



ImLaw  
Immigration  
Attorneys

# Filing for H-1B Work Visa Status

**Key Terms:**

**USCIS:** United States Citizenship and Immigration Services

**LCA:** Labor Condition Application

**DOL:** Department of Labor

**PAF:** Public Access File

**RFE:** Request for Evidence

## For H-1B cap-subject cases:

**Step 1** *1-2 weeks*  
**Gather Information**

- Employer retains ImLaw for this project (review, sign, and return contract to ImLaw with payment of retainer fee).
- ImLaw opens new file and begins representation.
- Employer and Candidate each complete an H-1B questionnaire and submit requested documents to ImLaw.
- ImLaw reviews all submissions to confirm that offered position and candidate meet legal criteria for H-1B status.
- Certain employers are H-1B cap-exempt, meaning they can file H-1B petitions on any day of the year. Cap-exempt organizations generally include higher education institutions, nonprofit organizations affiliated with or related to higher education institutions, nonprofit research organizations, and governmental research organizations.

Employer creates a myUSCIS account in January or February of the applicable filing year. H-1B cap cases are subject to a competitive H-1B lottery each year.

**Step 2** *1 week*  
**Labor Condition Application (LCA)**

- ImLaw evaluates offered position, determines correct occupational category, and compares salary to DOL's prevailing wage requirements and the employer's actual wages paid to similar workers.
- ImLaw prepares LCA and submits to Dept. of Labor.
- ImLaw prepares Public Access File (PAF) documents and submits to employer with detailed instructions.
- Dept. of Labor processes application and issues a certified LCA in approximately 7 days.

**Step 3**  
*concurrently with Step 2*  
**Prepare Documentation**

- ImLaw prepares drafts of detailed H-1B letter in support, H-1B petition forms, and other supporting documents with instructions for signatures and fees.
- Employer reviews, signs, and returns prepared documentation to ImLaw by email or hard copy in the mail.

USCIS will notify ImLaw of selected registration by March 31 of the applicable filing year.

**Step 4**  
*2 weeks to several months*  
**Submit Documentation and Wait**

- Employer provides required Dept. of Homeland Security fee checks and balance of fee to ImLaw per ImLaw's instructions.
- ImLaw assembles, reviews, and sends the final H-1B petition package to USCIS. Processing times fluctuate; it may be within several days to several months from date of filing. If filed using the premium processing service, USCIS will issue a decision within 15 days unless a Request for Evidence (RFE) is issued. If filed under regular processing, it may be a few to several months for decision.

An electronic H-1B registration must be submitted to USCIS within a designed period in March of the applicable filing year.

**Step 5** *Timing varies*  
**Employment May Begin**

- H-1B transfer candidates, those holding current H-1B status for another employer, may start work for the new employer immediately after receiving the I-797C receipt notice from USCIS. This can take a few weeks under regular processing and a few days under premium processing.
- For all other H-1B candidates, USCIS will notify ImLaw of the H-1B approval by issuing an I-797A (for candidates in the US) or I-797B (for candidates outside of the US) notice.
- ImLaw notifies and provides Employer with the approval notice and instructions for next steps.
- Thereafter, employment may begin on the start date of the approval.

ImLaw will prepare H-1B documents upon notification of selection in the lottery for that year. ImLaw will assemble and file cap cases with the 90-day period beginning April 1st of the year selected. Approval notices take effect on October 1st of the year selected.