H-1B Visa in the United States

Reference guide, chapters 2 through 13 and official links. Verify current rules on uscis.gov and dol.gov before filing.

2. Federal agencies: who does what?

The H-1B process involves several federal agencies with separate responsibilities. The Department of Labor acts before the USCIS petition when the employer files a Labor Condition Application, or LCA, through FLAG. The LCA contains wage, worksite and labor condition attestations designed to protect both H-1B workers and comparable U.S. workers.

USCIS, within the Department of Homeland Security, reviews Form I-129. It evaluates specialty occupation eligibility, the beneficiary's qualifications, the employer-employee relationship, wage evidence and the integrity of the petition. The Department of State handles visa issuance through DS-160 and the consular interview. CBP makes the admission decision at the port of entry and creates the I-94, which controls the person's status. USCIS approval, a consular visa and CBP status are related, but they are not the same thing.

3. Eligibility: degree, specialty occupation, employer-employee relationship

H-1B eligibility rests on two pillars: the offered position and the beneficiary's credentials. The position must be specialized enough to normally require a university degree in a specific field. The job duties must be described precisely: daily responsibilities, level of judgment, tools used, organizational role, projects, wage level and the reason a specialized degree is required.

The beneficiary must show the required degree or an acceptable equivalent. For a French degree, a credential evaluation is often used to explain equivalency to the U.S. education system. Consultants, engineers assigned to client projects, analysts, developers, researchers, financial specialists and other technical profiles may qualify, but third-party placements need clear evidence of supervision, worksite control and contractual structure. Without a genuine employer-employee relationship, the petition becomes vulnerable.

Detailed job description, organization chart, employment agreement, wage level, worksite, project description and connection between the required degree and actual duties.

4. Annual cap: 65,000 + 20,000 and exemptions

Most private employers are subject to the annual H-1B cap. The regular cap is 65,000 numbers per fiscal year. An additional 20,000 are reserved for beneficiaries with a qualifying U.S. master's degree or higher. Demand usually exceeds these 85,000 numbers, which is why electronic registration and selection are central to cap-subject cases.

Some employers are cap-exempt. They may include institutions of higher education, nonprofit entities affiliated with those institutions, certain nonprofit research organizations and certain governmental research organizations. A cap-exempt employer may be able to file outside the annual registration season, but the exemption must be verified carefully. For a French professional, this distinction matters greatly. A qualifying university or research organization can avoid the lottery, while a standard private company usually depends on the annual cap process.

5. LCA and DOL: FLAG, prevailing wage, posting

The Labor Condition Application, Form ETA-9035, is filed by the employer with the Department of Labor through FLAG. It is not an approval of the candidate's credentials. It is a certification of employer attestations covering wage, worksite, working conditions and notice. The employer agrees to pay at least the required wage and to avoid harming the working conditions of comparable U.S. workers.

The prevailing wage depends on occupation, geographic area, job level and wage source. The employer must compare the prevailing wage with the actual offered wage and comply with the applicable amount. The LCA identifies worksites. Client placement, remote work or a new location can require a new analysis and sometimes a new LCA. The public access file must be maintained under DOL rules. This part is often underestimated even though it protects the H-1B worker and comparable U.S. workers.

6. I-129 petition: USCIS, fees, RFE

After LCA certification and, where required, cap selection, the employer files Form I-129 with USCIS using the H supplement. The package includes the LCA, job description, company evidence, degrees, evaluations, employment agreement and evidence that the role is a specialty occupation. Fees may include the base filing fee, ACWIA fee, fraud prevention fee, additional fees based on employer size and structure, and optional premium processing.

Fee amounts change. Employers should verify uscis.gov/forms/filing-fees on the filing date. USCIS may issue a Request for Evidence, or RFE, when proof is missing or a legal issue is unclear. An RFE may challenge the specialty occupation, degree match, employer-employee relationship, ability to pay, wage level or third-party placement. A shallow response can lead to denial, so the original petition should be built as if it will be read by a skeptical officer.

7. Electronic registration: March registration window

For cap-subject cases, the employer uses USCIS electronic registration, typically in March for the next fiscal year. Registration is filed through an online USCIS account and comes before the full Form I-129 petition. The working document mentions a $215 registration fee per beneficiary. Because fees can change, this amount must be verified on the official USCIS registration page at the time of filing.

Beginning with fiscal year 2025, USCIS adopted a beneficiary-centric selection approach intended to reduce the artificial advantage created by multiple registrations for the same person. The working document also refers to a 2026 regulatory change toward wage-weighted selection, effective February 27, 2026 and applicable to the fiscal year 2027 registration period. Because this is a sensitive and evolving point, do not rely on secondhand summaries. Check the USCIS H-1B registration page, DHS announcements and current filing instructions before making decisions. Historic figures such as the fiscal year 2024 peak of about 758,994 registrations and a fiscal year 2025 decline around 470,000 should be read in the USCIS releases for the relevant year.

8. Consular visa: DS-160, MRV, U.S. Embassy in Paris

If the candidate is outside the United States, I-129 approval alone is not enough to enter and work. The candidate generally applies for an H-1B visa at the appropriate consular post. The process includes DS-160 through CEAC, MRV fee payment, appointment scheduling and interview preparation. In France, practical instructions are published by the U.S. Embassy.

The consular package typically includes the passport, DS-160 confirmation, fee receipt, photo if required, USCIS receipt number, I-797 approval, job offer, résumé, degrees, credential evaluation and sometimes employer evidence. The consular officer reviews admissibility, consistency and any possible ineligibility. Processing times vary by season, security checks and consular workload. A visa in the passport allows the traveler to request admission. It does not guarantee entry.

9. CBP admission: I-94, visa vs status

At arrival, CBP inspects the traveler and decides admission. The H-1B visa is a travel document. It allows the person to request entry during its validity period. H-1B status is granted by CBP at entry and is reflected on the electronic I-94. This distinction is essential. A person may have a valid visa but a shorter status period, or may receive a U.S. extension of status without obtaining a new visa foil in the passport.

After every entry, the worker should download the I-94 from the CBP website and verify name, class of admission and expiration date. The employer then uses work authorization evidence for Form I-9. Any I-94 error should be addressed quickly because the I-94 date can control the authorized stay. Keep the I-797, passport, visa, I-94 and employment documents in an accessible file.

10. Extensions and AC21: 3 + 3 years, portability

H-1B approval is generally granted for up to three years, with extension possible up to the usual six-year limit. The actual period depends on the LCA, Form I-129 request, passport validity and case facts. Before expiration, the employer may file an extension if the position and conditions remain compliant.

The American Competitiveness in the Twenty-First Century Act, or AC21, allows extensions beyond six years in certain green card situations, including when a permanent residence process is sufficiently advanced or an I-140 is approved but an immigrant visa number is unavailable. H-1B portability may allow a worker to begin employment with a new employer after a nonfrivolous petition is filed, subject to conditions. This is useful but technical. Employer changes, job changes, new worksites and wage changes should be reviewed carefully.

11. H-4 family: spouse, children, EAD

The spouse and unmarried children under 21 of an H-1B worker may generally seek H-4 status. H-4 allows residence in the United States during the authorized period, study, and a derivative status tied to the H-1B principal. H-4 children need age-out planning because turning 21 may require another status strategy.

An H-4 spouse is not automatically work-authorized. Certain H-4 spouses may apply for an employment authorization document, or EAD, using Form I-765 when the H-1B principal meets USCIS criteria tied to the green card process, including an approved I-140 or certain AC21 extensions. H-4 EAD rules are politically and legally sensitive. Verify the I-765 page, form instructions and the principal case status before relying on a second household income.

12. Employer compliance: I-9, site visits, fraud

Compliance does not end with approval. The employer must comply with the LCA, pay the required wage, maintain required records, complete Form I-9 and keep work authorization evidence. If the position, worksite, wage or duties materially change, a new H-1B analysis is needed. Some changes require an amended petition.

USCIS may conduct site visits through FDNS to verify the reality of the job, worksite, supervision, wage and employer operations. A visit may be announced or unannounced. Fraud or noncompliance can lead to revocation, future denials, DOL sanctions, admissibility problems and harm to the worker. A strong H-1B case therefore depends on reliable internal administration, not only on a polished petition.

13. Alternatives for French nationals

H-1B is useful, but it is not always the best route. A French entrepreneur may consider E-2 if the investment is substantial, at risk, active and not marginal. An employee of an international group may consider L-1 if intracompany transfer requirements are met. A highly recognized profile may explore O-1. A researcher, trainee, teacher or exchange participant may look at J-1, while carefully checking any two-year home residence requirement.

For a broader overview, see the internal pages (work_visa.html) Work visa USA, (visa_e2.html) E-2 Visa, (visas_usa.html) U.S. visas and (green_card_us.html) Green Card. The right path depends on timing, profile,

employer, family plans and long-term strategy. A cap-subject H-1B case can fail simply because it is not selected even when the legal case is strong, so parallel options matter.

16. Official links