

## Q : When can I file an H-1B Cap petition?

H-1B petitions can be filed six months in advance of the requested start date. Therefore, petitions seeking an October 1, 2008 start date can be filed no sooner than April 1, 2008. This is when the majority of H-1B cap subject petitions are filed. Conversely, petitions that are cap exempt may be filed at any time during the year, dependent on the petitioner's need.

## Q : Where should I mail my H-1B Cap subject petition?

Specific mailing addresses have been established for purposes of identification and processing of H-1B cap subject cases. The specific filing addresses are listed on the accompanying filing charts. To view these charts, please see "Direct Filing Addresses for Form I-129, Petition for Nonimmigrant Worker," at the link below. A separate mailing address has been established for certain types of educational or nonprofit organizations which file H-1B petitions on behalf of beneficiaries that are not counted against the H-1B numerical limitations. A public update regarding the current H-1B Cap is available by clicking on the second link provided below.

## Direct Filing Addresses for Form I-129, Petition for Nonimmigrant Worker

### Form I-129 Petition for Nonimmigrant Worker

Effective April 2, 2007

This chart provides the direct filing addresses for Form I-129, which become effective on April 2, 2007. Please note the filing addresses below and the filing exceptions for certain classifications.

**H-1B employers filing petitions which are cap exempt** are encouraged to file such petitions exclusively at the California Service Center at one of the addresses provided below.

In this instance, the term "cap exempt" refers only to those petitioners who are exempt from the numerical limitations identified in 8 CFR 214.2 (h)(8)(A). "Cap exempt" petitioners include:

- Institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965, 20 U.S.C. 1001 (a);
- Nonprofit organizations or entities related to or affiliated with institutions of higher education; and
- Nonprofit research organizations or governmental research organizations as defined in 8 CFR 214.2 (h)(19)(iii)(C).

Petitioners can indicate their cap exempt status on the I-129 form with a "yes" answer to questions 1, 2, or 3 in Part C of the H-1B Data Collection and Filing Fee Exemption Supplement (page 10).

For Direct Mail:

U.S. Citizenship and Immigration Services  
California Service Center  
ATTN: Cap Exempt H-1B Processing Unit  
P.O. Box 30040  
Laguna Niguel, CA 92607-3004

For non-United States Postal Service (USPS) deliveries (e.g. private couriers):

U.S. Citizenship and Immigration Services  
California Service Center

|                                                                                                 |                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ATTN: CAP EXEMPT H-1B Processing Unit<br>24000 Avila Road, Room 2312<br>Laguna Niguel, CA 92677 |                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                              |
| <b>If</b>                                                                                       | <b>And</b>                                                                                                                                                                             | <b>Mail Form I-129 to</b>                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                              |
| You are<br>the<br>petitioning<br>employer                                                       | <b>The beneficiary will<br/>         work temporarily in:</b><br><br>AK, AZ, CA, CO, GU,<br>HI, ID, IL, IN, IA, KS,<br>MI, MN, MO, MT, NE,<br>NV, ND, OH, OR, SD,<br>UT, WA, WI, or WY | <b><u>For Regular<br/>         processing</u></b><br><br><b>H-1B Cap Cases:</b><br><br><b>USCIS</b><br>California Service<br>Center<br><br>ATTN: H-1B Cap<br>P.O. Box 10129<br><br>Laguna Niguel, CA<br>92607-1012<br><br><b>U.S. Masters Cap<br/>         Cases:</b><br><br>USCIS | <b><u>For Premium Processing</u></b><br><br><b>Form I-907/I-129 Regular Mailing<br/>         Address:</b><br><br>Premium Processing Service<br>USCIS<br>California Service Center<br>P.O. Box 10825<br>Laguna Niguel, CA 92607<br>(Please note the type of I-129 in<br>the attention line)<br><br><b>Form I-907/I-129 Courier Mail<br/>         Address:</b> |
|                                                                                                 |                                                                                                                                                                                        | California Service<br>Center<br><br>ATTN: H-1B U.S.<br>Masters Cap<br>P.O. Box 10129                                                                                                                                                                                               | Premium Processing Service<br>USCIS<br>California Service Center<br>24000 Avila Road                                                                                                                                                                                                                                                                         |

|  |                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                           |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |                                                                                                                                                                                      | <p>Laguna Niguel, CA<br/>92607-1012</p> <p><b>All other I-129 Cases:</b></p> <p>USCIS<br/>California Service Center<br/>ATTN: I-129<br/>P.O. Box 10129<br/>Laguna Niguel, CA<br/>92607-1012</p> <p><b>Courier Address for All I-129s:</b></p> <p>USCIS<br/>California Service Center<br/>24000 Avila Road<br/>2<sup>nd</sup> Floor, Room 2312<br/>Laguna Niguel, CA<br/>92677</p> <p>(Please note the type of I-129 in the attention line)</p> |                                                                                                                                                                                                           |
|  | <p><b>The beneficiary will work temporarily in:</b></p> <p>AL, AR, CT, DE, DC, FL, GA, KY, LA, ME, MD, MA, MS, NH, NJ, NM, NY, NC, OK, PA, PR, RI, SC, TN, TX, VT, VA, VI, or WV</p> | <p><b>For Regular processing</b></p> <p><b>H-1B Cap Cases:</b></p> <p>USCIS<br/>Vermont Service Center<br/>ATTN: H-1B Cap<br/>1A Lemnah Drive<br/>St. Albans. VT</p>                                                                                                                                                                                                                                                                           | <p><b>For Premium Processing Form I-907/I-129 Mailing Address and Courier Address:</b></p> <p><b>H-1B Cap Cases:</b></p> <p>Premium Processing Service</p> <p><b>USCIS</b><br/>Vermont Service Center</p> |

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                             |  | 05479-0001<br><br><b>H-1B U.S. Masters Cap Cases:</b><br><br>USCIS<br>Vermont Service Center<br>ATTN: H-1B U.S. Masters Cap<br>1A Lemnah Drive<br>St. Albans. VT 05479-0001<br><br><b>All other I-129 Cases:</b><br><br>USCIS<br>Vermont Service Center<br>ATTN: I-129<br>75 Lower Weldon Street<br>St. Albans, VT 05479-0001 | ATTN: H-1B Cap<br>30 Houghton Street<br>St. Albans. VT 05478-2399<br><br><b>H-1B U.S. Master Cap Cases:</b><br><br>Premium Processing Service<br><b>USCIS</b><br>Vermont Service Center<br>ATTN: U.S. Masters Cap<br>30 Houghton Street<br>St. Albans. VT 05478-2399<br><br><b>All other I-129 Cases:</b><br><br>Premium Processing Service<br><b>USCIS</b><br>Vermont Service Center<br>ATTN: I-129<br>30 Houghton Street<br>St. Albans. VT 05478-2399<br><br><b>Form I-907/I129 E-mail address:</b><br><br>VSC-Premium.Processing@dhs.gov |
| <b>Exceptions</b>                                                                                                                                                                                                                                                                                           |  |                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| · <b>Form I-129 Filed for Temporary Employment or Training in More Than One Location:</b> When the temporary employment or training will be in different locations, the state where your company or organization is located will determine to which Service Center you should send your Form I-129 package. |  |                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

For example, if the beneficiary will work in Arizona and Texas, and your company is located in New York, file Form I-129 with the Vermont Service Center.

- **H-1C Classification for Nurses:** Mail the I-129 package to the Vermont Service Center, regardless of where the temporary H-1C nurse will be employed.

- **R Classification for Temporary Religious Workers:** Mail the I-129 package to the California Service Center, regardless of where the temporary religious worker will be employed.

- **Major League Sports:** Mail the I-129 package to the Vermont Service Center, regardless of place of temporary employment. This covers major league athletes, minor league sports and any affiliates associated with the major leagues in baseball, hockey, soccer, basketball, and football. Support personnel includes coaches, trainers, broadcasters, referees, linesmen, umpires, and interpreters.

- **Change of Status or Extension of Stay Under Certain Free Trade Agreements:** Mail Form I-129 to the Vermont Service Center, regardless of the place of temporary employment, if Form I-129 is filed to request a change of status or extension of stay under one of the Free Trade Agreements listed below.

- o Change of Status to TN or TN Extension under Trade NAFTA for Nationals of Canada or Mexico.

- o Change of Status to H-1B1 or Extension of H-1B1 Stay for Nationals of Singapore and Chile.

- o Change of Status to E-3 or Extension of E-3 Stay for Nationals of Australia.

§ **Initial Classification Under Certain Free Trade Agreements:** DO NOT use Form I-129 to apply for initial classification under one of the Free Trade Agreements listed below.

- o **Initial TN Classification for Nationals of Mexico (outside the United States):** To obtain more information on the application process for initial TN classification, please visit the U.S. Department of State's TN Visa website. A link to the Department of State's website can be found under "Related Links" on the upper right section of this page.

- o **Initial TN Classification for Nationals of Canada (outside the United States):** Please see 8 CFR 214.6 for information on applying for initial TN admission at a U.S. port of entry. A link to Title 8 of the Code of Federal Regulations can be found under "Related Links."

- o **Initial H-1B1 Classification Under the Singapore/Chile Free Trade Agreement:** To obtain more information on applying for initial H-1B1 classification, please visit the U.S. Department of State's website.

o **Initial E-3 Classification Under the Australian Free Trade Agreement:** To obtain more information on applying for initial E-3 classification, please visit the U.S. Department of State's website.

## Q : How do I organize my H-1B package?

A separate check for each applicable filing fee (Form I-129, Premium Processing, Fraud Fee, and/or ACWIA fee) is preferred.

Here is the preferred order of documents at time of submission. Applicable fees should be stapled to the bottom right corner of the top document (Form I-907, Form G-28, or Form I-129).

- Form I-907 (if filing for Premium Processing Service);
  - Form G-28 (if represented by attorney or accredited representative);
  - Form I-129 ("Petition for a Nonimmigrant Worker");
  - H Classification Supplement to Form I-129;
  - H-1B Data Collection and Filing Fee Exemption Supplement;
  - Provide a Table of Contents;
    - Tab items as listed in Table of Contents;
    - Arrival-Departure Record (Form I-94) (if the beneficiary is in the US);
    - and, if applicable, the SEVIS Form I-20 (if current or former F-1 student or F-2 dependent), SEVIS Form DS-2019 (if current or former J-1 or J-2) or Form I-566 (if current A or G nonimmigrant)
    - Certified Labor Condition Application, Form ETA 9035, from Department of Labor;
    - Employer/Attorney/Representative letter;
  - Other supporting documentation
  - Duplicate copy of the petition if the beneficiary will be seeking nonimmigrant visa issuance abroad.
- If multiple petitions will be included in the same courier service or Post Office package, please place individual petitions into separate envelopes within the package.

### Filing Documentation

#### Notice of Entry of Appearance as Attorney or Representative (Form G-28)

If the petitioner will be represented by an attorney or other accredited representative, a properly executed Form G-28 should be submitted. Each Form G-28 should include the following:

- All sections completed;
- The printed name and signature of the representative. The representative's signature can be either an original or a facsimile; and
- The original signature of the petitioner.

#### Form I-129, Petition for a Nonimmigrant Worker

- Please be sure to complete all sections of the form accurately. We include a link, below, to the most common errors in an H-1B petition.
- Be sure the beneficiary's name is spelled properly and that his/her date of birth is displayed in the proper format (mm/dd/yyyy). Also, country of birth/citizenship and the I-94 # (if applicable) should be reviewed for accuracy.
- If the beneficiary will ultimately be seeking issuance of a visa at a consular office abroad, a copy of the petition and supporting documentation should be included with the filing. For cases where the beneficiary is not seeking a change of status in the United States, a copy is not necessary.
- If the beneficiary is seeking an extension or change of status, the petition should include evidence (e.g. Form I-94 or Form I-797 approval notice) to establish that the beneficiary will have maintained a valid nonimmigrant status through the employment start date being requested.
- A copy of the beneficiary's valid passport.

#### H Classification Supplement to Form I-129 (pages 7-8 of Form I-129)

- Please be sure to complete all sections of the form accurately.

- In listing previous periods of stay in H/L classification (question 3), please also include the actual nonimmigrant classification (e.g., H-1B or H-4) held.
  - Petitioner must sign the form, preferably in **blue ink**.
- H-1B Data Collection and Filing Fee Supplement form (pages 10-11 of Form I-129)**
- Please be sure to complete all sections of the form accurately.
  - If the beneficiary has earned a Master's Degree or higher from a U.S. educational institution, be sure to answer accordingly in Part A, Question 5 and Part C, question 7.
  - If the petition does not involve a change of employer, Part C question 6 is not relevant. Thus, please answer "No" or provide an "N/A" in the margin of the form to the left of the question.
  - Petitioner must sign the form, preferably in **blue ink**.

**Form I-907, Request for Premium Processing**

- Please be sure to complete all sections of the form accurately with original signatures.
- If there is a valid Form G-28 with the file and the attorney is signing the Form I-907, then the representative should sign in both Parts 3 and 4 of the Form I-907. Otherwise, the petitioner's signature is required. We prefer that the signature(s) be in **blue ink**.
- When Form I-907 is filed after the filing of Form I-129, please include a copy of the Form I-129 receipt notice along with the Form I-907.

Please visit our website frequently for filing updates, or call the National Customer Service Center at (800) 375-5283 for up-to-date information.

## Q : What are the main errors in an H-1B petition that can cause USCIS to have to reject or deny the petition?

There are several common errors made by petitioners that can cause a petition to be rejected or denied. This is a list of the most frequently seen and easily cured mistakes.

### **Incorrect Fees**

Frequently, petitioners miscalculate the amount of money needed for each filing. If you submit the fees in one check and the amount is wrong, we must reject the petition. **We suggest you submit the fees in separate checks. We believe this lessens the likelihood of unintentional math errors when calculating the total fees due in connection with the filing of an H-1B petition.**

### **Inconsistent and Incorrect Answers on Form I-129 and Supplements**

- Please double check the petition to make sure you have answered all the questions and that the answers are consistent and correct throughout the entire package, including the petition and all accompanying documentation. USCIS cannot make assumptions about what a petitioner really intended if that is not clear on the face of the documents submitted.
- For example, if you check "yes" to the question of whether the beneficiary has a U.S. Master's degree in Part A, #5 of the supplement, then Part C, #7 should also be checked "yes."
- Another common mistake is where the petitioner indicates on one part of the Form I-129 that the beneficiary is not subject to the cap, but on top of the petition they may write "Regular Cap." This can also delay processing of a case or even cause it to be rejected.

### **If your worker is or has been a J-1 worker please note:**

Part C, #4 of the I-129 H-1B Data Collection Supplement does not refer to all Js with a waiver of the 2-year foreign residency rule (212e). Do not check "yes" unless your worker is a doctor who has been granted a Conrad 30 waiver to work in a medically underserved area.

For Fiscal Year 2009, the first filing date is Tuesday, April 1, 2008. USCIS wants to be sure to accept all qualifying petitions for inclusion in the random selection, if necessary. If you file a petition correctly, you increase your chances of obtaining an H-1B cap number. We are working on making the process as smooth as possible both this coming April and in the future. Please read all Updates posted for additional information.

Petitions are filed at Vermont and California Service Centers, depending on jurisdiction. See filing instructions and USCIS Update on "Centralized Filing Location" for certain H-1B cap exempt petitioners (listed in the Related Links section of this page). both the forms and the instructions can be downloaded from our website under "Immigration Forms".

## Q : What is Premium Processing Service?

For certain employment-based immigration benefits, petitioners may choose to file a Form I-907 with the accompanying filing fee of \$1,000 to have their petition adjudicated within 15 calendar days (this fee is in addition to the required base filing and other applicable fees). H-1B petitions are eligible for the Premium Processing program. The Form I-907 can be filed at the same time as or subsequent to the filing of Form I-129. If filed subsequent to the Form I-129, please be sure to include the receipt number (i.e. EAC 08 123 51234) of the Form I-129 in the pertinent section of Form I-907. Please use the latest version of Form I-907. Versions prior to August 28, 2006 will not be accepted. For more information concerning the Premium Processing program, please visit the link below explaining "[How Do I Use the Premium Processing Service?](#)".

## How Do I Use the Premium Processing Service?

### What is it?

Premium Processing Service provides faster processing of certain employment-based petitions and applications. Specifically, USCIS provides 15 calendar day processing to those who choose to use this service or USCIS will refund the Premium Processing fee and the relating case will continue to receive faster processing.

The processing period that is used to determine whether or not USCIS meets the 15 calendar day period will begin when the current version of **Form I-907**, Request for Premium Processing Service, is received by USCIS at the correct filing address noted on the form. Within the 15 day calendar period USCIS will issue an approval notice, or where appropriate, a notice of intent to deny, a request for evidence or open an investigation for fraud or misrepresentation. If the notice requires the submission of additional evidence or of a response to intent to deny, a new 15 calendar day period will begin upon the delivery to USCIS of a complete response to the request for evidence or notice of intent to deny.

## Q : How do I ensure that my H-1B Cap petition is considered properly filed and accepted?

Be sure to complete all sections of the Form I-129 petition, the H Classification Supplement to Form I-129 (pages 7 and 8 of Form I-129), and the H-1B Data Collection and Filing Fee Exemption Supplement (pages 10 and 11). Original signatures are required on each form. Send the correct fee amount.

Checks should be payable to the Department of Homeland Security or U. S. Citizenship and Immigration Services dated within the last six months, and include the proper guarantee amount, and signature.

Here are the current fees that petitioning employers must pay:

|                                                                                                 |                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Base filing fee</b>                                                                          | <b>\$320</b>                                                                                                                                                                                                                                                                                            |
| <b>American Competitiveness and Workforce Improvement Act of 1998</b><br><br><b>(ACWIA fee)</b> | <ul style="list-style-type: none"><li>• <b>\$750</b> For employers with 1 to 25 full time equivalent employees unless exempt</li><li>• <b>\$1,500</b> For employers with 26 or more full time equivalent employees unless exempt</li><li>• (see H-1B Data Collection and Filing Fee Exemption</li></ul> |

|                               |                                                                                                                                                                                                            |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                               | Supplement, Part B)                                                                                                                                                                                        |
| <b>Fraud fee</b>              | <ul style="list-style-type: none"> <li>• <b>\$500</b> To be submitted with the initial H-1B petition filed on behalf of each beneficiary by a petitioner. (Not for Chile/Singapore H-1B1 cases)</li> </ul> |
| <b>Premium Processing fee</b> | <ul style="list-style-type: none"> <li>• <b>\$1,000</b> For employers seeking Premium Processing Service</li> </ul>                                                                                        |

It is recommended that all signatures on the petition be in **blue ink** to readily identify the original signature.

A certified Labor Condition Application (Form ETA 9035) from the Department of Labor must be submitted at the time of filing. A copy of the Labor Condition Application is acceptable. If the Labor Condition Application from the Department of Labor is for multiple positions, provide the name, and USCIS case receipt number of any alien who has previously utilized it.

A duplicate copy of the petition must be submitted at the time of filing if the beneficiary will be seeking nonimmigrant visa issuance abroad. Please review the Department of State website at <http://travel.state.gov/> to make sure that the consulate indicated on Form I-129 is able to process the beneficiary's nonimmigrant visa application and for any other consulate-specific special instructions.