

Non-Immigrant US Work Authorization Options for International Professionals

Category	Visa Type	Description	Processing	Validity	Pros	Cons
OCT 2017: Professionals from any country entering US to work in a specialty occupation	2017 CAP Subject H1B	Professionals, usually with a related BS/BA or higher degree, are sponsored by a US employer to work in a specialty occupation like Engineer or Market Research Analyst	USCIS: 2 wks – 3 months, depending on fee payment – new H1B holders usually apply April 1 for a job that starts on October 1	3 yrs (up to 6 years total or more if PR pending or intermittent)	Dual immigrant intent OK, high approval rate if education and job fit specialty occupation definition	Subject to annual quota (CAP) of 65,000 (20,000 for US grad degrees) disbursed in a lottery April 2017– new employees work in H status October 1 + usually requires at least BS/BA
Current CAP-subject H1B Holders (or individuals who had an H1B w/in past six years)	H-1B (Transfer)	Professionals who currently hold H1B status and who were counted against the annual cap or who had this status in the last six years are not required to repeat lottery and are eligible to transfer sponsorship at any time	USCIS: 2 wks – 3 months, depending on payment , transfers can work as soon as USCIS receipt is issued	3 yrs (up to 6 years total or more if PR pending or intermittent)	Not subject to annual H1B CAP quota, high approval rate if qualify, dual intent OK, can work on receipt, limited spousal work authorization (approved I-140)	LCA requires employer to pay prevailing wage for occupation, degree required (usually)
CAP-exempt H1B	CAP-exempt H1B	Universities, non-profits, gov't agencies and some affiliates	USCIS: 2 wks – 3 months, depending on payment , transfers can work as soon as	3 yrs (up to 6 years total or more if PR pending or	Not subject to annual H1B CAP quota, high approval	Only possible with a CAP-exempt employer, LCA

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		can sponsor professionals without having to go through the CAP and lottery process	USCIS receipt is issued	intermittent)	rate if qualify, dual intent OK, can work on receipt, limited spousal work authorization (approved I-140)	requires employer to pay prevailing wage for occupation, degree required (usually)
Students and recent graduates	OPT/CPT	Students and recent graduates with Optional Practical Training or in work related training can be hired with authorization	Through USCIS and International Student Advisor at school	Up to 27 months for professionals in science, technology, engineering or math (work authorization automatically extended with H1B petition pending)	With EAD, can work for any employer, no prevailing wage requirement	Need DSO recommendation, not optimal for concurrent PR processing, need eVerify to get the full STEM extension, multiple extensions required for STEM with new rules
Treaty Traders and Investors	E1/E2	Investors, traders and essential employees from investment treaty countries can get work authorization to work at company in US with same nationality	Usually at US embassy or consulate – varies from same day to 90 days depending on post	Varies by treaty – 1 – 5 years typically and renewable as long as company lasts	Can be extremely long-lasting and quick, in-person processing at US embassy or consulate	Must show substantial investment that is more than marginal – harder for start-ups both for overall lack of \$ and also variations in nationality if VC investment

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Australian Professionals	E3	Australian professionals who would otherwise qualify for H1B are not subject to CAP and can be sponsored.	At any US consulate – 1-5 days	Up to 2 yrs – no limit on renewals	Fast adjudication with no USCIS involvement	Must show intent to return to Australia after assignment, LCA required (so prevailing wage must be paid), not a path to green card
Mexican and Canadian Professionals	TN	Mexican or Canadian professionals (including engineers and computer systems analysts) are not subject to CAP and can be sponsored at any time	Mexicans at consulate – 1-5 days (or through USCIS with extensions) Canadians at border – hours	Up to 3 yrs (renewable if proves domicile in MX/Canada)	Fast and inexpensive process at consulate (MX) or border (Canadians)	Only for Mexican and Canadian nationals, must show intent to return home
Chilean and Singapore professionals	H-1B1	Chilean and Singapore professionals who would otherwise qualify for H1B are not subject to CAP and can be sponsored	Apply directly at consulate – home country or any US consulate is OK, extend at consulate or in US	18 months (renewable as long as can show temporary intent)	Fast process at consulate with no USCIS involvement, lower fees	Must show intent to return to home country after assignment, LCA required
Trainees	J	Professionals with a degree or professional certificate and at	Program sponsor issues papers, process at consulate – 2-4 wks	Up to 18 months	Fast adjudication with no USCIS involvement,	Strict time limit, hard to change to other NIV status, can carry 2-yr

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		least one year experience or 5 yrs experience may get brief on-the-job training in their field			wage not subject to LCA	home residence requirement, training cannot duplicate trainee's prior work experience or displace US workers
Interns	J	Current university students or recent graduates (within 12 months)	Program sponsor issues papers, process at consulate – 2-4 wks	Up to 12 months	Fast adjudication with no USCIS involvement, wage not subject to LCA	Strict time limit, hard to change to other NIV status, can carry 2-yr home residence requirement, interns cannot displace US workers
Current Employees of related companies outside US (at least 1 year employment outside US with related entity)	L-1A	Managers & executives	USCIS in US, then visa stamp at consulate – 2 – 10 wks – (2 wks if expedited)	3 yrs (up to 7 years total or more if intermittent)	Spousal work authorization, fast track to residence, no degree required	Higher RFE rate with USCIS
	L-1B	Workers with specialized knowledge of clients, technologies or company processes	USCIS in US, then visa stamp at consulate – 2 – 10 wks	3 yrs (up to 5 years total or more if intermittent)	Spousal work authorization, no degree required	Highest RFE rate of NIV classes with USCIS
Extraordinary	O-1	Any worker who we can show has	USCIS in US – takes between 2 wks to 4	Up to 3 yrs, renewable as	No degree required, good	Hard to meet eligibility – must

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Ability Professionals		extraordinary ability – top 1% of profession worldwide – can be sponsored for an immediate position	months (shorter time for premium process)	long as needed for job	base for EB1A residence filing, no time limit or quota	show top 1% of profession worldwide
Work-authorized individuals	EAD	Many non-US applicants will have work authorization that allows them to work for any US employer (examples: pending residents, refugees, asylees, DREAMER students, etc.)	Varies depending on situation – usually through USCIS via Form I-765 and taking up to 90 days	1-2 yrs (depending on category)	Inexpensive & can work for any employer (not tied to sponsor as most NIVs)	Varies – if PR is pending, may limit international travel and travel prohibited for most DREAMER students