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You can get an H-1B visa if you are looking to be employed in jobs that generally require a Bachelorâ€™s degree (called â€œspecialty occupationsâ€•). To qualify under the H-1B category, the US employer has to file a Labor Condition Application with the Department of Labor (DOL). The US employer also has substantiate that he/she is employing foreign workers under conditions that do not weaken the working conditions, benefits, or wages of US citizen employees.

The H-1B Visa Procedure

1. The US employer has to determine the current wage for the position offered.

2. The US employer has to file a Labor Condition Application (LCA) with the DOL.

3. The US employer has to file Form Form I-129 (with H supplements) with the USCIS. If you,the prospective employee are already in the US in a valid legal status, this petition can ask that your status be changed to H-1B from which ever status you presently are in. In this case, the process will end here when this petition is approved by the USCIS.

4. If you, the prospective employee are outside the US, then once the I-129 petition is approved, you have to submit your own application for an H-1B visa to a US consulate (except Canadians).

5. You can then use either your visa or to enter the US under the H-1B category.

Steps the US Employer has to take

Determine the Prevailing Wage for the Position Offered

The Employer has to determine the generally current wage for the position offered. It simply means the average wage paid to employees in a similar occupation in the same area. It is determined by comparing to workers similarly employed in the area of intended employment.

File Labor Condition Application

After the employer gets the prevailing wage determination for the position offered, he/she has to file a Labor Condition Application (LCA) with the DOL. The LCA can be submitted up to six months before the intended date of the employment.

File the Petition for a Non immigrant Worker

The employer will then have to file Form I-129, Petition for a Non immigrant Worker along with the H supplements to this form. This has to be filed with the USCIS.

Approval

After the USCIS approves this petition, the employer will receive a Notice of Approval, Form I-797A. This approval does not guarantee that a visa will be issued to the prospective employee at a US consulate overseas. He/she has to prove their eligibility and establish that they are admissible to the US per the provisions of the Immigration and Nationality Act (INA).

Steps You (the Employee) have to take

Apply for the Visa at the US Consulate

Once the H-1 B petition filed by the employer and approved, USCIS will send a Form I-797B. With this you can apply for a visa at a US consulate, normally in your home country.

Form DS-160

You are required to file Form DS- 160. U.S. This form is available online and and typically you have to e-file this form before your visa appointment.

Payment of Fees

Once you have completed the application, you have to pay the machine-readable visa application fee (MRV fee). The Consulate will let you know about the details on how to pay. Remember that you should have proof of payment on the day of your interview. You may also have to pay a reciprocity fee, and it depends on your country of nationality.

The Consular Interview

You are required to attend an interview where an official will review the submitted paperwork for accuracy.

Approval

Once you have attended the interview and received the visa, you are allowed to begin your temporary stay in the US under the H-1B status.

Entering the US with an H-1B Visa

The officer at the border will check your paperwork, and if all is fine, will approve for entry. You will receive a stamp on your passport and a white card called an I-94 card. It will be stamped with a date showing how long you are permitted to stay.

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Normally, you will be allowed to remain up to the expiration date on the a H-1B Visa petition.

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