

SKO Insider



H-1B Professional Worker Visa Window Opens on April 1, 2012

The H-1B filing season opened on April 1, 2012 for employers who wish to sponsor employees for H-1B status beginning October 1, 2012. In a period of three weeks, approximately 40% of the H-1B numbers available in this fiscal year have been used. According to the most recent count by U.S. Citizenship and Immigration Services, USCIS has received over 36,000 H-1B petitions.

This demand has been much higher than recent years. Employer that is considering sponsoring an employee for H-1B status should begin the process now while the H-1B remains an option.

The H-1B Visa and Numerical Limitations

The H-1B visa enables U.S. employers to sponsor professional foreign nationals for employment in the United States. This category is for professional jobs which require a Bachelor's degree or higher in a specific field. The current H-1B quota is limited to 65,000 per fiscal year, with an additional 20,000 set aside for foreign nationals with a U.S. Master's degree.

Advantages of the H-1B Visa

A major advantage of the H-1B over other immigration categories is that the individual is not required to have prior employment experience with the sponsoring employer, nor possess previous knowledge of the employer's business. Two of the other main work visas utilized for professional employment – the E-2 Treaty Trader/Investor and the L-1 Intracompany Transferee – can be viable alternatives, but have limitations. For example, to qualify for L-1 status, an individual must have been employed with an affiliated entity abroad for at least one year in a managerial or specialized knowledge capacity and must be transferring to the U.S. to work in such a capacity. The E-2 category must be a national of the same country as the sponsoring entity, and the work in the U.S. must entail employment in a supervisory or executive capacity, or highly specialized skills essential to the operation of the business.

In contrast, the H-1B can be used by employers to sponsor new hires, including recent college graduates. To qualify for H-1B status, the position must be in a professional occupation which requires a Bachelor's degree in a specific field, and the position must adhere to Department of Labor wage and benefit requirements including ensuring that the H-1B worker receives the same compensation and benefits as all similarly employed individuals.

Additional Information

Friday, May 4, 2012
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This information is a general guideline and should not be construed as legal advice. For additional information concerning H-1B visa eligibility, filing strategies or alternative immigration options that may be available, contact the members of Stoll Keenon Ogden's Immigration Practice Group.

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