



## H-1B TIPS FOR EMPLOYERS

*Posted on March 30, 2018 by Cyrus Mehta*

On April 2, employers can start filing H-1B temporary visa petitions for foreign professionals for work starting October 1, 2018. The law limits new H-1B visa numbers to 85,000 a year. Because many more employers than that are likely to file petitions, U.S. Citizenship and Immigration Services (USCIS) will receive applications for one week and then conduct a lottery to determine which applications will actually be processed. Applications that receive a receipt will then be adjudicated for approval or denial.

Getting selected in the H-1B lottery does not necessarily mean a petition will be approved. USCIS issued 45% more requests for additional evidence on H-1B petitions in 2017 than the previous year. There was also a higher percentage of denials, longer processing times, and tougher standards on filing requirements. We foresee even more scrutiny of H-1B petitions this year, as well as longer processing times.

We recommend the following potential ways for employers to maximize their H-1B chances:

- Apply based on a master's degree from a U.S. nonprofit university as long as all degree requirements are completed before April 1
- Ensure close match between course of study and job duties
- Apply concurrently for optional practical training (OPT) or STEM OPT and H-1B
- Apply for "consular notification," not change of status, to preserve OPT if OPT lasts beyond October 1
- Apply for "change of status" if OPT expires before October 1 to preserve work eligibility under "cap gap" policy, but avoid travel
- Choose O\*NET code and wage level carefully
- If more than one field of study could qualify a person for the position,

explain task by task how the position requires the education

- Be careful of Level 1 wages. Instead, obtain an acceptable prevailing wage from a legitimate source other than the Labor Department, offer to pay a higher wage from the outset, or explain why this particular job is both entry level and qualifies as a "specialty occupation"
- Consider other visa options if your employees is not selected in the H-1B lottery
- Check USCIS website for changes to form, fee, filing location