

EASY GUIDE TO HIRING FOREIGN GRADUATES

Do not let fear of the visa process prevent you from hiring the best and brightest graduates available. U.S. law provides several ways for employers to hire foreign graduates of U.S. universities. For example, the U.S. Citizenship & Immigration Services (“USCIS”) issues tens of thousands of H-1B work visas each year. In addition, graduates of U.S. institutions in F-1 status are eligible for “practical training” and are hired regularly by U.S. employers.

The two most common mechanisms for hiring foreign graduates are:

I. **OPTIONAL PRACTICAL TRAINING:** For graduates in F-1 student status, Optional Practical Training allows up to twelve months of employment after graduation (for those holding Science, Technology, Engineering, or Math (“STEM”) degrees, may get 24 additional months). The student must obtain permission from the university, and a work authorization card from USCIS. The university can provide additional information.

Timing: F-1 Graduates can begin working upon the effective date of the work authorization card.

Cost: No cost to employer. Student pays a nominal filing fee to USCIS to get card.

Employer Obligations: Treat employees on practical training just like other U.S. employees in terms of pay, discipline, termination, etc. A brief jointly-developed training plan is required for STEM extensions.

II. **H-1B VISAS:** This is an extremely popular work visa. It is available to foreign nationals who (a) have at least a U.S. Bachelor’s Degree or foreign equivalent and (b) will be working in a job that requires at least a Bachelor’s Degree. Allows employment for 6 years, or longer. The employer must submit a petition to USCIS.

Employer Obligations:

- There is no need to advertise the position, and no need to determine if U.S. workers are available to fill the position.
- All Employers must post a notice for ten days at the worksite stating that the employer is hiring an H-1B worker, providing information about the job. This is NOT an advertisement. It is just a notice.
- Employers must pay the same wage and benefits provided to U.S. workers in similar jobs.

Timing: Normal processing times can take several months. However, USCIS has special “premium processing” which guarantees processing in 15 days, but requires an extra \$2,500 filing fee.

H-1B Quota: USCIS has an annual quota of 85,000 new H-1Bs available each year (quota year—Oct. 1 through Sept. 30). Graduates with U.S. advanced degrees have special allocation of 20,000 H-1Bs out of the 85,000 quota. USCIS accepts “registration” filings for the H-1B quota in March every year (dates announced each year). Employers who want to file for H-1B must file a registration. Exceptions to the quota: University jobs; non-profits affiliated with universities; non-profit research organizations; H-1B extension with same employer; H-1B transfer to new employer. Citizens of Chile and Singapore have a special allocation of H-1Bs.

Cost: For the H1B “registration” filing (held in March every year), the US CIS charges \$10 for a registration filing. If the employer’s H1B registration is selected by the US CIS for processing, then the employer files an H1B petition. USCIS’ normal filing fee for H1B petitions for private employers is \$460, plus a \$1,500 “training fee” (only \$750 for employers with 25 or fewer employees), plus a “fraud prevention” fee of \$500. (NOTE: University employers, primary/secondary schools and certain governmental and non-profit research organizations do not pay the “training fee”).

Other visa options may be available (TN for Canadians/Mexicans; E-3 visa for Australians. Consult a specialist.)

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