

# H-1B Filing Tips



**U.S. Citizenship  
and Immigration  
Services**

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# H-1B Filing Tips

1. Enter the petitioning entity's name, address, and phone number in Part 1 of the Form I-129, Petition for a Nonimmigrant Worker. Do not enter an attorney's or agent's address or phone number in Part 1 of the petition.
  - If you would like an attorney to be notified of any action on your case, you may file Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.



# H-1B Filing Tips (Continued)

2. You must sign the petition, the Labor Condition Application (LCA), and both signature sections of the H Classification Supplement.

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## Section 1. Complete This Section If Filing for H-1B Classification (Continued)

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### Statement for H-1B specialty occupations only:

By filing this petition, I agree to, and will abide by, the terms of the labor condition application (LCA) for the duration of the beneficiary's authorized period of stay for H-1B employment. I certify that I will maintain a valid employer-employee relationship with the beneficiary at all times. If the beneficiary is assigned to a position in a new location I will obtain and post an LCA for that site prior to reassignment.

I further understand that I cannot charge the beneficiary the ACWIA fee, and that any other required reimbursement will be considered an offset against wages and benefits paid relative to the LCA.

Signature of Petitioner

Print or Type Name

Date (mm/dd/yyyy)

### Statement for H-1B specialty occupations and U.S. Department of Defense projects:

As an authorized official of the employer, I certify that the employer will be liable for the reasonable costs of return transportation of the alien abroad if the beneficiary is dismissed from employment by the employer before the end of the period of authorized stay.

Signature of Authorized Official of Employer

Print or Type Name

Date (mm/dd/yyyy)



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# H-1B Filing Tips (Continued)

3. There must be a close correlation between the proposed H-1B duties and the beneficiary's education.
4. Provide the beneficiary's transcripts along with the diploma.
5. If you provide an evaluation of the beneficiary's education, training, and/or experience, provide copies of the work experience letters, training certificates, transcripts, or other documentation that the evaluator used to make his or her determination.



# H-1B Filing Tips (Continued)

## 6. The LCA filed with the H-1B petition must:

- Be certified by the Department of Labor (DOL) before filing the petition;
- Cover the requested employment dates;
- Use the correct standard occupational classification (SOC) that reflects the duties listed on the petition;
- Provide all work locations, if:
  - They are outside of the Metropolitan Statistical Area (MSA) of the main location; and
  - The length of employment at each location outside the MSA is long term (more than 30 days); and
- Include a list of workers who have used/ will use the LCA if the LCA was filed for multiple beneficiaries.



# Common RFE Reasons

- The most common reasons for issuing requests for evidence (RFEs) are:
  - Evidence of maintenance of status, such as pay stubs.
  - Evidence pertaining to extensions under the American Competitiveness in the Twenty-First Century Act (AC21), such as:
    - Copies of a permanent Labor Certification (pending or approved);
    - Form I-140, Immigrant Petition for Alien Worker; and/or
    - Evidence that the Labor Certification is currently pending.
  - In certain cases, evidence that the position qualifies as a specialty occupation and the beneficiary's qualifications.
  - In off-site employment cases, evidence of the specialty occupation work available.



# Preparation

- Some suggestions for improving the preparation and submission of H-1B petitions are:
  - Review the petition to ensure that the beneficiary's name is spelled correctly, as listed on his or her passport. If the beneficiary has any name variations, provide those using the following format: LAST, First.
  - Submit a letter of support detailing the beneficiary's job duties.
  - To avoid visa processing delays abroad:
    - File Form I-129 and the supporting documents in duplicate; and
    - If you receive an RFE, submit the RFE response and supporting documents in duplicate.



# Preparation (Continued)

- If you are requesting recapture time, list the beneficiary's arrival and departure dates and provide evidence showing eligibility for recapture time.
  - Examples of evidence that you may submit include copies of the beneficiary's passport stamps, airline tickets, and/or flight itineraries.
- If you are requesting additional time under sections 104 or 106 of AC21, include a copy of the Permanent Labor Certification (or up-to-date evidence that the permanent Labor Certification is pending with the DOL) or a copy of Form I-140.
  - If either was denied, please provide evidence of a timely filed appeal.
- If you are requesting a change of status or extension of stay, include evidence that the beneficiary was maintaining a valid status at the time of filing.



# About this Presentation

- Author: California Service Center
- Date of last revision: October 2014. This presentation is current only as of the date of last revision.
- This presentation contains no sensitive Personally Identifiable Information (PII).
- Any references in documents or text, with the exception of case law, relate to fictitious individuals.



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