrant visa petition (Form I-140) with USCIS under INA section 203(b).

The extension can be approved for up to one year until the approved permanent labor certification expires or a final decision has been made to:

- A. Deny the application for permanent labor certification, or, if approved, revoke or invalidate;
- B. Deny the immigrant visa petition, or, if approved, revoke;
- C. Deny or approve the beneficiary's application for an immigrant visa or application to adjust status to lawful permanent residence; or
- D. Administratively or otherwise close the application for permanent labor certification, immigrant visa petition, or application to adjust status.

A beneficiary is not eligible for further extensions if the beneficiary fails to file an adjustment of status application or apply for an immigrant visa within one year of an immigrant visa being authorized for issuance based on their preference category and country of chargeability.

Item D. A time limit exemption because the beneficiary did not reside continually in the United States and the beneficiary's employment was intermittent, seasonal, or for an aggregate of six months or less per year.

Part 6. H-1B and H-1B1 Data Collection and Filing Fee Exemption Information

All H-1B and H-1B1 petitioners must fill out **Part 6.** of Form I-129H1.

This part contains four sections and:

1. Collects additional information about the H-1B or H-1B1 employer and beneficiary; and
2. Determines 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 25 or fewer full-time employees, they must pay only one-half of the required fee at INA section 214(c)(9)(B). This part 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.

Who is required to provide the information requested in Part 6.?

All petitioners seeking to classify a beneficiary as an H-1B or H-1B1 Free Trade Nonimmigrant worker must provide the information requested in **Part 6.** and submit the appropriate fees with the Form I-129H1 petition. (See the **What is the Filing Fee** section of these Instructions for more information about the appropriate fee.)

Section 1. General Information

All petitioners who seek to classify a beneficiary as an H-1B or H-1B1 free trade nonimmigrant worker must answer **Item Numbers 1. - 8.** in **Section 1., General Information.** Guidance on how to answer these questions follows.

Item Number 1. H-1B dependent employer. An “H-1B dependent employer” is an employer that:

1. Has 25 or fewer full-time-equivalent employees who are employed in the United States and employs more than 7 H-1B nonimmigrants;
2. Has at least 26 but not more than 50 full-time-equivalent employees who are employed in the United States and employs more than 12 H-1B nonimmigrants; or
3. Has at least 51 full-time equivalent employees who are employed in the United States and employs H-1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time-equivalent employees.

Item Number 2. Willful violators. A willful violator is an employer whom the U.S. Secretary of Labor has found, after notice and opportunity for a hearing, to have willfully failed to meet a condition of the labor condition application described in INA section 212(n).

Item Numbers 3. - 4. Exempt H-1B nonimmigrant. An “exempt H-1B nonimmigrant” is an H-1B nonimmigrant who:

1. Receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least \$60,000; or
2. Has attained a master’s degree or higher (or its equivalent) in a specialty related to the intended employment.

Item Number 5. Rate of Pay Per Year. The “rate of pay” is the salary or wages paid to the beneficiary. Salary or wages must be expressed in an annual full-time amount and do not include non-cash compensation or benefits. For example, an H-1B worker is to be paid \$6,500 per month for a 4-month period and also provided separately a health benefits package and transportation during the 4-month period. The yearly rate of pay if he or she were working for a full year would be 12 times the monthly rate, or \$78,000. This amount does not include health benefits or transportation costs. The figure \$78,000 should be entered on this petition as the rate of pay.

Item Numbers 6. - 7. If your response to both **Item Numbers 6.** and **7.** is “Yes,” you must pay the **\$4,000** fee mandated by Public Law 114-113, unless you are filing an amended petition without an extension of stay request. Public Law 114-113 requires all petitioners who employ 50 or more employees in the United States to submit an additional fee of **\$4,000** for all H-1B petitions if more than 50 percent of the petitioner’s employees, in the aggregate, are in H-1B, L-1A, or L-1B nonimmigrant status, except when filing an amended petition without an extension of stay request. **These fees, when applicable, may not be waived.** You must include payment of the fees with your submission of this petition. Failure to submit the fees when required will result in rejection or denial of your submission. Each of these fees should be paid by separate checks or money orders.

Item Number 8. Beneficiary's Highest Level of Education. Select the box that most closely reflects the highest level of formal education the beneficiary has attained.

Item Number 9. Major/Primary Field of Study. Use the beneficiary's degree transcripts to determine the primary field of study. **DO NOT** consider work experience to determine the beneficiary's major field of study.

Section 2. Fee Exemption and/or Determination

Petitioners for both H-1B and H-1B1 classifications must complete **Item Numbers 10. - 18.** to determine whether they must pay the ACWIA fee. This fee is either **\$1,500** or **\$750**, depending on the number of workers the petitioner employs. The petitioner is exempt from payment of the ACWIA fee if at least one of the following conditions apply:

1. The employer is a U.S. institution of higher education as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. 1001(a);
2. The employer is a nonprofit organization or entity related to, or affiliated with a U.S. 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;

“Related to” or “affiliated with” means the entity is:

- A. Connected to or associated with the institution of higher education through shared ownership or control by the same board or federation;
- B. Operated by the institution of higher education;
- C. Attached to the institution of higher education as a member, branch, cooperative, or subsidiary; or
- 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 or education, and a fundamental activity of the nonprofit entity is to directly contribute to the research or education mission of the institution of higher education.

3. The employer is a nonprofit research organization or governmental research organization that is primarily engaged in basic research and/or applied research;

NOTE: The term “governmental research organization” is defined at 8 CFR 214.2(h)(19)(iii)(C) as “a federal, state, or local entity whose primary mission is the performance or promotion of basic research and/or applied research.”

“Nonprofit organization or entity” means the organization or entity is:

- A. Defined as a tax-exempt organization under the Internal Revenue Code of 1986, section 501(c)(3), (c)(4), or (c)(6) (codified at 26 U.S.C. 501(c)(3), (c)(4), or (c)(6)); and
 - B. Has been approved as a tax-exempt organization for research or educational purposes by the Internal Revenue Service.
4. This petition is the second or subsequent request for an extension of stay filed by the employer regardless of when the first extension of stay was filed or whether the **\$1,500** or **\$750** filing fee was paid on the initial petition or the first extension of stay;
 5. This petition is an amended petition (filed by the same employer or a successor-in-interest) that does not contain any requests for extension of stay;
 6. This petition is being filed to correct a USCIS error;
 7. The employer is a primary or secondary education institution; or
 8. The employer is a nonprofit entity which engages in an established curriculum-related clinical training for students registered at the institution of higher education.

What evidence is required under Section 2.?

Petitioners claiming an exemption from the **\$1,500** or **\$750** filing fee must submit evidence showing the organization or entity is exempt from the filing fee.

Section 3. Numerical Limitation Information

All petitioners must complete **Item Numbers 19. - 22.** to determine whether the beneficiary is subject to the H-1B or H-1B1 numerical limitations.

Item Number 22. If claiming an exemption from the H-1B numerical limitation, select the reasons this petition is exempt from the numerical limitation for H-1B classification.

Item A. The employer is a U.S. institution of higher education as defined in section 101(a) of the Higher Education Act of 1965, 20 U.S.C. 1001(a).

Item B. 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).

Item C. The employer is a nonprofit research organization or governmental research organization that is primarily engaged in basic research and/or applied research as defined in 8 CFR 214.2(h)(8)(ii)(F)(3).

NOTE: To determine if you qualify for exemption from the H-1B cap as an institution of higher education, nonprofit entity related to or affiliated with an institution of higher education, nonprofit research organization or governmental research organization, please refer to the definitions of those terms in **Section 2.** above.

Item D. The beneficiary will spend the majority of his or her work time performing job duties at a qualifying institution, organization, or entity and those job duties directly and predominantly further the essential purpose, mission, objectives, or functions of the qualifying institution, organization, or entity, namely, either higher education, nonprofit research, or governmental research.

NOTE: The burden is on the H-1B petitioner to establish that there is a nexus between the duties to be performed by the H-1B beneficiary and the essential purpose, mission, objectives or functions of the qualifying institution, organization, or entity.

Item E. The beneficiary is currently employed at a cap-exempt institution, entity, or organization and you seek to concurrently employ the H-1B beneficiary.

Item F. The beneficiary is a J-1 nonimmigrant physician who has received a waiver based on INA section 214(l).

Item G. The beneficiary of this petition has been counted against the regular H-1B cap or masters cap exemption.

1. This petition is an amended petition without an extension of stay request;
2. You are applying to extend or obtain H-1B classification for time remaining (including through recapture) on the beneficiary's full period of authorized admission; or
3. You are seeking an extension beyond the 6-year period of authorized admission limitation based on the lengthy adjudication delay exemption at 8 CFR 214.2(h)(13)(iii)(D) or the per-country limitation exemption at 8 CFR 214.2(h)(13)(iii)(E); or

Item H. The petitioner is an employer eligible for the Guam-CNMI cap exemption pursuant to Public Law 115-218.

NOTE: Public Law 115-218 provides that nonimmigrant workers admitted to Guam or CNMI are exempt from the statutory caps for the H visa programs through December 31, 2029.

Section 4. Off-Site Assignment of H-1B Beneficiaries

Item Number 23. If you answered "Yes" to this item number, you must also answer **Item Numbers 24. - 26.** in this section.

Item Number 24. If the beneficiary will be assigned to work at an off-site location that belongs to a third party, list all other companies involved in the contractual path between your company and the end-client company, if applicable and as known at the time of filing.

Part 7. Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States

U.S. Export Controls on Release of Controlled Technology or Technical Data to Foreign Persons. The Export Administration Regulations (EAR) (15 CFR Parts 770-774) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130) require U.S. persons to seek and receive authorization from the U.S. Government before releasing to foreign persons in the United States controlled technology or technical data. Under both the EAR and the ITAR, release of controlled technology or technical data to foreign persons in the United States--even by an employer--is deemed to be an export to that person's country or countries of nationality. One implication of this rule is that a U.S. company must seek and receive a license from the U.S. Government before it releases controlled technology or technical data to its nonimmigrant workers employed as H-1B or H-1B1 beneficiaries.

Requirement to Certify Compliance with U.S. Export Control Regulations. The U.S. Government requires each company or other entity that files Form I-129H1 to certify that to the best of its knowledge at the time of filing it has reviewed the EAR and the ITAR and determined whether it will require a U.S. Government export license to release controlled technology or technical data to the beneficiary.

If an export license is required, the company or other entity must further certify that it will not release or otherwise provide access to controlled technology or technical data to the beneficiary until it has received the required authorization from the U.S. Government.

The petitioner must indicate whether or not a license is required in **Part 7. Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States** of Form I-129H1.

Controlled Technology and Technical Data. The licensing requirements described above will affect only a small percentage of petitioners because most types of technology are not controlled for export or release to foreign persons. The technology and technical data that are, however, controlled for release to foreign persons are identified on the EAR's Commerce Control List (CCL) and the ITAR's U.S. Munitions List (USML). The CCL is found at 15 CFF Part 774, Supp. 1. See http://www.access.gpo.gov/bis/ear/ear_data.html#ccl. The USML is at 22 CFR 121.1. See http://www.pmddtc.state.gov/regulations_laws/itar.html. The EAR-controlled technology on the CCL generally pertains to that which is for the production, development, or use of what are generally known as "dual-use" items. The ITAR-controlled technical data on the USML generally pertains to that which is directly related to defense articles.

The U.S. Department of Commerce's Bureau of Industry and Security administers the CCL and is responsible for issuing licenses for the release to foreign persons of technology controlled under the EAR. The U.S. Department of State's Directorate of Defense Trade Controls (DDTC) administers the USML and is responsible for issuing licenses for the release to foreign persons of technical data controlled under the ITAR. Information about the EAR and how to apply for a license from BIS are at www.bis.doc.gov. Specific information about EAR's requirements pertaining to the release of controlled technology to foreign persons is at www.bis.doc.gov/index.php.policy-guidance/deemed-exports. Information about the ITAR and how to apply for a license from DDTC are at www.pmddtc.state.gov.

Part 8. Statement, Contact Information, Certification, and Signature of the Petitioner or Authorized Signatory

Select the appropriate box to indicate whether you read this petition yourself or whether you had an interpreter assist you. If someone assisted you in completing the petition, select the box indicating that you used a preparer. Further, you must sign and date your petition. If **Part 7.** is being completed by an authorized signatory, then the authorized signatory must provide his or her daytime telephone number, mobile telephone number (if any), and email address (if any). Every petition **MUST** contain the signature of the petitioner (or parent or legal guardian, if applicable) or authorized signatory. A stamped or typewritten name in place of a signature is not acceptable.

Part 9. Interpreter's Contact Information, Certification, and Signature

If you used anyone as an interpreter to read the Instructions and questions on this petition to you in a language in which you are fluent, the interpreter must fill out this section; provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the petition.

Part 10. Contact Information, Declaration, and Signature of Person Preparing this Petition, If Other Than Petitioner or Authorized Signatory

This section must contain the signature of the person who completed your petition, if other than you, the petitioner or authorized signatory. If the same individual acted as your interpreter and your preparer, that person should complete both **Part 8.** and **Part 9.** If the person who completed this petition is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this petition **MUST** sign and date the petition. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your petition is an attorney or accredited representative, he or she may also need to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, or Form G-28I, Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States, along with your petition.

We recommend that you print or save a copy of your completed petition to review in the future and for your records.

What Is the Filing Fee?

The filing fee for Form I-129H1 is **\$560.**

NOTE: The filing fee is not refundable, regardless of any action USCIS takes on this petition. **DO NOT MAIL CASH.** You must submit all fees in the exact amounts. USCIS will reject or deny your Form I-129H1 if you fail to submit required fees when you submit your application. You should pay the filing fee and each additional fee with separate checks or money orders.

American Competitiveness and Workforce Improvement Act (ACWIA) Fee

A petitioner filing Form I-129H1 for an H-1B nonimmigrant or for a Chile or Singapore H-1B1 Free Trade Nonimmigrant must submit the **\$560** petition filing fee. An additional fee of either **\$1,500** or **\$750** must also be submitted, unless the petition is exempt. To determine if the petition is exempt or if an ACWIA fee must be paid, complete **Part 6., Section 2. Fee Exemption and/or Determination.**

A petitioner filing Form I-129H1 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.

Fraud Prevention and Detection Fee

A petitioner seeking initial approval of H-1B nonimmigrant status for a beneficiary, or seeking approval to employ an H-1B nonimmigrant currently working for another petitioner, must submit a **\$500** Fraud Prevention and Detection fee. Petitioners filing for H-1B1 Chile or Singapore Free Trade Nonimmigrants do not have to pay the Fraud Prevention and Detection fee.

Public Law 114-113 Fee

All petitioners who employ 50 or more employees in the United States must submit an additional fee of **\$4,000** mandated by Public Law 114-113 for all H-1B petitions if more than 50 percent of the petitioner's employees, in the aggregate, are in H-1B, L-1A, or L-1B nonimmigrant status, **except** when filing an amended petition without an extension of stay request.

NOTE: USCIS will reject or deny your Form I-129H1 if you fail to submit required fees when you submit your petition. You should pay the filing fee and each additional fee, as applicable, with separate checks or money orders. USCIS cannot waive the Fraud Prevention and Detection fee, the Public Law 114-113 fee, or the ACWIA fee.

Payments by Checks or Money Orders

Use the following guidelines when you prepare your checks or money orders for the Form I-129H1 filing fee and additional fees:

1. The checks or money orders must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
2. Make the checks or money orders payable to **U.S. Department of Homeland Security**.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

Notice to Those Paying by Check. If you send USCIS a check, we will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You may not receive your original check back. We may destroy your original check, but will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, we will reject your petition.

How To Check If the Fees Are Correct

Form I-129H1's filing fee and additional fees are current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fees are correct by following one of the steps below.

1. Visit the USCIS website at www.uscis.gov, select "FORMS," and check the appropriate fee; or
2. Visit the USCIS Contact Center at www.uscis.gov/contactcenter to get answers to your questions and connect with a live USCIS representative. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

When To File?

Generally, a Form I-129H1 petition may not be filed more than six months prior to the date employment is scheduled to begin. Petitioners should review the appropriate regulatory provisions in 8 CFR that relate to the nonimmigrant classification sought.

Where To File?

Please see our website at www.uscis.gov/I-129 or visit the USCIS Contact Center at www.uscis.gov/contactcenter to connect with a USCIS representative for the most current information about where to file this petition. Petitions filed in the incorrect location may be rejected or denied. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Premium Processing

Form I-129H1 may be eligible for Premium Processing. To determine if your petition is eligible for Premium Processing, visit the USCIS website at www.uscis.gov/forms/how-do-i-use-premium-processing-service. If your Form I-129H1 is eligible for and you are requesting Premium Processing Services, you must also file Form I-907, Request for Premium Processing Service. If eligible, send Form I-129H1 and Form I-907 together according to the filing instructions for Form I-907. Please see our website at www.uscis.gov/I-907.

Address Change

A petitioner or beneficiary who is not a U.S. citizen must notify USCIS of his or her new address within 10 days of moving from his or her previous residence. USCIS will use the most recent address to notify the beneficiary that a petition requesting an extension of stay or change of status has been denied. For information on filing a change of address, go to the USCIS website at www.uscis.gov/addresschange or reach out to the USCIS Contact Center at www.uscis.gov/contactcenter for help. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Note: Do not submit a change of address request to the USCIS Lockbox facilities because the Lockbox does not process change of address requests.

Processing Information

Initial Processing. Once USCIS accepts your petition, we will check it for completeness. If you do not completely fill out this petition, you will not establish a basis for your eligibility and USCIS may reject or deny your petition.

Requests for More Information. USCIS may request that you provide more information or evidence to support your petition. We may also request that you provide the originals of any copies you submit. If we request an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

Requests for Interview. We may request that you appear at a USCIS office for an interview based on your petition. At the time of any interview or other appearance at a USCIS office, we may require that you provide your biometrics to verify your identity and/or update background and security checks.

Decision. The decision on Form I-129H1 involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of the decision in writing.

A petition that is not properly filed may be rejected. A petition is not considered properly filed until accepted by USCIS. Some reasons a petition may be rejected include that it is not properly signed, is not accompanied by the correct fee, or was not properly filed with the correct Service Center. If rejected, USCIS will return the petition along with a notice that identifies the basis for rejection. You may correct the deficiency and resubmit the petition, in most circumstances.

USCIS Forms and Information

To ensure you are using the latest version of this petition, visit the USCIS website at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling the USCIS Contact Center at **1-800-375-5283**. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can schedule an appointment online at www.uscis.gov. Select “Tools,” then under “Self Service Tools,” select “Make an Appointment” and follow the screen prompts to set up your appointment. Once you finish scheduling an appointment, the system will generate an appointment notice for you.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-129H1, we will deny your Form I-129H1 and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

USCIS Compliance Review and Monitoring

By signing this petition, you have stated under penalty of perjury (28 U.S.C. section 1746) that all information and documentation submitted with this petition are complete, true, and correct. You also authorize the release of any information from your records that USCIS may need to determine your eligibility for the immigration benefit you are seeking and consent to USCIS verifying such information.

The Department of Homeland Security (DHS) has the authority to verify any information you submit to establish eligibility for the immigration benefit you are seeking at any time. USCIS’ legal authority to verify this information is in 8 U.S.C. sections 1103, 1155, and 1184, and 8 CFR parts 103, 204, 205, and 214. To ensure compliance with applicable laws and authorities, USCIS may verify information before or after your case is decided.

Agency verification methods may include, but are not limited to: review of public records and information; contact through written correspondence, the internet, fax, other electronic transmission, or telephone; unannounced physical site inspections of residences and locations of employment; and interviews. USCIS will use information obtained through verification to assess your compliance with the laws and to determine your eligibility for an immigration benefit.

Subject to the restrictions under 8 CFR 103.2(b)(16), USCIS will provide you with an opportunity to address any adverse or derogatory information that may result from a USCIS compliance review, verification, or site visit after a formal decision is made on your case or after the agency has initiated an adverse action which may result in revocation or termination of an approval.

DHS Privacy Notice

AUTHORITIES: The information requested on this petition and the associated evidence, is collected under the Immigration and Nationality Act (INA) sections 103, 208(c)(1)(C), 211, 212(d)(5)(A), and 215 and 8 CFR sections 211.1(a)(3-4), 212.5, and 223.1-223.3.

PURPOSE: The primary purpose for providing the requested information on this petition is to petition USCIS for an alien to temporarily enter the United States as an H-1B, H-1B1, H-1B2, H-1B3 nonimmigrant worker. An employer (or agent, where applicable) will also use this form to request an extension of stay of an H-1B, H-1B1, H-1B2, H-1B3 nonimmigrant worker or to change the status of an alien currently in the United States as a nonimmigrant to H-1B, H-1B1, H-1B2, H-1B3 nonimmigrant status. DHS uses the information you provide to grant or deny the immigration benefit you are seeking.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, including your Social Security number (if applicable), and any requested evidence, may delay a final decision or result in denial of your petition.

ROUTINE USES: DHS may, where allowable under relevant confidentiality provisions, share the information you provide on this petition and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS/USCIS-001 Alien File, Index, and National File Tracking System, DHS/USCIS-007 Benefits Information System] and the published privacy impact assessment [DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems, DHS/USCIS/PIA-051 Case and Activity Management for International Operations, and DHS/USCIS/PIA-056 USCIS Electronic Immigration System] which you can find at www.dhs.gov/privacy. DHS may also share this information, as appropriate, for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for Form I-129H1 is estimated at 4 hours per response, including the time for reviewing instructions, gathering the required documentation and information, completing the petition, preparing statements, attaching necessary documentation, and submitting the petition. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-xxxx. **Do not mail your completed Form I-129H1 to this address.**