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**9. Procedure for Obtaining an H-1B Visa at a U.S. Consulate**

Appointments are needed at most consulates prior to appearing for visas. Please check the Consulate’s website for information. Do not rely solely on the contents of this memo for visa issuance procedures. If you apply for a non-immigrant visa at a US Consulate outside your home country, including Canada or Mexico, the Consulate may require you to have been in the United States in a valid non-immigrant status prior to your applying for the visa. Exceptions to this policy exist, including for some physicians who will be employed in Health Professional Shortage Areas. Please check with the specific Consulate before your departure and application for the visa. Please discuss this point and all points with your attorney.

**If applicants are refused a non-immigrant visa at a US Consulate in Mexico or Canada, or islands contiguous to the United States, they will not be permitted to re-enter the United States using the USCIS approval notice showing a change or extension-of-status and will have to depart to their country of nationality from Mexico or Canada in order to apply for the H-1B visa in their home country. This provision does not apply to Canadian citizens who are exempt from the visa requirement.**

Some consuls in countries other then your home country may be more reluctant to issue the H-1B visa than others. Ottawa and Toronto, Canada tend to be fair in processing the visa applications for third country nationals. It is not always recommended that you travel to another consulate from your home country, as the visa could be refused for the simple reason that the Consul Officer may feel that you are shopping for an easier consulate.

Consul officers must verify all approved H-1B petitions with USCIS through the “PIMS” system. Rarely, a case is not in the system. It is impossible to know, until you go to the consulate. If not in the system, the consul officer can verify the approval within a few days of your visa interview.

Due to September 11th, nationals of 26 designated restricted countries may have extra delays in being processed for a visa at any consulate, even the consulate in their home country. The countries reportedly affected by the security clearance process and delays, include but are not limited to Afghanistan, Algeria, Bahrain, Bangladesh, Djibouti, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Turkey, the United Arab Emirates and Yemen. Nationals of these countries, may face significant delays for security clearances to be completed and the issuance of the visa. Sometimes it has taken several months.

**Do not leave the United States to apply for an H – 1B visa without consulting with your attorney first. Delays in the security clearances are occurring worldwide and not just for individuals from certain countries. Additionally, if you are from any of the countries listed above are strongly advised not leave the United States as you may not receive a visa allowing you to return. Please discuss any planned departures outside the US with an attorney.**

Individuals in H – 1B status who are returning from short visits to Canada or Mexico, with either expired visas or no visas but with a valid H-1B approval notice and I-94, may be admitted to the United States, as long as they did not apply for a visa in that country and were refused. However, citizens of certain countries including Iran, Iraq, Syria and Libya will not be readmitted, unless they have obtained a visa.

Please follow the following procedures when applying for an H-1B visa:

1. Check the web site of the U.S. Consulate for its procedures, listing of any documents needed and latest requirements and schedule the appointment online if allowed by the system.
2. Some U.S. Consulates have a drop box procedure for processing visas and only schedule an appointment on a case by case basis. Unless they tell you otherwise, be at the Consulate by 7 a.m. For example, the entire process **in Montreal** may take two to three days. On the first day, you submit an application. The second day you are interviewed and on the third day, a visa is issued. The processing times are at the discretion of the consul. This information may change.
3. If you are presently in H-1B status, obtain a new original letter from your employer addressed to the U.S. Consulate, confirming your position or prospective position, salary and date you started or will start your employment. You should also bring several of your most recent paystubs, Federal tax return and W-2, if applicable. Additionally, please try to get a brochure or some photos of the place of employment. Some Consulates have been requesting same.
4. At the interview, show the consul officer your passport,
5. The following is a listing of the documents which you should bring to the interview. Please note that as stated above, each consulate may have its own requirements and hence this listing should not be deemed to be all-inclusive:

 1. Valid passport. See Note 11 below

2. Original H-1B approval notice (I-797)

3. Attorney certified copy of the petition (Form I-129)

 4. Labor Condition Application (ETA-9035)

 5. Letter in support of the petition

6. Original diplomas,

1. USMLE Score Sheets,
2. ECFMG certificate,
3. If spouse and children are accompanying, marriage certificate and birth certificates of children,
4. Your resume/CV.
5. ,Degree evaluation, if non-physician position,
6. State license/permit if applicable
7. All previous approval notices received from USCIS, including but not limited to H-1B, F1, B2, H4, etc.
8. If you have or were in J-1 status and are applying for H – 1B status, you must bring all your DS-2019 forms and original Waiver Approval Notices, from all agencies.
9. .Do not present your contract unless it is specifically requested.
10. If you are utilizing a drop box, it is not recommended that you submit original certificates, unless requested to do so by the consulate.
11. Try to obtain a multiple entry visa. However, the duration of the visa and ability to obtain a multiple entry visa will be limited by agreements between

 the United States and your country.

1. If you are a physician in a PGY position, bring proof that a license or permit is not needed for the position, or if you are employed in a State where an individual training permit or license is issued, or alternatively, a blanket permit or license is issued to your employer, bring proof of same. If your PGY position is in New York, you should bring a copy of the law which states that a doctor in a residency program does not require a license. This office provides it to you with the H-1B package. **It is not recommended that you submit licensure requirements, unless specifically requested by the Consulate.**
2. Form I-94 is no longer issued upon entry to the US. Verify that the expiration date is identical to the date listed on form I-797, the H approval notice. As soon as you have access to a computer and printer, utilize the following link to verify the end date and the status of admission. <https://i94.cbp.dhs.gov/I94/request.html;jsessionid=J0nQRftQnxKYdL7TfPKJ88gv3f35WyrJpL13SftxbtvccD8FXGgz!1516101203>
3. If your passport expires prior to the end date listed on the H – 1B approval notice, your admission to the United States should be limited to the expiration date of the passport. Please be mindful of this detail and verify the end date of your admission to the United States on above-mentioned website immediately upon your arrival. Additionally, please check the date the officer may have entered on the arrival stamp
4. Print out and maintain the document. Report any discrepancies to this office. The Immigration Officer should limit your entry to the expiration date of the passport. Accordingly, you will need to extend your passport and obtain a new I-94. Please notify your attorney as to any discrepancy. Additionally, if you are entering before the start date listed on the petition and it is a 3 year H, your admission will be limited to 3 years from the entry, not the end date of the visa or H approval notice. However, you should get the correct end date on your subsequent entry.
5. If the H visa expiration date is earlier then the expiration date on form I-797, you are still to be admitted to the US for the duration listed on form I-797, as long as the passport does not have an earlier expiration date. If the I-94 issued to you has an earlier end date, then ask to see a supervisor. However, the I-94 will be limited to the expiration date of your passport. Contact your attorney if the matter is not satisfactorily resolved.
6. If you are or were in student status, bring a letter from your school verifying that you are a student in good standing, together with the I-20's.
7. If your spouse or children are applying with you, make appointments for them as well. Bring them and their passports, the foreign language and notarized translation of birth and marriage certificates to the appointment. Make sure you notify the consulate when you make the appointment that they will be coming with you. Even if your spouse or children are not planning to join you at this time, but will probably be coming in the future, get the visas issued now.

There is no guarantee that a visa will be issued. Delays ranging from a few weeks to several months have occurred due to security clearances, regardless of your country of birth. These delays are occurring in India and Pakistan and are more likely to occur in the countries listed on the first page of this memo. The more common your name, the more likely there could be a delay. The fact that a visa was issued to you previously, even without a delay, does not mean that there will not be delay on your next application.

If you are a physician or PGY, have not passed USMLE 1, 2 and 3 or FLEX 1 and 2, and are not a graduate of a US Medical school, it is not recommended that you leave the United States for an H-1B visa. Please discuss with an attorney.

The consul makes the final determination as to issuance of the visa and the USCBP officer makes the determination as to admissibility to the United States. This office cannot guarantee that either of these events will be processed in your favor.

You can only apply for a Social Security card at the office closest to where you reside. The card can take a few weeks to a few months to process However you should be allowed to commence employment assuming you are in H-1B status.

If you are applying for an H visa in another country that would require a visa to enter go to the appropriate foreign Consulate for a visa to enter that country. The Canadian Consulate is located at 1251 6th Avenue (Avenue of the Americas @ 49th Street) New York, NY. (212) 596-1600.

I have obtained feedback from some of my clients regarding Visa Processing at U.S. consulates. I am constantly in search of updates regarding these, as well as other consulates. If the reader of this memo is aware of other policies, or other consulates which are not listed, it would be appreciated if the information was provided to this office.

 Please contact the U.S. Embassy/Consulate in your home country, and check its web page for updates as the policies and procedures can change. What may have happened previously, or is listed on this chart, may no longer be the policy in obtaining the visa. Interviews are presently required for all visa applicants. Accordingly, there will be delays in obtaining the visas.

1. **Bogotá, Colombia 2010** - It takes 7 to 10 days to obtain the visa in the passport after the interview. The consulate may have a policy where certain cases can be designated as “Urgent,” which will result in the visa being issued in three days.
2. **New Delhi, India 2010** - The consulate has set up a drop box for submitting visa applications, also provides for 7-8 working days in its instructions.
3. **Mumbai, India** **2010** - The application is submitted to the Visa Facilitation Service (VFS), which checks that the paperwork is in order, and schedules an interview at the consulate. VFS is an independent agency which has a contract with the consulate to run this service.
4. **Chennai, India** **2010** - File as early as possible.

5. **Hyderabad, India 2011 -** Complete Form DS 160 which is available on vfs-usa website. Submit the following documents 4 business days prior to the date of interview:

1. Copy of passport

2. Copy of approval I-797

3. Copy of interview letter

4. DS 160 confirmation letter

5. Original HDFC receipts

6. Recent 2\*2 inches color photograph

At the interview, the consular officer asked basic questions like when graduated, where you are presently employed and will be employed and to show original medical diploma. Interview lasted less than 5 minutes. Passport back with the H visa, 2 business days after the day of interview.

1. **Islamabad, Pakistan** **2010** - File as early as possible due to delays in obtaining security clearance.
2. **Krakow, Poland** **2010** - Appointments are not required.
3. **Bucharest, Romania** **2010** - You may be required to show original of some documents, including the ECFMG Certificate and Step 3 results.
4. **Moscow, Russia** **2010** - It may take up to five weeks to obtain the visa in the passport. You may not have to go in for an interview as documents may be submitted by mail and you will also receive your passport by mail.
5. **Trinidad** **2010** - Appointments are not required.
6. **Manila 2010 -** At the “window” only asked for H approval notice. Inquired about licensure requirements, and job description.

Last update: October 7, 2013