

Update on issues affecting H-1B employment:

- Processing times are taking 5-6 months via regular processing, and we can only file our petitions with USCIS a maximum of 6 months in advance of the requested start date.
- Additional scrutiny of Computer Systems-related positions and Postdoc roles has resulted in RFEs (Requests for Evidence) and even denials of (previously approved) H-1B extensions.
- H-1B extensions are now being scrutinized as heavily as new H-1B cases. Extensions are not given a “rubber stamp” based having previously met standards for approval.
- Increase in RFEs across the board, resulting in lengthened processing times, more information needed from your department, and additional fees if assistance from outside counsel is required.
- USCIS has recently released two memos which may directly impact our petitions:
 - June 28 “Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs)”: If the adjudication process takes so long that the individual’s previous status has already expired by the time a decision is reached: if the case is denied, the individual will now become subject to deportation proceedings and may become subject to a multi-year bar on re-entering the U.S. Previously, individuals in this situation were able to exit the U.S. on their own without facing penalties.
 - July 13 “Issuance of Certain RFEs and NOIDs”: Reduces leniency. At their discretion, USCIS adjudicators may deny a petition rather than issuing an RFE, if sufficient initial evidence is not submitted or if the evidence in the record does not establish eligibility.
- Substantial increase in ICE worksite inspections of I-9 Employment Eligibility forms.

What you can do:

- Keep track of your employees’ upcoming expiration dates or any changes in employment which may require filing an H-1B amendment.
- Ensure employees visit UH Employee Service Center to update I-9 forms within 3 days of hire, approved amendment/extension, or change to a different immigration status.
- Submit H-1B requests to our office approximately 7+ months in advance, to allow us time to prepare the application and send it out exactly 6 months in advance.
- Ensure the internal request forms are complete and accurate. Completed forms can be submitted to my office before the checks for the processing fees have been issued.
- Premium Processing may be recommended for an increased number of cases, including anyone coming from outside the U.S., anyone who may be traveling abroad within the next 6-8 months, or anyone whose current status will be expiring within the next 6-8 months.
- Provide a substantial job description which outlines the job duties to be performed and explains to the adjudicating officer (who is a layman in your field) the type of work and importance to the College/Department/University of the work to be performed.
- Ensure the H-1B requests you are submitting are strong cases. The “H-1B specialty occupation” category should be used for positions which require a minimum of a bachelor’s degree in a specific field. You may be asked to demonstrate how the required degree program would prepare a qualified candidate for employment in the position specified.
- Notify our office when an employee is resigning or being terminated before their H-1B end date, so that the H-1B record can be properly closed out, to avoid UH liability for continuing to pay their salary for the remaining approved period in H-1B status.