



Office of Communications

U.S. Citizenship  
and Immigration  
Services

# USCIS Update

June 11, 2008

## **USCIS to Offer Premium Processing For Certain Form I-140 Petitions**

*Service Begins June 16, 2008*

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) announced today that on June 16, 2008, it will begin accepting Premium Processing Service requests for Forms I-140 (Immigrant Petition for Alien Worker) filed on behalf of certain alien workers who are nearing the end of their sixth year in H-1B nonimmigrant status.

[Premium Processing](#) Service offers 15 calendar-day processing for designated employment-based petitions and applications upon request. There is a nonrefundable fee of \$1000 for this service. During the 15-day period, USCIS will issue either an approval or denial notice, a notice of intent to deny, a request for evidence, or open an investigation for fraud or misrepresentation. USCIS previously designated certain classifications under Form I-140 for Premium Processing Service in the May 23, 2006 issue of the Federal Register. *See* 71 FR 29662.

USCIS is limiting Premium Processing Service for Form I-140 petitions that are filed on behalf of aliens:

- Who are currently in an H-1B nonimmigrant status;
- Whose sixth year will end within 60 days;
- Who are only eligible for a further extension of H-1B nonimmigrant status under section 104(c) of the American Competitiveness in the Twenty-first Century Act of 2000 (AC21); and
- Who are ineligible to extend their H-1B status under section 106(a) of AC21.

Section 104(c) of AC21 permits applicants to extend their stay in H-1B nonimmigrant status in increments of up to three years, provided they are the beneficiary of an approved Form I-140 and an immigrant visa is not immediately available. Section 106(a) of AC21 permits applicants to extend their stay in H-1B nonimmigrant status in increments of up to one year, provided the Form I-140 petition or underlying labor certification has been pending for at least 365 days.

For more details on Premium Processing Service for the Form I-140 petitions described in this announcement, visit the USCIS web site at

[http://www.uscis.gov/files/article/premiumproc\\_factsheet\\_i140\\_061108.pdf](http://www.uscis.gov/files/article/premiumproc_factsheet_i140_061108.pdf).

More information on Premium Processing Service in general can be found on the USCIS web site at [www.uscis.gov](http://www.uscis.gov), or by calling the USCIS National Customer Service Center at (800) 375-5283.



# Fact Sheet

June 11, 2008

## USCIS OFFERS PREMIUM PROCESSING SERVICE FOR CERTAIN FORM I-140 PETITIONS STARTING JUNE 16, 2008

U.S. Citizenship and Immigration Services (USCIS) will make available Premium Processing Service for designated Form I-140 petitions<sup>1</sup> (Immigrant Petition for Alien Worker) filed for alien workers in H-1B nonimmigrant status who are reaching the end of their sixth year in H-1B nonimmigrant status. Starting on June 16, 2008, USCIS will begin accepting Form I-907, Request for Premium Processing Service, for Forms I-140 filed for alien beneficiaries who, as of the date of filing the Form I-907:

- Are currently in H-1B nonimmigrant status;
- Will reach the 6<sup>th</sup> year of their H-1B nonimmigrant stay in 60 days;
- Are only eligible for a further H-1B extension under AC21 §104(c)<sup>2</sup> upon approval of their Form I-140 petition; and
- Are ineligible to extend their H-1B status under AC21 §106(a)<sup>3</sup>.

Under the Premium Processing Program, USCIS may place such conditions of availability for the service. See 8 CFR 103.2(f)(2). The petitioner must establish that the Form I-140 filed with Form I-907 satisfies these conditions. Filings that do not clearly meet the conditions may not receive Premium Processing Service and will be rejected as described below.

---

<sup>1</sup> USCIS previously designated Premium Processing Service for I-140 petitions involving:

- EB-1 Aliens with Extraordinary Ability and EB-1, Outstanding Professors and Researchers;
  - EB-2, Members of Professions with Advanced degrees or Exceptional ability (*not seeking a National Interest Waiver*), and;
  - EB-3 Professionals, EB-3 Skilled Workers and EB-3, Other workers.
- See 71 FR 29662 (May 23, 2006).

<sup>2</sup> The Public Law known as the *American Competitiveness in the Twenty-first Century Act of 2000* (AC 21) permits up to a three-year extension of stay for an H-1B nonimmigrant alien, provided he or she is the beneficiary of an approved Form I-140 petition and otherwise eligible for lawful permanent resident status except that the employment-based preference visa is unavailable.

<sup>3</sup> USCIS grants an H-1B extension of stay pursuant to §106(a) of AC21, in one-year increments, until such time as a final decision has been made to:

- A. Deny the application for labor certification, or, if the labor certification is approved, to deny the EB immigrant petition that was filed pursuant to the approved labor certification;
- B. Deny the EB immigrant petition, or
- C. Grant or deny the alien's application for an immigrant visa or for adjustment of status.

To facilitate USCIS's determination of whether a particular filing meets the conditions, petitioners can submit:

1. A copy of the alien beneficiary's Form I-94, Arrival/Departure Record, reflecting current H-1B nonimmigrant status;
2. Copies of all Forms I-94, Arrival/Departure Record and I-797 H-1B or L approval notices that have been issued on his or her behalf;
3. A copy of the relating Form I-140 petition receipt notice, if the Form I-140 was previously filed; and,
4. A copy of the labor certification approval letter issued by the Department of Labor, if filing under EB-2 or EB-3 classifications.

Form I-907 Premium Processing Service requests will be rejected and returned with the I-907 fee, and the Form I-140 petition will be processed according to standard procedures if the Form I-907 is:

- Submitted without documentation establishing the conditions for availability noted above; or
- Incorrectly submitted concurrently with a Form I-140 petition at a USCIS office without geographic jurisdiction over the Form I-140 petition; or
- Submitted to request Premium Processing Service for a Form I-140 petition filed for an alien beneficiary who is eligible to extend his or her H-1B nonimmigrant status under AC21 §106(a) as of the date that the Form I-907 is received by USCIS.

USCIS will accept Form I-907 either together with the Form I-140 petition or after the filing of the Form I-140 petition through the mail or delivery service only. E-filing for Form I-907 will not be available.

USCIS expects that adding other classifications to Premium Processing Service at this time would exceed USCIS' capacity to provide timely Premium Process Service. USCIS will continue to evaluate whether it is able to process other groups of cases beyond this limited classification of petitions and will provide notification of any further availability of Premium Processing Service for Form I-140 at [www.uscis.gov](http://www.uscis.gov).

The Premium Processing Service guarantees petitioners that, within 15 calendar days of receipt of a petition, USCIS will either issue an approval or denial notice, a notice of intent to deny, a request for evidence, or a notice of investigation for fraud or misrepresentation. Information about Premium Processing Service is available on the USCIS website at [www.uscis.gov](http://www.uscis.gov) or by calling the USCIS National Customer Service Center toll free at 1-800-375-5283.