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H-1b Visa Deadline Approaching

As a result of the global economy we live in today, employment of foreign talent is extremely common in the United States. If you wait to begin your H-1b visa process, you may end up like the hundreds of thousands of persons whose applications were denied last year. These people received denials simply because the quota (66,000) had been reached before noon the very first day that USCIS began accepting these visa applications. The amount of H-1b applications received by the USCIS was so great that it was forced to have to use a lottery system to determine which applications it would review. This type of decision making has never occurred in the history of the H-1b visa.

Many foreign professionals living abroad or in the U.S. are eligible to obtain the H-1b visa and don't even know it. Those that qualify for the H-1b visa are authorized to live and work in the U.S. for a maximum of 6 years. During those 6 years, the H-1b visa holder may obtain an approved Labor Certification from the Department of Labor and ultimately be eligible to apply for lawful permanent residence (Green Card).

Requirements for an H-1b visa:

1. Have entered the U.S. with a valid visa;
2. Have not overstayed;
3. Have a Bachelors degree from a U.S. or foreign university; or 12 years of experience in the field;
4. Have a job offer with a U.S. company;
5. Apply for an H-1b visa on April 1st, 2008.

If the foreign professional seeking to obtain an H-1b visa is inside of the United States, he or she must have entered with a valid visa. The person may have entered with a student visa, tourist visa, or any other sort of visa. The person must not however have entered the U.S. through the border. Any person that enters the U.S. through the border is not able to obtain immigration benefits in the U.S.

In addition, if the applicant is inside of the U.S., he or she must not have overstayed the authorized period of stay on the visa. Many persons mistakenly believe they are in the

U.S. under a current visa simply because their tourist visa is valid for ten years. This is an extremely common misconception of the law. The authorized stay on any visa is the date listed on the I-94, not on the visa itself.

The misconception of being able to apply for an H-1b visa after overstaying the period of time listed on the I-94 is extremely common. What these persons fail to understand is that once the person overstays the date listed on the I-94, the person cannot obtain another visa from inside of the U.S. under any circumstances. The person is only able to obtain a visa by attending an interview at the U.S. Embassy in his or her native country. This occurrence is extremely common and tends to get many people in trouble or cause them unnecessary time and expense. We see this time and time again.

In regards to education, the applicant must qualify as a professional to be eligible for an H-1b visa. To qualify as a professional, they must have completed a Bachelors Degree in a U.S. university or have the equivalent from abroad. Education credentials from foreign institutions must be evaluated by an evaluation company to determine the amount of education it is equivalent to in the U.S. system. Even those persons who have never stepped foot into a university in the U.S. or abroad can also qualify for the H-1b visa. The U.S. immigration system accepts three years of experience as one year of education. This means that persons with no university education can qualify if they have 12 years of work experience in the field.

Finally, the job offer must be from a valid company incorporated inside of the United States. Aside from proving its valid business entity status, the company must be able to show sufficient revenue to afford the foreign professional's prevailing wage. This requirement can be satisfied by providing the USCIS with copies of the company's tax return records for the past three years.

Based on the clear advantages that the H-1b visa provides to the visa holder and his or her family, it is an extremely popular employment visa in the United States. The USCIS receives more applications each year and the quota of 66,000 visas per year has not increased. If you satisfy the requirements set out by U.S. Immigration laws and have a job offer in the US, you should begin your H-1b case as soon as possible.

About the Author:

Attorney Sonia M. Muñoz is a tri-lingual immigration attorney, who publishes weekly press releases and articles in both the English and Spanish media all across the country. She has appeared on both radio and television as an immigration expert. Aside from working for the CIA, she has co-authored a bench book for the U.S. Supreme Court, conducted and participated in conferences with State Senators and Representatives, and interviewed former President Bill Clinton. Visit her Firm's website at www.ilclawfirm.com or call 1-866-482-VISA (8472) to schedule a phone consultation.

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