

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

**NOTE:** You may file Form I-129 electronically. Go to our Internet Web site at [www.uscis.gov](http://www.uscis.gov) and follow the detailed instructions on e-filing.

## Instructions

Read these instructions carefully to properly complete this form. If you need more space to complete an answer, go to Part 9, Page 7 and indicate the question number of the item to which the answer refers.

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## What Is the Purpose of This Form?

This form is used by an employer to petition U.S. Citizenship and Immigration Services (USCIS) for an alien beneficiary to come as a nonimmigrant to the United States temporarily to perform services or labor, or to receive training.

Form I-129 consists of the:

1. Basic petition;
2. Individual supplements relating to specific classifications; and
3. H-1B Data Collection and Filing Fee Exemption Supplement (required for H-1B classifications only).

These instructions are divided into two parts:

**PART 1:** Classifications that always require a petition:

- H-1B**, specialty occupations; an alien coming to perform services of an exceptional nature relating to a project administered by the U.S. Department of Defense, or a fashion model who has national and international acclaim.
- H-1C**, registered nurse.
- H-2A**, temporary agricultural worker.
- H-2B**, temporary nonagricultural worker.
- H-3**, trainee.
- L-1**, intracompany transferee.
- O-1**, alien of extraordinary ability in arts, science, education, business, or athletics.
- O-2**, accompanying alien who is coming to the United States to assist in the artistic or athletic performance of an O-1 artist or athlete.
- P-1**, major league sports.
- P-1**, internationally recognized athlete/entertainment group.
- P-1S**, essential support personnel for a P-1.
- P-2**, artist/entertainer in reciprocal exchange program.
- P-2S**, essential support personnel for a P-2.

**P-3**, artist/entertainer coming to the United States to perform, teach, or coach under a program that is culturally unique.

**P-3S**, essential support personnel for a P-3.

**Q-1**, alien coming temporarily to participate in an international cultural exchange program.

**R-1**, religious worker.

**PART 2:** Classification that requires a petition only if the beneficiary is already in the United States and requesting an extension of stay or change of status:

**E-1**, treaty trader.

**E-2**, treaty investor.

**E-3**, Free Trade Agreement professionals from Australia.

**Free Trade Nonimmigrants**, H-1B1 aliens from Chile or Singapore and TN aliens from Canada or Mexico.

### Who May File This Form I-129?

**General.** A U.S. employer may file this form and applicable supplements to classify an alien in any nonimmigrant classification listed in **Part 1** and **Part 2** of these instructions. A foreign employer may file for certain classifications as indicated in the specific instructions.

**Agents.** A U.S. individual or company in business as an agent may file for types of workers who are traditionally self-employed or who traditionally use an agent to arrange short-term employment with numerous employers. A petition filed by an agent must include a complete itinerary of services or engagements, including dates, names, and addresses of the actual employers, and the locations where the services will be performed. A petition filed by a U.S. agent must guarantee the wages and other terms and conditions of employment by contractual agreement with the beneficiary or beneficiaries of the petition. The agent/employer must also provide an itinerary of definite employment and information on any other services planned for the period of time requested.

**Including more than one alien in a petition.** Multiple aliens who will seek admission in H-1C, H-2A, H-2B, H-3, P-1, P-2, P-3, O-2, or Q-1 classification may be included on the same petition provided:

1. They will all be employed for the same period of time; and
2. They will all perform the same services, receive the same training, or participate in the same international cultural exchange program.

**Exception:** H-2A and H-2B petitions for workers from countries not listed on the respective "Eligible Countries List" should be filed separately. See [www.uscis.gov](http://www.uscis.gov) for the list of H-2A and H-2B participating countries.

**Multiple locations.** A petition for alien(s) to perform services or labor or receive training in more than one location must include an itinerary with the dates and locations where the services or training will take place.

**Naming beneficiaries.** All beneficiaries in a petition must be named except for an H-2A agricultural worker or an H-2B temporary nonagricultural worker. **Exceptions:** You must provide the name, date of birth, country of birth, and country of nationality of all H-2A and H-2B workers when: **(1)** the petition is filed for a worker who is a national of a country not designated by the Secretary of Homeland Security as eligible to participate in the H-2A or H-2B program, or **(2)** the beneficiary is in the United States. In addition, USCIS may require the petitioner to name H-2B beneficiaries where the name is needed to establish eligibility for H-2B nonimmigrant status.

Where some or all of the beneficiaries are not named, specify the total number of unnamed beneficiaries and total number of beneficiaries in the petition.

### General Filing Instructions

1. Complete the basic form and any relating supplement.
2. Type or print legibly in blue or black ink.
3. If extra space is needed to complete any item, go to **Part 9**, Explanation Page, indicate the item number, and date and sign the sheet.
4. Answer all questions fully and accurately. State that an item is not applicable with "N/A." If the answer is none, write "none."
5. Submit a duplicate copy of the petition and all supporting documentation.

### Basis for Classification

The following is an explanation of the choices listed on **Page 2, Part 2, Item 2** of the Form I-129.

- a. **New employment.** Check this box if the beneficiary:
  - (1) Is outside the U.S. and holds no classification;

- (2) Is to begin employment for new U.S. employer in a different nonimmigrant classification than the alien currently holds; **or**
- (3) Will work for the same employer but in a different nonimmigrant classification.
- b. Continuation of previously approved employment without change with the same employer.** Check this box if applying to continue employment of the beneficiary in the same nonimmigrant classification the beneficiary currently holds and there has been no change to the employment.
- c. Change in previously approved employment.** Check this box if applying to notify USCIS of a non-material change to the previously approved employment such as a change in job title without a material change in job duties.
- d. New concurrent employment.** Check this box if applying for a beneficiary to begin new employment with an additional employer in the same nonimmigrant classification the beneficiary currently holds while the beneficiary will continue working for his or her current employer in the same classification.
- e. Change of employer.** Check this box if applying for a beneficiary to begin employment working for a new employer in the same nonimmigrant classification that the beneficiary currently holds.
- f. Amended Petition.** Check this box if applying to notify USCIS of a material change in the terms or conditions of employment or training or the beneficiary's eligibility as specified in the original approved petition. Additionally, petitioners requesting H-2A or H-2B substitutions should check this box.

- c. Extend the stay of the person(s) since they now hold this status.** Check this box if the beneficiary is currently in the United States in a nonimmigrant classification and is requesting an extension of his or her stay in the same nonimmigrant classification.
- d. Amend the stay of the person(s) since they now hold this status.** Check this box if the beneficiary is currently in the United States in the same nonimmigrant classification and filing the petition to notify USCIS of any material changes in the terms and conditions of employment, training or the beneficiary's eligibility as specified in the original approved petition.
- e. Extend the status of a nonimmigrant classification based on a Free Trade Agreement.** Check this box if the beneficiary is currently in the United States based on a Free Trade Agreement (H-1B1 Chile/Singapore or TN classification) and is requesting an extension of his or her stay in that same classification.
- f. Change status to a nonimmigrant classification based on a Free Trade Agreement.** Check this box if the beneficiary is currently in the United States in a different nonimmigrant classification based on a Free Trade Agreement (H-1B1 Chile/Singapore or TN classification).

### **Certification Pertaining to the Release of Controlled Technology or Technical Data to Foreign Persons in the United States**

**U.S. Export Controls on Release of Controlled Technology or Technical Data to Foreign Persons.** The Export Administration Regulations (EAR) (15 CFR Parts 770-774) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130) require U.S. persons to seek and receive authorization from the U.S. Government before releasing to foreign persons in the United States controlled technology or technical data. Under both the EAR and the ITAR, release of controlled technology or technical data to foreign persons in the United States--even by an employer--is deemed to be an export to that person's country or countries of nationality. One implication of this rule is that a U.S. company must seek and receive a license from the U.S. Government before it releases controlled technology or technical data to its nonimmigrant workers employed as H-1B, L-1 or O-1A beneficiaries.

### **Requested Action**

The following is an explanation of the types of action a petitioner/employer may choose for **Page 2, Part 2, Item 4** of Form I-129. Choose only one action.

- a. Notify the office in Part 4 so the person(s) can obtain a visa or be admitted.** Check this box if the beneficiary is currently outside of the United States, or, if the beneficiary is in the United States, he or she will leave the United States to obtain a visa/admission abroad.
- b. Change the person(s) status and extend their stay since the person(s) are all now in the United States in another status.** Check this box if the beneficiary is currently in the United States in a different nonimmigrant classification and is applying to change to a new, nonimmigrant status.

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### Requirement to Certify Compliance with U.S. Export

**Control Regulations.** The U.S. Government requires each company or other entity to certify that it has reviewed the EAR and ITAR and determined whether it will require a U.S. Government export license to release controlled technology or technical data to the beneficiary. If an export license is required, then the company or other entity must further certify that it will not release or otherwise provide access to controlled technology or technical data to the beneficiary until it has received from the U.S. Government the required authorization to do so. The petitioner must indicate whether or not a license is required on **Page 5, Part 6** of Form I-129.

**Controlled Technology and Technical Data.** The licensing requirements described above will affect only a small percentage of petitioners because most types of technology are not controlled for export or release to foreign persons. The technology and technical data that are, however, controlled for release to foreign persons are identified on the EAR's Commerce Control List (CCL) and the ITAR's U.S. Munitions List (USML). The CCL is found at 15 CFF Part 774, Supp. 1. See [http://www.access.gpo.gov/bis/ear/ear\\_data.html#ccl](http://www.access.gpo.gov/bis/ear/ear_data.html#ccl). The USML is at 22 CFR 121.1. See [http://www.pmddtc.state.gov/regulations\\_laws/itar.html](http://www.pmddtc.state.gov/regulations_laws/itar.html). The EAR-controlled technology on the CCL generally pertains to that which is for the production, development, or use of what are generally known as "dual-use" items. The ITAR-controlled technical data on the USML generally pertains to that which is directly related to defense articles.

The U.S. Department of Commerce's Bureau of Industry and Security administers the CCL and is responsible for issuing licenses for the release to foreign persons of technology controlled under the EAR. The U.S. Department of State's Directorate of Defense Trade Controls (DDTC) administers the USML and is responsible for issuing licenses for the release to foreign persons of technical data controlled under the ITAR. Information about the EAR and how to apply for a license from BIS are at [www.bis.doc.gov](http://www.bis.doc.gov). Specific information about EAR's requirements pertaining to the release of controlled technology to foreign persons is at [www.bis.doc.gov/deemedexports](http://www.bis.doc.gov/deemedexports). Information about the ITAR and how to apply for a license from DDTC are at [www.pmddtc.gov](http://www.pmddtc.gov). Specific information about the ITAR's requirements pertaining to the release of controlled technical data is at [http://www.pmddtc.state.gov/faqs/license\\_foreignpersons.html](http://www.pmddtc.state.gov/faqs/license_foreignpersons.html).

### Classification - Initial Evidence

For all classifications, if a beneficiary is seeking a **change of status** or **extension of stay**, evidence of maintenance of status must be included with the new petition. If the beneficiary is employed in the United States, the petitioner may submit copies of the last 2 pay stubs and, when available, Form W-2, as well as a copy of the Form I-94 or I-797, Approval Notice.

The beneficiary's dependent family members (generally, spouses and children under 21) should use Form I-539, Application to Change/Extend Nonimmigrant Status, to apply for a change of status or extension of stay.

A nonimmigrant, who must have a passport to be admitted, must keep that passport valid during his or her entire stay. If a required passport is not valid, include a full explanation with the petition.

The following nonimmigrants are not eligible to change status:

1. An alien admitted under a visa waiver program;
2. An alien in transit (C) or in transit without a visa (TWOV);
3. A crewman (D);
4. A fiancé(e) (K-1) or his or her dependent (K-2);
5. A spouse of a U.S. citizen (K-3) or his or her dependent (K-4);
6. A J-1 exchange visitor whose status was for the purpose of receiving graduate medical training (unless a waiver has been granted under section 214(l) of the Immigration and Nationality Act);
7. A J-1 exchange visitor subject to the foreign residence requirement who has not received a waiver of that requirement; and
8. An M-1 student to an H classification, if training received as an M-1 helped him or her qualify for H classification.

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### Part 1: Petition Always Required

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The following classifications always require a petition.

The initial evidence listed below and the initial evidence listed under the instructions for a change of status or extension of stay must be included with a petition for a new or concurrent employment or for an extension where there is a change in previously approved employment.

However, a petition for extension based on unchanged, previously approved employment should only be filed with the initial evidence required in the extension of stay instructions.

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## **H-1B (3 Types)**

### **An H-1B is an alien coming temporarily to perform services in a specialty occupation.**

Write **H-1B** in the classification requested block.

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.

The petition must be filed by the U.S. employer and must be filed with:

1. Evidence that a labor condition application (LCA) has been certified by the U.S. Department of Labor;
2. Evidence showing that the proposed employment qualifies as a specialty occupation;
3. Evidence showing that the beneficiary has the required degree by submitting either:
  - A. A copy of the beneficiary's U.S. baccalaureate or higher degree as required by the specialty occupation;
  - B. A copy of a foreign degree and evidence that it is equivalent to the U.S. degree; or
  - C. Evidence of education and experience that is equivalent to the required U.S. degree.
4. A copy of any required license or other official permission to practice the occupation in the state of intended employment; and
5. A copy of any written contract between the petitioner and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed.
6. **Off-site Assignment of H-1B Beneficiaries:** Petitioners seeking to place the H-1B beneficiary off-site at a location other than their own location must answer general questions regarding this assignment on **page 19**, relating to: actual or prevailing wage and assurance that all assignments will comply with the employment described in the H-1B petition and applicable statute and regulations governing the H-1B nonimmigrant classification. Petitioners should advise the H-1B beneficiary of the off-site work site placement.

Additionally, petitioner should submit an itinerary that shows the dates and places of assignment if the beneficiary will be providing services at more than one location.

### **An H-1B is also an alien coming to perform services of an exceptional nature relating to a cooperative research and development project administered by the U.S. Department of Defense (DOD).**

Write **H-1B2** in the classification requested block.

A U.S. employer may file the petition. The petition must be filed with:

1. A description of the proposed employment;
2. Evidence that the services and project meet the above conditions;
3. A statement listing the names of aliens who are currently or have been employed on the project within the past year, along with their dates of employment; and
4. Evidence that the beneficiary holds a baccalaureate or higher degree in the field of employment.

### **An H-1B is also 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.**

Write **H-1B3** in the classification requested block.

The petition must be filed by a U.S. employer or agent. Evidence must be submitted to establish that the beneficiary will be performing services, events, or productions of a distinguished reputation, including:

1. Documentary evidence (such as certifications, affidavits, reviews) to establish the beneficiary is a fashion model of distinguished merit and ability. Affidavits submitted by present or former employers or recognized experts must set forth the expertise of the affiant and the manner in which the affiant acquired such information; and
2. Copies of any written contracts between the petitioner and the beneficiary or, if there is no written agreement, a summary of the terms of the oral agreement under which the beneficiary will be employed.

Three laws have been enacted which impact the filing of H-1B and/or L visa petitions. These laws are the American Competitiveness and Workforce Improvement Act (ACWIA), Public Law 105-277 (signed into law on October 21, 1998), the Visa Reform Act of 2004 (signed into law on December 8, 2004) and Public Law 111-230 (signed into law on August 13, 2010).

Because of ACWIA, an H-1B or H-1B1 Free Trade Nonimmigrant petitioner must complete the H-1B supplement form, which is part of this petition. The supplement is used to collect additional information about the H-1B nonimmigrant worker and the H-1B petitioner (U.S. employer). (The supplement was formerly issued separately as Form I-129W.) Moreover, H-1B and H-1B1 petitioners must complete the H-1B Data Collection and Filing Fee Exemption Supplement to determine applicability of the fees mandated by the ACWIA, H-1B Visa Reform Act and/or Public Law 111-230.

The H-1B Visa Reform Act of 2004 imposes a Fraud Prevention and Detection Fee of **\$500** for certain H or L petitions. On or after **March 8, 2005**, a U.S. employer 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, must submit this additional **\$500** fee. This fee does not apply to H-1B1 petitions. The Form I-129 will serve as the vehicle for collection of the **\$500** fee.

Those petitioners required to submit the \$500 Fraud Prevention and Detection fee are also required to submit either an additional \$2,000 (H-1B) or \$2,250 (L-1) fee mandated by Public Law 111-230 **if**:

1. The petitioner employs 50 or more individuals in the United States;
2. More than 50% of those employees are in H-1B or L nonimmigrant status; **and**
3. The petition is filed before October 1, 2014.

**The Fraud Prevention and Detection Fee and Public Law 111-230 fee, when applicable, may not be waived, and each fee should be submitted in separate checks or money orders.**

To determine whether a petitioner is subject to any of these three fees, the petitioner must complete the H-1B and H1B1 Data Collection and Filing Fee Exemption Supplement discussed below.

### **H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement**

An employer seeking to classify a beneficiary in H-1B classification (including H-1B1 Free Trade aliens from Chile and Singapore) must file this supplement. It is used to collect additional information about the H-1B employer and beneficiary. It is also used to determine the appropriate

American Competitiveness and Workforce Improvement Act (ACWIA) fee and whether the beneficiary is subject to the H-1B numerical limitation (aka the H-1B Cap). The ACWIA fee may not be assessed to the beneficiary.

### **Who is required to submit this supplement?**

A U.S. employer seeking to classify a beneficiary as an H-1B or H-1B1 Free Trade Nonimmigrant worker must file this supplement concurrently with Form I-129 and the appropriate fee. (See "**What is the Filing Fee?**" for additional information regarding the appropriate fee.)

### **Completing Part A of the Supplement Form**

All U.S. employers seeking to classify a beneficiary as an H-1B or H-1B1 Free Trade Nonimmigrant worker must answer all of the questions in the "Employer Information" Section.

**1. H-1B Dependent employer.** An "H-1B dependent employer" means an employer that:

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

**NOTE:** As of February 17, 2009, U.S. employers who received funding under the Troubled Assets Relief Program (TARP), as described in the Employ American Workers Act (sec. 1611 of Div. A, Title XVI of Public Law 111-5) and seek to hire an H-1B nonimmigrant must comply with the H-1B Dependent Employer provisions. The H-1B Dependent Employer provisions apply regardless of whether such U.S. employers are seeking exempt H-1B nonimmigrants.

**2. Willful Violators.** A willful violator is an employer whom the U.S. 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 described in section 212(n) of the Immigration and Nationality Act.

- 3. Exempt H-1B nonimmigrant.** An "exempt H-1B nonimmigrant" means an H-1B who:
- A.** Receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least \$60,000; or
  - B.** Has attained a master's degree or higher (or its equivalent) in a specialty related to the intended employment.
- 4. TARP funding.** TARP funding refers to receipt of funds described in the Employ American Workers Act (sec. 1611 of Div. A, Title XV1 of Public Law 111-5).
- 5. Highest education level.** Place an "X" in the appropriate box of **Part A, Number 2** of the supplement form that is most closely related to the highest formal education level attained by the beneficiary. **DO NOT** consider work experience in determining the beneficiary's equivalency.
- 6. Major/primary field of study.** Use the beneficiary's degree transcripts to determine the primary field of study. **DO NOT** consider work experience to determine the beneficiary's major education level.
- 7. Master's or higher degree from a U.S. institution of higher education.** Indicate whether or not the beneficiary 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).
- 8. Rate of pay per year.** The "rate of pay" is the salary or wages paid to the beneficiary. Salary or wages must be expressed in an annual full-time amount and do not include non-cash compensation or benefits. For example, an H-1B worker is to be paid \$6,500 per month for a 4-month period, including a health benefits package and transportation. The yearly rate of pay if he or she were working for a full year would be 12 times the monthly rate, or \$78,000. This amount does not include health benefits or transportation costs. The figure \$78,000 should be entered on this form as the rate of pay.
- 9. DOT Code.** The DOT Code is a three-digit occupational group for professional, technical, and managerial occupations and fashion models that can be obtained from the Dictionary of Occupational Titles. A reference chart can be found on our Web site: [www.uscis.gov](http://www.uscis.gov).

**10. NAICS Code.** This is the North American Industry Classification System (NAICS) Code. This code can be obtained from the U.S. Department of Commerce, Census Bureau ([www.census.gov/epcd/www/naics.htm](http://www.census.gov/epcd/www/naics.htm)). Enter the code from left to right, one digit in each of the six boxes. If you use a code with fewer than six digits, enter the code left to right and then add zeros in the remaining unoccupied boxes.

For example, the code sequences 33466 would be entered as:

3	3	4	6	6	0
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[Each number inside a separate box]

The code sequences 5133 would be entered as:

5	1	3	3	0	0
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[Each number inside a separate box]

### Completing Part B of the Supplemental Form

The petitioner must complete **Part B** to determine whether the petitioner must pay the ACWIA fee (**\$1,500** or **\$750**, depending on the number of workers employed by the petitioner). The petitioner is exempt from payment of the ACWIA fee if at least one of the following conditions are present:

- 1.** The employer is an institution of higher education as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. 1001(a);
- 2.** The employer is a nonprofit organization or entity related to, or affiliated with, an institution of higher education. Institutions of higher education are defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. 1001 (a). Such a nonprofit organization or entity includes but is not limited to hospitals and medical research institutions.

**NOTE:** "Related to" or "affiliated with" means the entity is:

- A.** 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
  - B.** Attached to the institution of higher education as a member, branch, cooperative, or subsidiary.
- 3.** The employer is a nonprofit research organization or governmental research organization that is primarily engaged in basic research and/or applied research;

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**NOTE:** "Nonprofit organization or entity" means the organization or entity is:

- A.** Defined as a tax-exempt organization under the Internal Revenue Code of 1986, sections 501(c)(3), (c)(4), or (c)(6), or 26 U.S.C. 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; or
  - C.** Is a Government research organization that is a U.S. Federal Government entity whose primary mission is the performance or promotion of basic research and/or applied research.
- 4.** This petition is the second or subsequent request for an extension of stay filed by the employer regardless of when the first extension of stay was filed or whether the **\$1,500** or **\$750** filing fee was paid on the initial petition or the first extension of stay;
  - 5.** This petition is an amended petition that does not contain any requests for extension of stay filed by the employer;
  - 6.** This petition is being filed to correct a USCIS error;
  - 7.** The employer is a primary or secondary education institute;
  - 8.** The employer is a nonprofit entity that engages in an established curriculum-related clinical training or students register at the institution.

### **What Evidence Is Required Under Part B?**

Petitioners claiming exemption from payment of the **\$1,500** or **\$750** filing fee must submit a statement describing why the organization or entity is exempt from the filing fee.

### **Completing Part C of the Supplemental Form**

All petitioners must complete **Part C** to determine whether the beneficiary is subject to the H-1B cap.

Public Law 110-229 provides that nonimmigrant workers admitted to Guam or the CNMI and who will perform work in Guam or the CNMI are exempt from the statutory caps for the H visa programs.

The Form I-129 H Classification Supplement and H-1B Data Collection and Filing Fee Exemption Worksheet require employers to indicate whether they are filing on behalf of beneficiaries subject to this cap exemption.

### **H-1C**

**An H-1C is an alien coming temporarily to perform services as a registered nurse at a qualifying health care facility. This classification expired on December 20, 2009.**

Write **H-1C** in the classification requested block on the petition.

Petitioners should complete and sign relevant sections of the H Classification Supplement and additionally submit evidence that the beneficiary:

- 1.** Has obtained a health care worker certification or certified statement in accordance with section 212(a)(5)(c) of the INA, from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or another approved credentialing organization;
- 2.** Has obtained a full and unrestricted license to practice nursing in the country where the alien obtained nursing education, or has received nursing education in the United States;
- 3.** Has passed the examination by the CGFNS or has obtained a full and unrestricted (permanent) license to practice as a registered nurse in the State of intended employment, or has obtained a full and unrestricted (permanent) license in any State or territory of the United States and received temporary authorization to practice as a registered nurse in the State of intended employment;
- 4.** Is fully qualified and eligible under the laws governing the place of intended employment to practice as a registered nurse immediately upon admission to the United States (including such temporary or interim licensing requirements that authorize employment), and is authorized under such laws to be employed by the employer. For purposes of this paragraph, the temporary or interim licensing may be obtained immediately after the alien enters the United States; and
- 5.** Will be authorized by a State Board of Nursing to engage in registered nurse practice in a State or U.S. territory and will be practicing in a facility that provides health care services.
- 6.** The following must also be submitted:
  - A.** A current copy of the U.S. Department of Labor's notice of acceptance of the filing of its attestation on Form ETA 9081;
  - B.** Statement describing any limitations that the laws of the State or jurisdiction of intended employment place on each beneficiary's services;

- C. Evidence that each beneficiary's name on the petition meets the definition of a registered nurse as defined in 8 CFR 214.2(h)(3)(i)(A) and satisfies the requirements contained in Section 212(m)(1) of the INA;
- D. The employment contract; and
- E. Evidence of each beneficiary's previously granted classification in the past 3 years if he or she was in the United States during this time.

### **Completing Section 2 of the H Classification Supplement to Form I-129**

All petitioners seeking workers in H-1C classification must complete **Section 2** of the H classification to Form I-129 (**page 12** of the form).

#### **H-2A**

**An H-2A is an alien coming temporarily to perform agricultural labor or services of a temporary or seasonal nature.**

Write **H-2A** in the classification block on the petition.

The petition must be filed by a U.S. employer or its U.S. agent or an association of U.S. agricultural producers named as a joint employer on the temporary labor certification. The petitioner or employer (if different from the petitioner), and each joint employer must complete and sign relevant sections of the H Classification Supplement and additionally submit the following evidence:

1. A single, valid temporary labor certification;\* and
2. Copies of evidence showing that each named beneficiary meets the minimum job requirements stated in the certification at the time the labor certification application was filed.

**\*NOTE:** Under certain emergent circumstances, as determined by USCIS, petitions requesting a continuation of employment with the same employer for 2 weeks or less are exempt from the temporary labor certification requirement. See 8 CFR 214.2(h)(5)(x).

#### **H-2B**

**An H-2B is an alien coming temporarily to engage in temporary nonagricultural services or labor that is based on the employer's seasonal, intermittent, peakload, or one-time need.**

Write **H-2B** in the classification block on the petition.

The petition must be filed by a U.S. employer, a U.S. agent, or a foreign employer filing through a U.S. agent. The petitioner must complete and sign relevant sections of the H Classification Supplement and additionally submit the following evidence.

1. A temporary labor certification\* from the U.S. Department of Labor, or the Governor of Guam (if the proposed employment is solely in Guam); and
2. If applicable, copies of evidence showing that each named beneficiary meets the minimum job requirements stated on the temporary labor certification (such as employment letters and training certificates, etc.).

**\*NOTE:** Petitions filed on behalf of Canadian musicians who will be performing for 1 month or less within 50 miles of the U.S.-Canadian border do not require a temporary labor certification.

#### **H-3 (Two types)**

**An H-3 is an alien coming temporarily to participate in a special education exchange visitor program in the education of children with physical, mental, or emotional disabilities.**

Write **H-3** in the classification block on the petition.

Any custodial care of the children must be incidental to the training program. The petition must be filed by the U.S. employer, which must be a facility which has professionally trained staff and a structured program for providing education to children with disabilities and for providing training and hands-on experience to participants in the special education exchange visitor program. The petition must contain:

1. A description of the training, staff, and facilities; evidence that the program meets the above conditions; and details of the beneficiary's participation in the program; and
2. Evidence showing that the beneficiary is nearing completion of a baccalaureate degree in special education, or already holds such a degree, or has extensive prior training and experience in teaching children with physical, mental, or emotional disabilities.

**An H-3 is also an alien who is coming temporarily to receive training from an employer in any field other than graduate medical education or training.**

Write **H-3** in the classification block on the petition.

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The petition must be filed with:

1. A detailed description of the structured training program, including the number of classroom hours per week and the number of hours of on-the-job training per week;
2. A summary of the prior training and experience of each beneficiary in the petition; and
3. An explanation stating why the training is required, whether similar training is available in the beneficiary's country, how the training will benefit the beneficiary in pursuing a career abroad, the source of any remuneration the trainee will receive and any benefit the petitioner will obtain by providing the training.

### **L-1 (2 Types)**

**An L-1A is an alien coming temporarily to perform services in a managerial or executive capacity** for the same employer (or for the parent, branch, subsidiary, or affiliate of the employer) that employed the alien abroad in a capacity that was managerial or executive in nature, or one that required specialized knowledge, for at least 1 continuous year within the last 3 years.

Write **L-1A** in the classification requested block on the petition.

A U.S. employer or foreign employer may file the petition, but the foreign employer must have a legal business entity in the United States.

**An L-1B is an alien coming temporarily to perform services that require specialized knowledge** for the same employer (or for the parent, branch, subsidiary, or affiliate of the employer) that employed the alien abroad (in a managerial, executive or specialize knowledge capacity) for at least 1 continuous year within the last 3 years. **Specialized knowledge** is special knowledge of the petitioning employer's product, service, research, equipment, techniques, management, or other interests and its application in international markets or an advanced level of knowledge or expertise in the employing organization's processes or procedures.

Write **L-1B** in the classification requested block on the petition.

### **General L Classification Requirements**

Either the U.S. or foreign employer may file the petition. The petition must be submitted with:

1. Evidence establishing the existence of the qualifying relationship between the U.S. and foreign employer based on ownership and control, such as: an annual report, articles of incorporation, financial statements, or copies of stock certificates; **NOTE:** Whether such evidence will be sufficient to meet the petitioner's burden of establishing such a qualifying relationship will depend on the quality and probative value of the evidence submitted.
2. A letter from the beneficiary's foreign qualifying employer detailing his or her dates of employment, job duties, qualifications, and salary, along with supporting documentary evidence; and
3. A description of the proposed job duties and qualifications, and evidence showing that the proposed employment is in an executive, managerial, or specialized knowledge capacity.

### **Evidence for a New Office**

If the beneficiary is coming to the United States to open a new office, additional evidence must be submitted to show that the employer:

1. Already has sufficient premises to house the new office;
2. Has or will have the required qualifying relationship to the foreign employer;
3. Has the financial ability to remunerate the beneficiary and to begin doing business in the United States including evidence which shows:
  - A. Size of the U.S. investment;
  - B. The organizational structure of both firms; and
  - C. The financial size and condition of the foreign employer.

If the petition is requesting L-1A classification, evidence to establish the intended U.S. operation will be capable of supporting the executive or managerial position within 1 year.

**NOTE:** There are additional fees associated with certain L-1A and L-1B petitions. Please see the "**What is the Filing Fee?**" section of these form instructions for further information about these fees.

### **L Blanket Petitions**

An L Blanket petition simplifies the petitioning process for employers that seek L-1 workers on a continual basis by obtaining advance approval from USCIS that the requisite intracompany relationship exists. In obtaining an L Blanket petition, a qualified employer may file for any number of L-1A aliens and L-1B specialized knowledge professionals.

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Write **LZ** in the classification requested block. Do not include an individual employee on the petition.

Submit evidence to establish that the employer (including its parent, branches, subsidiaries, and/or affiliates):

1. Is engaged in commercial trade or services;
2. Has an office in the United States that has been doing business for 1 year or more;
3. Has three or more domestic and foreign branches, subsidiaries, or affiliates; and
4. **(A)** Has obtained approved petitions for at least 10 L-1A managers or executives or L-1B specialized knowledge professional workers in the past 12 months; **(B)** has U.S. subsidiaries or affiliates with combined annual sales of at least \$25 million; or **(C)** has a U.S. workforce of at least 1,000 employees.

After approval of a blanket petition, the employer may file for individual employees to enter as either L-1A workers or L-1B specialized knowledge professionals under the L Blanket petition. If the beneficiary is outside the United States, file a Form I-129S, Nonimmigrant Petition Based on Blanket L Petition. If the beneficiary is already lawfully in the United States and otherwise eligible for a change of nonimmigrant status to L-1A or L-1B, file Form I-129 to request a change of status based on the blanket petition with the following:

1. A copy of the USCIS approval notice for the blanket petition;
2. A letter from the beneficiary's foreign qualifying employer detailing his or her dates of employment, job duties and qualifications and salary for the previous 3 years, or in the case of a beneficiary who is currently lawfully employed by a qualifying organization in the United States a letter detailing the above with respect to the 3-year period prior to the beneficiary's lawful admission to the United States and establishing that the beneficiary has been continuously employed lawfully by a qualifying organization since the time of lawful admission to the United States;
3. Evidence that the beneficiary has been lawfully employed by the petitioning organization since arriving in the United States; and
4. If the beneficiary is a specialized knowledge professional, evidence of that he or she has earned U.S. degree or foreign degree equivalent to a U.S. degree.

### **O-1A**

**An O-1A is an alien coming temporarily who has extraordinary ability in the sciences, education, business, or athletics (not including the arts, motion picture, or television industry). The extraordinary ability must be demonstrated by sustained national or international acclaim.**

Write **O-1A** in the classification block on the petition. The petition must be submitted with:

1. A written consultation from a peer group or labor management organization with expertise in the field.  
If the above item cannot be obtained, the consultation can be from a person of the petitioner's choosing who has expertise in the beneficiary's area of ability (see **General Evidence**);
2. A copy of any written contract between the employer and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed;
3. An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events and activities; and
4. Evidence of the beneficiary's extraordinary ability, such as receipt of major awards or prizes, documentation of the beneficiary's membership in associations in the field which require outstanding achievements of their members, major published material by the beneficiary or relating to the beneficiary's work, evidence of the beneficiary's contributions to the field, evidence of the beneficiary's original scholarly work or contributions to the field, evidence of the beneficiary's high salary within the field, evidence that the beneficiary participated on a panel that judges the work of others in the field, or evidence of the beneficiary's prior employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation.

**NOTE:** If the preceding forms of evidence do not readily apply to the beneficiary's field of endeavor, you may submit other comparable evidence.

### **O-1B**

**An O-1B is an alien coming temporarily who has extraordinary ability in the arts or extraordinary achievement in the motion picture or television industry.**

Write **O-1B** in the classification block on the petition. The petition must be submitted with:

1. A written consultation from a peer group or a person of the employer's choosing with expertise in the beneficiary's area of ability (see **General Evidence**). If the petition is based on the beneficiary's extraordinary achievement in the motion picture or television industry, separate consultations are required from the relevant labor and management organizations;
2. A copy of any written contract between the employer and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed;
3. Evidence that the beneficiary has received or been nominated for significant national or international awards or prizes in the field, such as an Academy Award, Emmy, Grammy, or Director's Guild Award, or at least three of the following:
  - A. Evidence that the beneficiary has performed or will perform as a lead or starring participant in productions or events that have a distinguished reputation;
  - B. Evidence that the beneficiary has achieved national or international recognition for achievements in the field;
  - C. Evidence that the beneficiary has a record of major commercial or critically acclaimed successes, as evidenced by ratings, box office receipts, etc.;
  - D. Evidence that the beneficiary has received significant recognition from organizations, critics, government agencies, or other recognized experts;
  - E. Evidence that the beneficiary commands or will command a high salary or other remuneration for services in relation to others in the field; or
  - F. Evidence that the beneficiary has performed in a lead or starring role for organizations that have a distinguished reputation.

**NOTE:** If the preceding forms of evidence do not readily apply to the beneficiary's field of endeavor, you may submit other comparable evidence.

### **O-2**

**An O-2 is an alien coming temporarily and solely to assist in the performance of an O-1 artist or athlete because he or she performs support services that are integral to the successful performance of the O-1. No test of the U.S. labor market is required. The critical skills and experience with the O-1 must not be of a general nature nor possessed by U.S. workers.**

Write **O-2** in the classification block on the petition.

This form must be filed in conjunction with an O-1 petition and submitted with:

1. A written consultation (see **General Evidence**);
  - A. If it is for support of an athlete or an alien with extraordinary ability in the arts, the consultation must be from an appropriate labor organization; or
  - B. If it is for support of an alien with extraordinary achievement in motion pictures or television, the consultation must be from an appropriate labor organization and management organization.
2. Evidence of the current essentiality, skills, and experience of the O-2 with the O-1. In the case of a specific motion picture or television production, the evidence must establish that significant production has taken place outside the United States and that the continuing participation of the alien is essential to the successful completion of the production.

### **P-1A or P-1 Major League Sports**

**A P-1A is an alien coming temporarily to perform at a specific athletic competition as an individual or as part of a group or team participating at an internationally recognized level of performance.**

**P-1 Major League Sports classification is for major league athletes, minor league sports, and any affiliates associated with the major leagues including, but not limited to baseball, hockey, soccer, basketball, and football. Support personnel includes coaches, trainers, broadcasters, referees, linesmen, umpires, and interpreters.**

Write **P-1A** in the classification block on the petition. The petition must be submitted with:

1. A written consultation (see **General Evidence**) with an appropriate labor organization;
2. A copy of the contract with a major U.S. sports league or team or a contract in an individual sport commensurate with national or international recognition in the sport, if such contracts are normally utilized in the sport; and
3. Evidence of at least two of the following:
  - A. Substantial participation in a prior season with a major U.S. sports league;
  - B. Substantial participation in a prior season for a U.S. college or university in intercollegiate competition;
  - C. Participation in international competition with a national team;

- D. A written statement from a member of the sports media or a recognized expert in the sport which details how the beneficiary or team is internationally recognized;
- E. A written statement from an official of a major U.S. sports league or official of the governing body for a sport that details how the beneficiary or team is internationally recognized;
- F. That the beneficiary or team is ranked, if the sport has international rankings; or
- G. That the beneficiary or team has received a significant honor or award in the sport.

- F. The beneficiary or group commands a high salary or other substantial remuneration for services compared to other similarly situated in the field.

3. Evidence that 75 percent of the members of the group have had a sustained and substantial relationship with the group for at least one year. Provide a list of the alien's functions which are integral to the group's performance.

By filing for a P-1 group, the petitioner certifies that at least 75 percent of the group members have been performing regularly together for at least 1 year. The 1-year requirement does not apply to circus groups coming to perform with nationally recognized circuses.

Attach a separate statement to the form to request a waiver of:

1. The 1-year relationship requirement due to exigent circumstances; or
2. The international recognition requirement (1) due to emergent circumstances, or (2) because the group has been nationally recognized as outstanding in its discipline for a sustained and substantial period of time.

### **P-1B Entertainer or Entertainment Group**

**A P-1B is an alien entertainer coming temporarily to perform as a member of an entertainment group that has been recognized internationally as outstanding in the discipline for a substantial period of time, and who has had a sustained relationship with the group (ordinarily for at least 1 year).**

Write **P-1B** in the classification block on the petition. The petition must be submitted with:

1. A written consultation (see **General Evidence**) from an appropriate labor organization;
2. Evidence that the beneficiary or group is internationally recognized in the discipline as demonstrated by the submission of evidence of the group's receipt of or nomination for significant international awards or prizes for outstanding achievement, or evidence of at least three of the following:
  - A. The beneficiary or group has performed, and will perform as a starring or leading group in productions or events with a distinguished reputation;
  - B. The beneficiary or group has achieved international recognition and acclaim for outstanding achievement in the field;
  - C. The group has performed, and will perform, services as a star or leading group for organizations and establishments that have a distinguished reputation;
  - D. The beneficiary or group has a record of major commercial or critically acclaimed success;
  - E. The beneficiary or group has received significant recognition for achievements from critics, organizations, government agencies, or other recognized experts in the field; or

### **P-2**

**A P-2 is an alien coming temporarily to perform as an artist or entertainer, individually or as part of a group, under a reciprocal exchange program between an organization in the United States and an organization in another country.**

Write **P-2** in the classification block on the petition.

The petition must be filed by the sponsoring organization or U.S. employer with:

1. A written consultation (see **General Evidence**) from an appropriate labor organization;
2. A copy of the reciprocal exchange program agreement;
3. A statement from the sponsoring organization describing the reciprocal agreement as it relates to the petition;
4. Evidence that the beneficiary and the U.S. artist or group have comparable skills and that the terms of employment are similar; and
5. Evidence that an appropriate labor organization in the United States was involved in negotiating or concurred with the exchange.

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### **P-3**

**A P-3 is an alien coming temporarily to perform, teach, or coach, individually or as part of a group, in the arts or entertainment fields in a program that is culturally unique and which will further the understanding or development of the art form.**

Write **P-3** in the classification block on the petition. The petition must be submitted with:

1. A written consultation (see **General Evidence**) from an appropriate labor organization;
2. Evidence that all performances will be culturally unique; and **either**
  - A. Affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the beneficiary's or group's skills in presenting, coaching, or teaching art forms; **or**
  - B. Documentation that the performance of the beneficiary or group is culturally unique as evidenced by actual reviews in newspapers, journals, or other published material.

### **Essential Support Personnel**

Accompanying support personnel are highly skilled aliens coming temporarily as an essential and integral part of the competition or performance of a principal P-1, P-2, or P-3, or because they perform support services which cannot be readily performed by a U.S. worker and which are essential to the successful performance or services of the principal P-1, P-2, or P-3. The accompanying personnel must have appropriate qualifications, prior experience and critical knowledge of the specific services to be performed by the principal P-1, P-2, or P-3 petition.

Write **P-1S**, **P-2S**, or **P-3S** as appropriate in the classification block on the petition. The petition must be submitted with:

1. A written consultation (see **General Evidence**) from an appropriate labor organization;
2. Evidence of the beneficiary's qualifications to perform the services, if any;
3. A statement describing the beneficiary's critical knowledge of the specific services to be performed and prior experience with the principal P-1, P-2, or P-3;
4. Statements or affidavits from persons with first-hand knowledge that the beneficiary has had substantial experience performing the critical skills and essential support services for the principal P-1, P-2, or P-3; and

5. A copy of any written contract between the employer and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed.

### **Q-1**

**A Q-1 is an alien coming temporarily to participate in an international cultural exchange program for sharing the attitude, customs, history, heritage, philosophy, and/or traditions of the alien's country of nationality.**

The culture sharing must take place in a school, museum, business, or other establishment where the public, or a segment of the public sharing a common cultural interest, is exposed to aspects of a foreign culture as part of a structured program.

The work component of the program may not be independent of the cultural component, but must serve as the vehicle to achieve the objectives of the cultural component. An employer (U.S. or foreign firm, corporation, nonprofit organization, or other legal entity) or its designated agent may file the petition. If a designated agent is filing the petition, that agent must be employed by the qualified employer on a permanent basis in an executive or managerial capacity and must be either a U.S. citizen or lawful permanent resident.

Write **Q-1** in the classification block on the petition.

The petition must be submitted with evidence showing that the employer:

1. Maintains an established international cultural exchange program;
2. Has designated a qualified employee to administer the program and serve as liaison with USCIS;
3. Is actively doing business in the United States;
4. Will offer the alien wages and working conditions comparable to those accorded local domestic workers similarly employed; and
5. Has the financial ability to remunerated the participant(s).

To illustrate an established international cultural exchange program, submit program documentation, such as catalogs, brochures, or other types of material.

To demonstrate financial ability to remunerated the participant(s), submit your organizations most recent annual report, business income tax return, or other form of certified accountant's report.

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If the proposed dates of employment are within 15 months of a previously approved Q-1 petition filed by the same international cultural exchange program with the above evidence of the program, a copy of the approval notice for that prior petition may be submitted in lieu of the evidence about the program required above.

## **R-1**

**An R-1 is an alien who is coming temporarily to be employed at least part time (average of at least 20 hours per week) by a bona fide nonprofit religious organization in the United States (or a bona fide organization that is affiliated with the religious denomination in the United States) to work:**

1. Solely as a minister;
2. In a religious vocation; or
3. In a religious occupation.

To qualify, the alien must have been a member of a religious denomination that has a bona fide nonprofit religious organization in the United States, for at least 2 years immediately preceding the filing of the petition.

Write **R-1** in the classification block on the petition.

The petition must be filed by a U.S. employer with:

1. Evidence relating to the petitioning organization:
  - A. Currently valid determination letter from the Internal Revenue Service (IRS) establishing that the organization is a tax-exempt organization; or
  - B. For a religious organization that is recognized as tax-exempt under a group tax-exemption, a currently valid determination letter from the IRS establishing that the group is tax exempt; or
  - C. For a bona fide organization that is affiliated with the religious denomination, if the organization was granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code (IRC) of 1986, or subsequent amendment or equivalent sections of prior enactments of the IRC, as something other than a religious organization:
    - i. A currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization;

- ii. Documentation that establishes the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;
  - iii. Organizational literature, such as books, articles, brochures, calendars, flyers, and other literature describing the religious purpose and nature of the activities of the organization; and
  - iv. Religious Denomination Certification, which is part of the R-1 Classification Supplement to Form I-129, completed, signed, and dated by the religious organization certifying that the petitioning organization is affiliated with the religious denomination.
2. Employer Attestation, which is part of the R-1 Classification Supplement to Form I-129, completed, signed, and dated by an authorized official of the petitioner;
  3. Verifiable evidence of how the petitioner intends to compensate the beneficiary, including salaried or non-salaried compensation;
  4. If the beneficiary will be self-supporting, the petitioner must submit documentation establishing that the position the beneficiary will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination;
  5. Evidence that the beneficiary has been a member in the religious denomination during at least 2 years immediately preceding the filing of the petition; and
  6. Evidence to establish the beneficiary is qualified to perform the duties of the offered position.

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## **Part 2. Petition Only Required for an Alien in the United States to Change Status or Extend Stay**

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The following classifications listed in this **Part 2** do not require a petition for new employment if the alien is outside the United States.

Use this Form I-129 when the beneficiary is physically present in the United States and a change of status, concurrent employment, or an extension of stay is needed. Note, however, that the beneficiary must maintain legal status in the United States to remain eligible for the benefit sought.

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## **E-1**

An E-1 is a national of a country with which the United States maintains a qualifying treaty, who is coming to the United States to carry on substantial trade principally between the United States and the alien's country of nationality. The Department of State maintains a list of countries with qualifying treaties. See [http://travel.state.gov/visa/frvi/ reciprocity/ reciprocity\\_3726.html](http://travel.state.gov/visa/frvi/ reciprocity/ reciprocity_3726.html) for a list of qualifying countries.

Write **E-1** in the classification block on the petition.

Qualifying trade involves the commercial exchange of goods or services in the international market place. Substantial trade is an amount of trade sufficient to ensure continuous flow of international trade items between the United States and the treaty country. Principal trade exists when more than 50 percent of the E-1's total volume of international trade is conducted between United States and the treaty country.

An employee of an E-1 treaty trader who possesses the same nationality as the E-1 employer may also be classified as E-1. The employee must principally and primarily perform executive or supervisory duties or possess special qualifications that are essential to the successful or efficient operation of the enterprise. The E-1 employee may perform work for the parent treaty organization or enterprise, or any subsidiary of the parent organization or enterprise.

The petition must be filed with evidence of:

- 1. Ownership and Nationality.** Such evidence may include but is not limited to lists of investors with current status and nationality, stock certificates, certificate of ownership issued by the commercial section of a foreign embassy, and reports from a certified personal accountant;
- 2. Substantial Trade,** which is an amount of trade sufficient to ensure a continuous flow of international trade items between the United States and the treaty country. Such evidence may include copies of three or more of the following: bills of lading, customs receipts, letter of credit, trade brochures, purchase orders, insurance papers, documenting commodities imported, carrier inventories, and/or sales contracts, or other probative documentation establishing the requisite substantial trade; and
- 3. For E-1 employees only:** Executive or Supervisory Duties or special qualifications essential to the enterprise, including but not limited to certificates, diplomas or transcripts, letters from employers describing job titles, duties, operators' manuals, and the required level of education and knowledge.

## **E-2**

An E-2 is a national of a country with which the United States maintains a qualifying treaty, who is coming to the United States to develop and direct the operations of an enterprise in which he or she has invested or is actively in the process of investing a substantial amount of capital. The Department of State maintains a list of countries with qualifying treaties. See [http://travel.state.gov/visa/frvi/ reciprocity/ reciprocity\\_3726.html](http://travel.state.gov/visa/frvi/ reciprocity/ reciprocity_3726.html) for a list of qualifying countries.

Write **E-2** in the classification block on the petition.

An E-2 must demonstrate possession and control of funds and the ability to develop and direct the investment enterprise. Capital in the process of being invested or that has been invested must be placed at risk and be irrevocably committed to the enterprise. The enterprise must be a real, active, and operating commercial or entrepreneurial undertaking that produces services or goods for profit. The investment must be substantial and the funds must not have been obtained, directly or indirectly, from criminal activity. The enterprise must be more than marginal.

An employee of an E-2 who possesses the same nationality as the E-2 employer may also be classified as E-2. The employee must principally and primarily perform executive or supervisory duties or possess special qualifications that are essential to the successful or efficient operation of the enterprise.

The petition must be filed with evidence of:

- 1. Ownership and Nationality,** including but not limited to lists of investors with current status and nationality, stock certificates, certificate of ownership issued by the commercial section of a foreign embassy, and reports from a certified personal accountant;
- 2. Substantial investment,** including but not limited to copies of partnership agreements (with a statement on proportionate ownership), articles of incorporation, payments for the rental of business premises or office equipment, business licenses, stock certificates, office inventories (goods and equipment purchased for the business), insurance appraisals, annual reports, net worth statements from certified profession accountants, advertising invoices, business bank accounts containing funds for routine operations, funds held in escrow; and
- 3. For E-2 employees only:** Executive or Supervisory Duties or special qualifications essential to the enterprise, including but not limited to certificates, diplomas or transcripts, letters from employers describing job titles, duties, operators' manuals, and the required level of education and knowledge.

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### **Free Trade Nonimmigrants (H-1B1 and TNs)**

A Free Trade Nonimmigrant is a temporary nonimmigrant classification based on the provisions of a Free Trade Agreement between the United States and the alien's country of citizenship. Currently there are 2 stand alone Free Trade Nonimmigrant classifications available.

**A TN nonimmigrant is a citizen of Canada or Mexico covered by the North American Free Trade Agreement who is coming to the United States to engage temporarily in business activities at a professional level. Depending on the specific type of business activity, a TN must at least have a bachelor's degree or, in certain limited instances, other appropriate credentials which demonstrate status as a professional. The acceptable types of TN business activities at a professional level are listed at 8 CFR 214.6(c).**

Write **TN** in the classification block on the petition.

If requesting a "**Change of Status**" to TN, the applicant must submit evidence demonstrating that he or she will be engaged in business activities at a professional level and that the applicant possesses the requisite professional qualifications. Acceptable evidence may include, but is not limited to, the following:

1. A letter from the employer stating the activity to be engaged in, the anticipated length of stay, and the arrangements for remuneration;
2. A copy of the beneficiary's last 2 pay stubs and W-2 if employed in the United States; and
3. Evidence the beneficiary meets the educational and/or licensing requirements for the profession or occupation.

If requesting an "**Extension of Stay**" in TN classification, submit evidence, such as a letter, describing the continuing employment and evidence of the beneficiary's continued valid licensing (if required by the profession and/or the State).

**A H-1B1 is an alien from Chile or Singapore coming temporarily to perform services in a specialty occupation. See the instructions for H-1B nonimmigrants for the definition of "specialty occupation."**

Write **H-1B1** in the classification block on the petition.

All evidence listed on **page 5** for H-1B specialty occupation classification and the following supplements must be submitted with the petition:

1. Nonimmigrant Classification Based on a Free Trade Agreement Supplement; and
2. H Classification Supplement; and

3. H-1B Data Collection and Filing Fee Exemption Supplement.

If requesting an "**Extension of Stay**," submit evidence, such as a letter describing the continuing employment, as well as evidence of the beneficiary's continued valid licensing (if required by the profession and/or the State). Also, if this extension is the sixth consecutive extension requested for this beneficiary, a statement to that effect should be provided.

### **Change of Status**

A petition for change of status to one of the classifications described in this section must be submitted with the initial evidence detailed above and with the initial evidence required by the separate instructions for all petitions involving change of status.

### **Extension of Stay**

#### **Extension of Stay For All Except Free Trade Nonimmigrants**

A petition requesting an extension of stay for an employee in the United States must be filed with a copy of the beneficiary's Form I-94, Nonimmigrant Arrival/Departure Record, and a letter from the petitioner explaining the reasons for the extension. Consult the regulations relative to the specific nonimmigrant classification sought.

**NOTE:** Family members should use Form I-539 to file for an extension of stay.

A nonimmigrant who must have a passport to be admitted must keep that passport valid during his or her entire stay. If a required passport is not valid, include a full explanation with your petition. Where there has been a change in the circumstances of employment, submit also the evidence required for a new petition. A petition requesting an extension must be submitted with:

1. The appropriate supplement(s) for the classification;
2. A letter describing the proffered employment;
3. A copy of the beneficiary's last 2 pay stubs and W-2, if applicable;
4. Evidence the beneficiary continues to meet the licensing requirements for the profession or occupation, if applicable;
5. If requesting an extension of H-1B status (including H-1B1 Chile/Singapore), evidence that a labor condition application for the specialty occupation valid for the period of time requested has been certified by the Department of Labor;

6. If requesting H-2A status, submit a temporary labor certification valid for the dates of the extension, unless it is based on a continuation of previously approved employment due to exigent circumstances and the extension will last no longer than 2 weeks;
7. If requesting H-2B status, submit a U.S. Department of Labor approved temporary labor certification valid for the dates of extension.

## General Evidence

**Written consultation.** Noted classifications require a written consultation with a recognized peer group, union, and/or management organization regarding the nature of the work to be done and the beneficiary's qualifications before the petition may be approved.

To obtain timely adjudication of a petition, you should obtain a written advisory opinion from an appropriate peer group, union, and/or management organization and submit it with the petition.

If you file a petition without the advisory opinion, you should send a copy of the petition and all supporting documents to the appropriate organization when you file the petition with USCIS, and name that organization in the petition.

Explain to the organization that USCIS will contact them for an advisory opinion. If an accepted organization does not issue an advisory opinion within a given time period, a decision will be made based upon the evidence of record.

If you do not know the name of an appropriate organization with which to consult, indicate that on the petition. However, a petition filed without the actual advisory opinion will require substantially longer processing time.

**Translations.** Any foreign language document must be accompanied by a full English translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate the foreign language into English.

**Copies.** Unless specifically required that an original document be filed with an application or petition, an ordinary legible photocopy (standard 8 1/2 x 11 letter size) may be submitted. Original documents submitted when not required will remain a part of the record.

## Liability for Return Transportation

The Immigration and Nationality Act makes a petitioner liable for the reasonable cost of return transportation for an H-1B, H-2B, O, and P beneficiary who is dismissed before the end of the period of authorized employment.

## When to File?

Generally, a Form I-129 petition may not be filed more than 6 months prior to the date employment is scheduled to begin. Petitioners should review the appropriate regulatory provisions in 8 CFR that relate to the nonimmigrant classification sought.

File the petition as soon as possible before the proposed employment begins or before an extension of stay will be required. If the petition is not submitted at least 45 days before the employment begins, petition processing and subsequent visa issuance may not be completed before the alien's services are required or previous employment authorization ends.

## Where to File?

### Regular Processing

Generally, except for the classifications listed below, the Form I-129 is filed at the California Service Center or Vermont Service Center, **depending on the location of the temporary employment or training.** When the temporary employment or training will be multiple locations, the State where your company or organization is located will determine which Service Center you should send your petition to.

Prior to submitting your form(s), note the different addresses (see "**Mailing Addresses**" section on **page 20**).

**Exceptions:** Regardless of work locations, the following types of petitions should **always** be sent to the **California Service Center**.

1. H-2A
2. R-1
3. H-1B petitions where the employer is statutorily exempt from the cap
4. E-1 and E-2, petitions for extension of stay or change of status only

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Regardless of work locations, the following types of petitions should **always** be sent to the **Vermont Service Center**.

1. H-1C
2. E-3, Petitions for extension of stay or change of status only
3. Free Trade Nonimmigrants (H-1B1 aliens from Chile/ Singapore and TN aliens from Canada or Mexico), petitions for extension of stay or change of status only
4. P-1, Major League Sports Organizations

**Failure to follow these instructions may result in the rejection, delay, or denial of your petition.**

### **California Service Center Filings**

File Form I-129 with the California Service Center if the beneficiary is or will be employed temporarily or receiving training in:

Alaska	Minnesota
Arizona	Missouri
California	Montana
Colorado	Nebraska
CNMI*	Nevada
Guam	North Dakota
Hawaii	Ohio
Idaho	Oregon
Illinois	South Dakota
Indiana	Utah
Iowa	Washington
Kansas	Wisconsin
Michigan	Wyoming

\*Commonwealth of the Northern Mariana Islands

### **Vermont Service Center Filings**

File Form I-129 with the Vermont Service Center if the beneficiary is or will be employed temporarily or receiving training in:

Alabama	Louisiana
Arkansas	Maine
Connecticut	Maryland
Delaware	Massachusetts
District of Columbia	Mississippi
Florida	New Hampshire
Georgia	New Jersey
Kentucky	New Mexico

New York	Tennessee
North Carolina	Texas
Oklahoma	Vermont
Pennsylvania	Virginia
Puerto Rico	U.S. Virgin Islands
Rhode Island	West Virginia
South Carolina	

### **Premium Processing:**

If you are requesting Premium Processing Services for a Form I-129, you **must** also file a Form I-907, Request for Premium Processing Services. Before you file the I-129/I-907 package, check [www.uscis.gov](http://www.uscis.gov) Web site to ensure that the requested classification is eligible for premium processing.

### **E-Filing**

If you are e-filing this petition, it will automatically be routed to the appropriate Service Center. You will receive a receipt indicating the location to which it was routed. The submission of supporting documents and any other communication regarding your e-filed petition should be directed to the receiving location indicated on your receipt.

## Mailing Addresses

The mailing addresses provided below reflect the most current information as of the date this form was last printed. If you are filing this form more than 30 days after the edition date printed this form (shown in the lower right-hand corner), check *before you file* to confirm that this is the most current version of the Form I-129 to use by either (1) visiting the "Forms and Fees" section at [www.uscis.gov](http://www.uscis.gov) or (2) if you do not have Internet access, call Customer Service at **1-800-375-5283**.

<b>California Service Center</b>		
<b>Petition Type</b>	<b>Regular Mailing</b>	<b>Courier Mailing</b>
All CNMI I-129 Petitions (filed for any classification included on this form for employment in the CNMI)	USCIS California Service Center ATTN: CNMI I-129 P.O. Box 10698 Laguna Niguel, CA 92607-1098  <i>(Note the nonimmigrant classification requested in the attention line.)</i>	USCIS California Service Center ATTN: CNMI I-129 24000 Avila Road 2 <sup>nd</sup> Floor, Room 2312 Laguna Niguel, CA 92677  <i>(Note the nonimmigrant classification requested in the attention line.)</i>
Guam H-1B and H-2B Petitions	USCIS California Service Center ATTN: Guam I-129 P.O. Box 10129 Laguna Niguel, CA 92607-1012  <i>(Note the nonimmigrant classification requested in the attention line.)</i>	USCIS California Service Center ATTN: Guam I-129 24000 Avila Road 2 <sup>nd</sup> Floor, Room 2312 Laguna Niguel, CA 92677  <i>(Note the nonimmigrant classification requested in the attention line.)</i>
H-1B Extension of Stay Petition	USCIS California Service Center ATTN: H-1B Extensions P.O. Box 10129 Laguna Niguel, CA 92607-1012	USCIS California Service Center ATTN: H-1B Extensions 24000 Avila Road 2 <sup>nd</sup> Floor, Room 2312 Laguna Niguel, CA 92677
H-2A Petitions	USCIS California Service Center ATTN: H-2A Processing Unit P.O. Box 10140 Laguna Niguel, CA 92607-1040	USCIS California Service Center ATTN: H-2A Processing Unit 24000 Avila Road 2 <sup>nd</sup> Floor, Room 2312 Laguna Niguel, CA 92677
All Other I-129 Petitions	USCIS California Service Center ATTN: I-129 P.O. Box 10129 Laguna Niguel, CA 92607-1012  <i>(Note the nonimmigrant classification requested in the attention line)</i>	USCIS California Service Center ATTN: I-129 24000 Avila Road 2 <sup>nd</sup> Floor, Room 2312 Laguna Niguel, CA 92677  <i>(Note the nonimmigrant classification requested in the attention line)</i>

## Mailing Addresses

### California Service Center

Petition Type	Regular Mailing	Courier Mailing
Premium Processing I-129/I-907 Packages	Premium Processing Service USCIS California Service Center ATTN: I-129 P.O. Box 10825 Laguna Niguel, CA 92607  <i>(Note the nonimmigrant classification requested in the attention line.)</i>	Premium Processing Service USCIS California Service Center ATTN: I-129 24000 Avila Road 2 <sup>nd</sup> Floor, Room 2312 Laguna Niguel, CA 92677  <i>(Note the nonimmigrant classification requested in the attention line.)</i>
<b>Premium Processing E-Mail address: <a href="mailto:CSC-Premium.Processing@dhs.gov">CSC-Premium.Processing@dhs.gov</a></b>		

### Vermont Service Center

Petition Type	Regular & Courier Mailing	Premium Processing I-129/I-907 Packages
H-1B Cap-Subject Petitions	USCIS Vermont Service Center ATTN: H-1B Cap 4 Lemnah Drive St. Albans, VT 05479-0001	Premium Processing Service USCIS Vermont Service Center ATTN: H-1B Cap 30 Houghton Street St. Albans, VT 05478-2399
H-1B U.S. Master's Cap Petitions	USCIS Vermont Service Center ATTN: H-1B U.S. Master's Cap 4 Lemnah Drive St. Albans, VT 05479-0001	Premium Processing Service USCIS Vermont Service Center ATTN: H-1B U.S. Master's Cap 30 Houghton Street St. Albans, VT 05478-2399
All Other I-129 Petitions	USCIS Vermont Service Center ATTN: I-129 75 Lower Welden Street St. Albans, VT 05479-0001  <i>(Note the nonimmigrant classification requested in the attention line)</i>	Premium Processing Service USCIS Vermont Service Center ATTN: I-129 30 Houghton Street St. Albans, VT 05478-2399  <i>(Note the nonimmigrant classification requested in the attention line)</i>
<b>Premium Processing e-mail address: <a href="mailto:VSC-Premium.Processing@dhs.gov">VSC-Premium.Processing@dhs.gov</a></b>		

## What Is the Filing Fee?

The base filing fee for this petition is **\$325**.

A U.S. employer filing Form I-129 for an H-1B nonimmigrant or for a Chile or Singapore H-1B1 Free Trade Nonimmigrant must submit the **\$325** petition filing fee and, unless exempt under Part B of the H-1B Data Collection and Filing Fee Exemption Supplement, an additional fee of either **\$1,500** or **\$750**.

A U.S. employer with a total of 25 or fewer full-time equivalent employees in the United States (including any affiliate or subsidiary of the employer) is only obligated to pay the **\$750** fee.

A U.S. employer filing Form I-129 who is required to pay the ACWIA fee may make the payment in the form of a single check or money order for the total amount due or as two checks or money orders, one for the ACWIA fee and one for the petition fee.

**NOTE:** On or after **March 8, 2005**, a U.S. employer 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, must submit a **\$500** fee. This **\$500** Fraud Prevention and Detection fee was mandated by the provisions of the H-1B Visa Reform Act of 2004.

Those petitioners required to submit the \$500 Fraud Prevention and Detection fee are also required to submit either an additional \$2,000 (H-1B) or \$2,250 (L-1) fee mandated by Public Law 111-230 **if**:

1. The petitioner employs 50 or more individuals in the United States;
2. More than 50% of those employees are in H-1B or L nonimmigrant status; **and**
3. The petition is filed before October 1, 2014.

**The Fraud Prevention and Detection fee and Public Law 111-230 fee, when applicable, may not be waived, and each fee should be submitted in separate checks or money orders.** You must include payment of the fee(s) with your submission of this form. Failure to submit the fee(s) when required will result in rejection or denial of your submission. Petitioners for Chile or Singapore H-1B1 Free Trade Nonimmigrants do not have to pay the **\$500** Fraud Prevention and Detection Fee or the additional fee required under Public Law 111-230.

**NOTE:** Employers filing H-2B petitions for employment to commence on or after October 1, 2005, must submit an additional fee of **\$150**. The Save Our Small and Seasonal Businesses Act of 2005 authorized this **\$150** Fraud Prevention and Detection Fee.

Fees must be submitted in the exact amount and cannot be refunded. **Do not mail cash.** All checks and money orders must be drawn on bank or other institution located in the United States and must be payable in U.S. currency. The check or money order must be made payable to the **Department of Homeland Security**.

When preparing the check or money order, spell out Department of Homeland Security. Do not use the initials "DHS" or "USDHS."

Checks are accepted, subject to collection. An uncollected check will render the petition and any document issued invalid. A charge of \$30 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

**How to check if the fee is correct.** The fee on this form is current as of the publication date appearing in the lower right corner of this page. However, because USCIS fees change periodically, you can verify if the fee is correct by following one of the steps below.

1. Visit our Web site at [www.uscis.gov](http://www.uscis.gov), to check the appropriate fee, or
2. Review the Fee Schedule included in your form package, if you called us to request the form, or
3. Telephone our National Customer Service Center at **1-800-375-5283** and ask for the fee information.

**Note:** If your petition requires payment of a biometric service fee for USCIS to take your fingerprints, photograph or signature, you can use the same procedure to obtain the correct biometric fee.

## Processing Information

**Any petition that is not signed or accompanied by the correct fee will be rejected with a notice that the petition is deficient.** You may correct the deficiency and resubmit the petition. A petition is not considered properly filed until accepted by USCIS.

**Initial processing.** Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your petition.

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**Requests for more information or interview.** We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

**Decision.** The decision on a petition involves separate determinations of whether you have established that the alien is eligible for the requested classification based on the proposed employment, and whether he or she is eligible for any requested change of status or extension of stay. USCIS will notify you of the decision in writing.

### Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this petition, we will deny the petition and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

### Privacy Act Notice

We ask for the information on this form and associated evidence to determine if you have established eligibility for the immigration benefit you are seeking. Our legal right to ask for this information is in 8 U.S.C. 1154, 1184, and 1258. We may provide this information to other government agencies. Failure to provide this information and any requested evidence may delay a final decision or result in denial of your petition.

### USCIS Compliance Review and Monitoring

By signing this form, you have stated under penalty of perjury (28 U.S.C.1746) that all information and documentation submitted with this form is true and correct. You also have authorized the release of any information from your records that USCIS may need to determine eligibility for the benefit you are seeking and consented to USCIS verification of such information.

The Department of Homeland Security has the right to verify any information you submit to establish eligibility for the immigration benefit you are seeking at any time. Our legal right to verify this information is in 8 U.S.C. 1103, 1155, 1184, and 8 CFR parts 103, 204, 205, and 214. To ensure compliance with applicable laws and authorities, USCIS may verify information before or after your case has been decided.

Agency verification methods may include but are not limited to: review of public records and information; contact via written correspondence, the Internet, facsimile or other electronic transmission, or telephone; unannounced physical site inspections of residences and places of employment; and interviews. Information obtained through verification will be used to assess your compliance with the laws and to determine your eligibility for the benefit sought.

Subject to the restrictions under 8 CFR part 103.2(b)(16), you will be provided an opportunity to address any adverse or derogatory information, that may result from a USCIS compliance review, verification, or site visit after a formal decision is made on your case or after the agency has initiated an adverse action which may result in revocation or termination of an approval.

### USCIS Information and Forms

To order USCIS forms, call our toll-free forms line at **1-800-870-3676**. You can also get USCIS forms and information on immigration laws, regulations, and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our Internet Web site at [www.uscis.gov](http://www.uscis.gov).

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through our Internet-based system, **InfoPass**. To access the system, visit our Web site at [www.uscis.gov](http://www.uscis.gov). Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

### Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 2 hours and 45 minutes per response (3 hours per response for Religious Workers), including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Ave., N.W., Washington, DC 20529-2020, OMB No. 1615-0009. **Do not mail your application to this address.**