H-1B PROCESS OVERVIEW

The following forms and/or steps must be followed for initial H-1B petitions, extensions or transfers of H-1B status, and/or amendments to H-1B status. The processing times referenced below are governmental processing times and are not inclusive of IFS processing times.

STEP ONE: PREVAILING WAGE REQUEST (PWR)
The Prevailing Wage Request Form (PWRF) is submitted to the Department of Labor. DOL assigns the position a specialized code and determines the PW. This process can take up to 60 days, from the time IFS submits the PWRF to the DOL; however, this is subject to change without notice. IFS has no control over DOL’s processing times there is no expedited process to move this process faster.

If the PW is higher than the offered wage:

- IFS may submit a revised PWRF one (1) time as accorded by law. Revised PWRs take the same amount of time to process, sixty (60) days or more.

- If the PW remains above the actual wage after the revised submission, the sponsoring department will have to decide whether to raise the salary to meet the PW, abandoned the H1B request, or seek an alternative status. By law, employers are required to pay 100% of the PW.

STEP TWO: POSTED NOTICE & LABOR CONDITION APPLICATION (LCA)
After the PW has been determined and the notices have been posted, the LCA is completed by IFS and submitted to the DOL. This process can take 7-10 days. DOL keeps these applications on file, and employers, including individual departments, are required by the government to meet the attestations (wage, dates, location, etc.) reported on the application. Employers may at anytime be audited by the DOL. Before submission of the LCA, a posted Notice of Labor Condition Application (NLCA) declaring the intention to hire a FN must be posted in two (2) conspicuous locations at each worksite for public viewing for a minimum of ten (10) consecutive business days. If there are multiple worksites, 2 postings must be posted at each location. It is best to leave the NLCA postings posted until you have been instructed to remove them. The NLCA can be downloaded from IFS website.

STEP THREE: COMPLETION BY IFS & SUBMISSION TO USCIS FOR ADJUDICATION
Once all documentation, including fees, has been received from the FN and the department, IFS will prepare the petition for submission to USCIS. Adjudication by USCIS usually takes 60-90 days, possibly longer if USCIS sends a Request for Evidence (RFE). If the department wishes to expedite the adjudication processing time, the department may elect to pay an additional fee of $1,225, payable to: “U.S. Department of Homeland Security”, and an additional $250 to IFS. USCIS will then guarantee a processing time of fifteen (15) calendar days. In certain cases, the FN is permitted to pay the additional premium processing fee. This must be cleared with IFS to make sure that this business expense will not adversely affect the FN’s actual required wage.

IMPORTANT NOTICE:
To minimize any potential problems with the processing times outlined above, it is important that departments submit the H-1B Data Form, Prevailing Wage Request Form, and a copy of the Notice of Labor Condition Application to IFS six (6) months in advance of the requested start date.