



## Instructions

### The basics.

The Form 60 may only be e-filed for H-1B petitions.

Only H-1B petitions that being filed on behalf of cap-subject aliens must be e-filed on Form 60, However, if you are filing a petition on behalf of a non-cap subject alien, you may use Form 60 to e-file such a petition if you wish. **Please note that petitions for Chile/Singapore H-1B1 workers and H-1B Department of Defense Exceptional Services workers may not be e-filed using Form 60.** They must continue to use Form I-129, Petition for Alien Worker.

In addition, please note that in order to file the Form 60, the alien you are filing on behalf of must first have established an i-account.

### How do I file a Form 60?

There are five basic steps. These instructions are organized around these five steps.

**Step 1** - Make sure the Form 60 is right for you.

**Step 2** - Remember to first update your employer account with your latest information with regards to financials, address, etc.

**Step 3** - Fill out your application.

**Step 4** - Organize your application, and file.

**Step 5** - Other Processing Information.

### Before I Start, Can You Tell Me How This Kind of Petition Is Processed and How Long It Will Take?

You will be issued an electronic receipt after completing all required fields on the form and submitting the application. You will need to submit scanned documents in accordance with instructions found at [www.uscis.gov](http://www.uscis.gov).

After we receive your petition, we will adjudicate the case and run certain background and criminal checks. In the event your case is approved, we will send you an approval notice.

If you follow these instructions, and make sure you fill out the Form 60 and submit all requested items, and there is no criminal record, we will do everything we can to complete our processing promptly.

### Is There a Fee Associated With the Form 60?

Yes, there is a base-filing fee of **\$190.00** for all Form 60 filings.

#### **Additional Fees For H-1B Classification.**

Your base fee will be **\$190.00** plus any of the applicable fees described below. In order to determine if you may be exempt from the other applicable fees, the Form 60 has a series of questions designed to determine if you are exempt from the fees and we will calculate your total files for you at the end of the e-filing process.

The American Competitiveness and Workforce Improvement Act imposes additional fees on H-1B employers. In particular, H-1B employers must pay an additional fee of either **\$750.00** or **\$1,500.00** depending on the employer's size unless they are exempt from these fees. In particular, a U.S. employer with a total of 25 or less full-time equivalent employees in the United States (including any affiliate or subsidiary of the employer) is only obligated to pay the **\$750.00** fee. A U.S. employer with a total of 26 or more full-time employees in the United States (including any affiliate or subsidiary of the employer) must pay **\$1,500.00**.

A U.S. employer is exempt from payment of the additional **\$1,500.00** or **\$750.00** filing fee if:

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

The employer is a nonprofit organization or entity related to, or affiliated with an institution of higher education; or,

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

This petition is the second or subsequent request for an extension of stay filed by the employer; or,

This petition is an amended petition that is not connected to any requests for extension of stay filed by the alien; or,

The employer is a primary or secondary education institute; or,

The employer is a nonprofit entity which engages in an established curriculum-related clinical training for those students registered at the institution.

In addition, H-1B Visa Reform Act of 2004 imposed an additional "fraud" fee on H-1B and L-1 employers. In particular, employers must pay an additional fraud fee of **\$500.00** if they are 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 U.S. employer (concurrent or new employment)**. There are no exemptions from this fee.

### **What if I Have Questions?**

These instructions are designed to answer most common questions. If you have questions after you read the instructions, check the USCIS website at [www.uscis.gov](http://www.uscis.gov). Information about filing for benefits is available on the website through FAQ (Frequently Asked Questions).

Fees, processes and processing changes can change. If you got a Form 60 some time ago, or did not get it directly from us, we recommend you check our website or call to see if the form or instructions have changed.

## **Step 1. Make Sure Form 60 Is Right For You.**

There is one reason you would be required to file a Form 60. You required to e-file the Form 60 if you are sponsoring an alien for employment in a H-1B nonimmigrant classification who is subject to the annual numerical cap. However, if you are filing a petition on behalf of a non-cap subject alien, you may e-file the petition if you wish. In addition, please note that in order to file the Form 60, the alien you are filing on behalf of must first have established an i-account.

Who is not eligible to file with the Form 60 - **Please note that petitions for Chile/Singapore H-1B1 workers may not be filed on Form 60.**

### **Employment Sponsorship of an Alien for a Nonimmigrant Classification.**

You may use Form 60 to apply to sponsor an alien for the following H-1B nonimmigrant classifications:

#### **H-1B Specialty Occupation Worker/Professional.**

An alien, who is coming 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.

#### **H-1B Fashion Model.**

An alien who is a fashion model, who has national or international acclaim and recognition, coming to be employed in a position requiring such a level of acclaim and recognition.

## Step 2. Get Ready to File.

You may e-file your application on the USCIS website. Go to the USCIS website at [www.uscis.gov](http://www.uscis.gov) and click on e-filing. You will be guided through the rest of the filing process from there. However, before you complete the online application, you should read the following specific filing information. Remember to first update your employer account with your latest information with regards to financials, address etc. before filing the Form 60.

### Rules for Supporting documents.

You will need originals of all supporting documents that you will need in the event we request the original. The only exception is that for document issued by government agencies, such as a birth, death or marriage certificate, or arrest disposition record, we will accept a certified copy issued by the same government agency that issued the original. (We do not accept copies certified as accurate by third parties such as notary publics.)

If a document is not in English, you will also need a full English translation. The translator must certify that he or she is competent to translate the language, and that it is a full and accurate translation. The translator must include their name, signature, full address, phone number, any e-mail address and any relating license or registration information.

You will need to submit supporting information and evidence in accordance with instructions found at [www.uscis.gov](http://www.uscis.gov). In addition, please note you may submit supporting documents in connection with the Form 60 on behalf of the alien that you are sponsoring.

### Supporting Evidence for H-1B Specialty Occupation Worker/Fashion Models.

**You should submit the following evidence:**

#### For H-1B Specialty Occupations Workers.

An employment letter describing the terms of employment, including a position description with job duties, the minimum qualifications for the position and evidence showing that the proposed employment qualifies as a specialty occupation;

A copy of any written contract between you and the alien, if applicable;

A copy of any required license or other official permission to practice the occupation in the state of intended employment; and,

Evidence showing that the alien has the required degree by submitting evidence of education and/or experience that is equivalent to the required U.S. degree, or a copy of a foreign degree and evidence that it is equivalent to the U.S. degree; or a copy of the person's U.S. baccalaureate or higher degree as required by the specialty occupation.

#### For H-1B Fashion Models.

Evidence that the alien has gained national or international acclaim and recognition as a fashion model; and

Evidence that the proposed employment involves a position requiring such a level of acclaim and recognition.

## Step 3. Fill Out Your Application.

This section is designed to help you in filing out the Form 60. If an item does not apply, just write "N/A" or "Not Applicable" unless the instructions on the form specifically instruct you to do something else. Below is a guide to help you fill out each section of the form.

### Section 1. Employer Information.

**1. Name** - Provide the full legal name of employer sponsor

**2. Employer EIN#** - Provide the Federal Employer Identification Number assigned by the U.S. Internal Revenue System for employers (even those individuals who are employers).

## Section 2. Information on Benefit You Are Filing for. (Check box.)

In this section, you should indicate that you are filing for a nonimmigrant classification for a temporary worker.

### Section 3. Information for Nonimmigrant Classification Requests.

- A. Nonimmigrant classification being requested. (Check one)** - Check the box next to the nonimmigrant visa classification you are requesting for the alien being sponsored.
- B. Basis for nonimmigrant classification. (Check one)** - Check the box that describes the employment situation of the alien being sponsored. See below for further explanation of the choices.
- 1. New Employment (including new employer who is hiring an alien currently in H-1B status and leaving his or her current employer).** - you should check this box if you are hiring an alien for the first time even if that alien is currently H-1B working for another employer and will be leaving his or her current employer. You should also check this box if you are hiring an alien who may have worked for you in the past but is now being rehired after a break in the first employment.
  - 2. Continuation of previously employed without change (same employer)-** You should check this box if you are applying to continue the employment of an alien you have applied for previously and there has been no substantial change in the employment.
  - 3. Change in previously approved employment (same employer)-** You should check this box if you are applying to continue the employment of the same alien but there has been a change in the previously approved employment such as job title, duties, location, dates of employment, etc.
  - 4. New current employment** - You should check this box if you are hiring an alien who is currently in H-1B status working for another employer and will continue this employment while also working for you.
- C. Dates of validity period.** - You should indicate the intended start date (month, day, year) and the intended end date (month, date, year) for the alien's employment.
- D. Requested action for nonimmigrant classification - Type of Office to be Notified. (Check one)** - Check the box to indicate where alien is planning to apply for his or her visa if the alien is currently abroad. In the instance when the alien is abroad but a visa is not required, indicate a pre-flight inspection area or port-of-entry where the alien plans to make his or her application. In addition, if the alien who is being sponsored is in the United States and is applying for a change of status or extension of stay, the employer should check the box to indicate where notification of approval should be sent in the event the alien's change of status or extension of stay request is not approved and the alien must leave the U.S. and reenter the U.S. to activate their approval.

## Section 4. Information on Alien You Are Filing for.

**Provide the name, date of birth and i-account number for alien(s) being sponsored** - Provide the name, date of birth and i-account number for all aliens being sponsored on the Form 60. Please provide the full legal name of the alien and provide the date of birth as month-day-year using numbers. For example, if the alien was born on December 31, 1974, this would be entered as 12-31-1974.

## Section 5. Background Information.

In this section, you should answer all the questions either yes or no. For the questions you answer yes, please provide the specific filing information regarding any previous case, application or petition filed for the alien in the Form 60 as instructed.

## Section 6. Qualifying Job or Position.

- 1. Job Title** - you should indicate the job title of the position the alien is being offered.

## Section 6. Qualifying Job or Position. (Continued.)

2. **Nontechnical description of job or position** - you should provide a full in-depth description of the job duties of the alien including any relevant details to the specific nonimmigrant classification being applied for such as supervisory or managerial duties, special skills or projects, etc.
3. **SOC Code** - provide the Standard Occupational Code of the position the alien is being offered. The Standard Occupational Classification (SOC) System codes can be obtained from the Department of Labor, U.S. Bureau of Labor Statistics (<http://stats.bls.gov/soc/socguide.htm>). Enter the code from left to right, one digit in each of the six boxes. If you use a code that is less than six digits, enter the code left to right and then add zeros in the remaining unoccupied boxes.
  - a. The code sequence 19-1021 would be entered as: **1 9 1 0 2 1**
  - b. The code sequence 15-100 would be entered as: **1 5 1 0 0 0**
4. **Address where the alien will work.** - You should provide street number, street name, city or town, state or province and zip code/postal code for where the alien will perform his or her employment.
5. **Is this a full-time position?** - You should indicate if this is a full-time position or not. If it is not a full-time position, indicate how many hours a week the alien will be employed in the position.
6. **Wages per week or per year.** - You should indicate the wages or salary the alien will receive for the employment and use the drop-down menu to indicate if the alien is receiving this wage per week or per year. Please note that for purposes of this question, do not include non-cash compensation or benefits when reporting the wage.

## Section 7. Questions on Specific Nonimmigrant Classifications.

### Questions for H-1B Specialty Occupation Worker/Fashion Models.

1. **Is the alien planning on starting employment under the H-1B portability provisions?** - If the alien is eligible, you should indicate if the alien is planning to start work after the filing of the Form 60 under the H-1B portability provisions.
2. **Provide DOL Labor Condition Application Number (LCA)** - You should provide the number of the LCA you submitted and was certified by the DOL for the alien.
3. **Provide LCA job code** - You should provide the LCA job/occupational classification code that you entered on the LCA for the alien. The LCA Code is a three-digit occupational group for professional, technical, and managerial occupations and fashion models that can be obtained from Appendix 2 of the Dictionary of Occupational Titles printed on Department of Labor ETA Form 9035, Labor Condition Application for H-1B Nonimmigrant.
4. **Provide degree required for position (U.S. Bachelor's or higher) and field of study** - You should provide the degree level required for the position you are sponsoring the alien for (U.S. Bachelor's degree or higher) and the field of study for the degree. A degree is not required for a Fashion Model and you should indicate N/A in this field if you are filing for such a position.
5. **Provide the alien's relevant major/primary field of study** - You should provide information on the alien's major/primary field of study.
6. **List any previous periods of time that you employed the alien and the alien's status at the time of employment** - You should provide all prior periods of time that you employed the alien and indicate the status alien held at the time of employment.

**Section 7. Questions on Specific Nonimmigrant Classifications. (Continued.)****7. Employer Information.**

- a. Is the petitioner a dependent employer?** - You must indicate if you are a dependent employer. An "H-1B dependent employer" means an employer that:

Has 25 or fewer full-time equivalent employees who are employed in the United States and employs more than seven H-1B nonimmigrants; or

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

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.

- b. Has the petitioner ever been found to be willful violator?** - You must indicate if you have been found to be a willful violator. A willful violator is an employer whom the 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 (LCA) described in section 212(n) of the Immigration and Nationality Act.

- c. Is the beneficiary an exempt H-1B nonimmigrant** - You should indicate if the alien you are sponsoring is an exempt H-1B nonimmigrant. An "exempt H-1B nonimmigrant" means even if you are an H-1B dependent employer or a willful violator, if the alien you will be employing is an exempt H-1B, the employment of the exempt H-1B nonimmigrant will not be subject to the additional attestations normally required. An "exempt H-1B nonimmigrant" for purposes of this question is an alien who: receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least **\$60,000**; or has attained a master's degree or higher (or its equivalent) in a specialty related to the intended employment.

- d. If the answer to Number 3 is yes, check applicable reason.** - You should indicate the reason why the alien is an exempt H-1B nonimmigrant.

- 8. Filing Fees and Cap Exemption Questions.** - you must answer these questions in order to determine if you are exempt from certain filing fees and to determine if the alien who you are sponsoring may be exempt from counting against the H-1B cap. Please note that some questions determine both cap and fee exemptions while some questions only address fee exemptions or cap exemptions only.

U.S. employers claiming exemption from payment of the **\$1,500.00** or **\$750.00** filing fee on the basis of status as **(a)** a nonprofit organization or entity related to, or affiliated with an institution of higher education, or **(b)** as a nonprofit research organization, must submit evidence of tax exempt status under the Internal Revenue Code of 1986, section 501(c)(3), (4), or (6), 26 U.S.C. 501(c)(3), (c)(4), or (c)(6) should provide proof of such status or submit a statement describing why the organization or entity is exempt.

- a. Has the beneficiary of this petition earned a master's or higher degree from a U.S. institution of higher education as defined in 20 U.S.C. section 1001(a)** - You must indicate whether or not the alien has earned a master's or higher degree from a U.S. institution of higher education, as defined in 20 U.S.C. section 1001(a). If yes, provide information regarding the name of U.S. institution of higher education, the date the degree was awarded and address of the U.S. institution and type of U.S. degree. This question relates to a cap exemption.
- b. Are you an institution of higher education as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?** - You must indicate if you are a qualifying entity described in the question. This question relates to a cap and fee exemption.

## Section 7. Questions on Specific Nonimmigrant Classifications. (Continued.)

- c. Are you a nonprofit organization or entity related to or affiliated with an institution of higher education as such institutions of higher education are defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?** - You must indicate if you are a qualifying entity described in the question. A nonprofit organization or entity includes but is not limited to hospitals and medical research institutions. "Related to" or "affiliated with" means the entity is: Connected or associated with the institution of higher education through shared ownership or control by a board or federation operated by the institution of higher education, or attached to the institution of higher education as a member, branch, cooperative or subsidiary. This question relates to a cap and fee exemption.

"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), and **(b)** has been approved as a tax exempt organization for research or educational purposes by the Internal Revenue Service.

- d. Are you a nonprofit research organization or a governmental research organization, as defined in 8 C.F.R. 214.2(h)(19)(iii)(C)?** - You must indicate if you are a qualifying entity described in the question. This question relates to a cap and fee exemption. "Nonprofit organization or entity" means the organization or entity is: Defined as a tax exempt organization under the Internal Revenue Code of 1986, section 501(c)(3), (c)(4), or (c)(6); 26 U.S.C. 501(c)(3), (c)(4), or (c)(6), and has been approved as a tax exempt organization for research or educational purposes by the Internal Revenue Service. A government research organization is a U.S. Federal government entity whose primary mission is the performance or promotion of basic research and/or applied research.

- e. Is this the second or subsequent request for an extension of stay that you have filed for this alien?** - You must indicate if this is the second or a subsequent request for an extension of stay that you have filed for this particular alien. This question relates to a fee exemption.

- f. Is this an amended petition that does not contain any request for extension of stay?** - You must indicate if this an amended petition (e.g. a change in employment conditions with the same employer) that does not contain any request for an extension of stay. This question relates to a fee exemption.

- g. Are you filing this petition in order to correct a USCIS error?** - You must indicate if you are filing the Form I-60 in order to correct a USCIS error. This question relates to a fee exemption.

- h. Is the petitioner a primary or secondary education institution?** - You must indicate if you are a primary or secondary educational institution. This question relates to a fee exemption.

- i. Is the petitioner a non-profit entity that engages in an established curriculum-related clinical training of students registered at such an institution?** - You must indicate if you are a non-profit entity that engages in an established curriculum-related clinical training of students registered at such an institution. This question relates to a fee exemption. If you answered "Yes" to any of the questions above, you are **only** required to submit the base fee for your Form 60, which is **\$190.00** plus the **\$500.00** fraud fee if filing for the 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 U.S. employer (concurrent or new employment). If you answered "No" to all questions, please answer **Question j**.

## Section 7. Questions on Specific Nonimmigrant Classifications. (Continued.)

- j. Do you currently employ a total of no more than 25 full-time equivalent employees in the United States, including any affiliate or subsidiary of your company?** - You must indicate if you currently employ a total of no more than 25 full-time equivalent employees in the United States.

If you answered "Yes" to **Question j** above, then you are required to pay the base filing fee of **\$190.00** plus an additional fee of **\$750.00** and the **\$500.00** fraud fee if filing for the 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 U.S. employer (concurrent or new employment). If you answered "No," then you are required to pay base filing fee of **\$190.00 plus an additional fee of \$1500.00** and the **\$500.00** fraud fee if filing for the 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 U.S. employer (concurrent or new employment).

- k. Is the beneficiary of this petition a J-1 nonimmigrant alien who received a waiver of the two-year foreign residency requirement described in section 214(l)(1)(B) or of the Act?** - You must indicate if the alien you are sponsoring on this Form 60 was ever a J-1 nonimmigrant alien who received a waiver of the two year foreign residency requirement because they served as a doctor in an underserved area. This question relates to a cap exemption.
- l. Has the beneficiary of this petition been previously granted status as an H-1B nonimmigrant in the past six years and not left the United States for more than the one year after attaining such status?** - You should indicate if the alien you are sponsoring on this Form 60 has been granted H-1B status any time in the past six years and has not left the U.S. for more than one year since the time the alien held H-1B status previously. This question relates to a cap exemption.

If you answered "Yes" to **Question l**, please answer **Question m**.

- m. If the petition is for new H-1B employment, have all the beneficiary's previous H-1B employers been either an institution of higher education, an entity related to or affiliated with an institution of higher education, or a nonprofit research organization or governmental research institution defined in Questions a, b and c?** - You must indicate if the alien you are sponsoring on the Form 60 has always previously worked for one of the qualifying entities named in the question. This question relates to a cap exemption.

## Section 8. Preparer Information.

If someone helped you with your application they must complete **Part 8** and sign it before the Form 60 is filed.

If an attorney or authorized representative of EOIR (the Executive Office of Immigration Review) helped prepare Form 60, they should check the box provided and enter their r-account number.

If any other kind of preparer help you with your application, they should check the box provided and must enter their name and answer the remaining questions.

Whether an attorney, other qualified representative, or some other kind of preparer helped prepare the Form 60, the person must then sign and enter the date they signed the form.

## Section 9. Designation of Representation.

If you have an attorney or other qualified person representing you, provide the requested information about them.

## Section 10. Your Signature, Attestation and Authorization of Representation.

Read the certification, sign and date your application. By doing this you take full responsibility for the accuracy of the information you provide, including all supporting documents.

## Step 4. Organize your application and file.

**E-filing:** - You will be guided through the filing processing when you complete the Petition on USCIS website at [www.uscis.gov](http://www.uscis.gov).

**Filing Fee** - You must pay by credit card or debit card.

Payment is subject to collection. If your payment "bounces," we will stop processing your petition or application, and you will have to pay a service charge in addition to the required fee. Non-payment will invalidate a petition or application and all benefits and documents based on it.

### **Our commitment -**

We are committed to customer service, and to helping you receive benefits and services to which you are entitled. But you must prove your eligibility. To do so you may have to submit documents and other evidence. You must certify that your Petition and all the information and evidence are true and correct. Your certification extends to everything you submit while we process your case. While we are committed to service, we are also committed to making sure people only receive benefits and services to which they are entitled. We will deny a Petition that involves false documents, misrepresentations of facts, or other fraud. Every person involved may also lose the right to current and future immigration benefits and services, and may also face severe penalties, criminal and/or civil prosecution, fines and/or imprisonment. We take fraud very seriously, and may prosecute to the fullest extent of the law.

## Step 5. Other processing information.

**If you move while your application is pending** - Update your e-account as soon as you move. Updating your account in a timely fashion will ensure that your new address is updated for all your pending petitions.

**Requests for additional evidence** - If, as we process your application, we find that we need additional information or evidence not listed in these instructions, we may send you a request for the additional information or evidence. Processing of your petition will stop until we receive the requested documents and failure to respond to the request for evidence in the time provided will result in a denial of the petition.

**Decision** - If we approve your application, we will mail you an approval notice. If we deny it, we will mail you an explanation.

**Privacy Act Notice** - We ask for the information on this form and for the associated evidence so we can determine your eligibility for the benefit you are seeking. Form60 application processes are generally described in 8 CFR 103 and 214. We do provide certain information you give us to other government agencies.

**Paperwork Reduction Act Notice** - Although immigration laws are often complex, we try to create forms and instructions that are easy to understand and that impose the least possible burden in terms of the information and evidence required. For this petition we estimate that on average it will take a customer 60 minutes to learn about the law, form and process; and 60 minutes to get the form, get ready to file including assembling supporting documentation and complete the form, for total average time of 120 minutes.

If you have comments about the accuracy of this estimate or suggestions to make this form simpler, you may write to U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., Washington, D.C. 20529. (Do not mail your completed application to this address.)