



THE H-1B BOOK

Editor: Karen Weinstock

Contributors: Prakash Khatri, Courtney Black, Mikiel J. Davids,
Melissa Downing, Rajeshri Patel, Ari J. Sauer, and Elissa Taub

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Book Outline

I. FOREWORD by Prakash Khatri

II. INTRODUCTION

- The Complete H-1B Process: Attorney Flowchart
- The H-1B Process: Attorney's 10-Step System
- Overview of H-1B Visas

III. TEN-STEP SYSTEM IN H-1B PROCESS

First Step: Interview The Client

- Qualifying the Position as a Specialty Occupation
- Qualifying The Employee
- Meeting Wage Requirements
- Lawyer's H-1B Consultation Questionnaire Form
- Lawyer's H-1B Task Checklist

Second Step: Send The Client Intake Forms And Related Information

- Intakes Summary
- H-1B Employer Intake/Questionnaire Form
- H-1B Worker Intake/Questionnaire Form
- The Complete H-1B Process: Company Flowchart
- The H-1B Process: Company's Step-By-Step Explanation
- Explanation and instructions for spouses and children

Third Step: Credentials: Verify That The Worker Has A US Bachelor's Degree Or Equivalent

- Credentials Summary
- If the worker has a U.S. degree - no evaluation is necessary
- If the worker has a foreign degree - order credentials evaluation
- If the H-1B petition is based on work experience or combination - order a work experience evaluation
- List of credentials evaluation firms, web sites and phone numbers

Fourth Step: Determine The Prevailing Wage

- Understanding the Prevailing Wage
- Determining the Prevailing Wage
 - O*NET, SOC, Wage Levels, Job Zone and SVP
 - SESA or SWA Wage Determination
 - FLC Data Center Wage Determination
 - Wage Determination Through Other Wage Surveys
- Practice Examples in Determination of the Prevailing Wage

Fifth Step: Prepare And File The Labor Condition Application (LCA)

- Introduction to the Labor Condition Application (LCA)
- Preparing and filing the Labor Condition Application (LCA)
 - Online LCA filing
 - Complete Online LCA and Receive LCA Approval Online
 - Completing the LCA: Step by Step
 - H-1B Dependent Employers Worksheet for the LCA
- Detailed Description of Form ETA-9035E and its Obligations
- Sample of completed LCA (form ETA-9035E)
- Copy of form ETA9035CP (LCA cover pages)

Sixth Step: Prepare The I-129, Related Forms And Petition Letter

- Form I-129
- H supplement to Form I-129
- Form I-129 H-1B Data Collection Supplement
- Form G-28
- Form I-907 if premium processing is applicable



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If the H-1B worker has a spouse and/or children:

- Form I-539
- Form I-539 Supplement 1 (if necessary for other family members)

Seventh Step: Send All The Forms And Petition Letter To The Client For Review & Signature

- Sample letter to client
- LCA posting notice
- Sample Letter to Employer Regarding Public Access File
- Memorandum to employers on Labor Condition Application
- Public Access File sample

Eighth Step: Assemble The H-1B Petition And Send To The USCIS Service Center

- General Filing Instructions (including list of service centers and filing addresses)
- Sample Cover Letter
- H-1B Petition document checklist
- Sample list of exhibits

Ninth Step: Troubleshooting

- Introduction
- Request for Additional Evidence
- Dealing with the dreaded request for evidence
 - Sample Response to Request for Additional Evidence
 - Second Example of Response to Request for Additional Evidence
- I-9 Compliance, Social Security Numbers and Driver's Licenses
- Changes in H-1B Employment and Amendments
- How Mergers, Acquisitions and other corporate Transactions Affect the H-1B

Tenth Step: Post-Approval Case Management

- Summary of Post-Approval Issues
- Sample H-1B Approval Letter to Employees that are in the U.S.
- Sample H-1B Approval Letter to Company - Employee(s) Abroad
- Sample H-1B Approval Letter to Employees Abroad
- Non- Immigrant Visa Consular Processing Information Sheet

IV. ADVANCED H-1B ISSUES

- H-1B Degree Equivalency
- Reviewing The Path To Permanent Residency
- Traveling On An H-1B Visa While Petition Or Application Is Pending
- Dealing With Gaps In Employment
- Temporary Visa Alternatives To The H-1B
- The History And Economic Impact Of The H-1B Visa
- When Are H-1B Visas Cap Exempt?

V. ESSENTIAL MEMORANDA

VI. CD-ROM RESOURCE MATERIALS

EDITOR

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Karen Weinstock is the Managing Attorney of the Atlanta, Georgia office of Siskind Susser Bland. Karen graduated law school from Hebrew University School of Law in Jerusalem, Israel and is licensed to practice law both in Israel and in New York State. She is also admitted to practice before the Supreme Court of the United States, the United States Federal Court of the Southern and Eastern Districts of New York, and the U.S. Court of Appeals for the 5th, 9th and 11th Circuits. Karen is fluent in English, Hebrew and also speaks Spanish. She is a member of the American Immigration Lawyers Association and the New York Bar Association. She is also a member of the Board of Directors of the American-Israel Chamber of Commerce and an outgoing Board of Directors member of the Georgia Indo-American Chamber of Commerce. She previously sat on the Board of Directors of the Georgia Association for Women Lawyers, and currently a member of the Lawyer's Club of Atlanta, the Japan-American Society, and the British American Business Group, among other international organizations. Ms. Weinstock was nominated for the 2006 International Women of Influence Awards presented by GlobalEXECWomen and the International Council. Karen Weinstock's previous work experience includes an Intellectual Property law firm in Tel Aviv and one of Jerusalem's largest law firms. Immediately prior to joining Siskind Susser Bland, Karen had a solo law practice in New York City, serving international clientele doing business or working in the U.S. Her corporate law experience enables her to serve the special needs of multinational corporations. Karen is an expert in representing U.S. and international companies in the technology and healthcare areas. Karen writes articles for Siskind's Visalaw Health Care Immigration Newsletter and to Siskind's Immigration Bulletin, a newsletter with over 30,000 subscribers which includes government officials. She is featured in newspapers, interviewed on television multiple times and is a keynote speaker on various immigration law topics in forums and events around the world. She can be reached by e-mail at: kweinstock@visalaw.com.

CONTRIBUTING AUTHORS

Prakash Khatri is the Chief Executive Officer of Khatri Law Firm. Recognized as one of the "50 Most Influential Indian-Americans" by India Abroad in 2007, Khatri is a renowned specialist and public speaker on immigration law and related matters. He has provided expert commentary on immigration issues for television and radio programs and has shared his insights at countless immigration conferences, seminars and debates. Mr. Khatri is a CIS Ombudsman and a recognized expert on immigration matters and was regularly consulted for advice by policymakers in the departments of Homeland Security, State, Labor and Justice, the Office of Management and Budget, and the White House on immigration-related matters. He also managed the Immigration Compliance Department for Walt Disney World Co. in Lake Buena Vista, Florida from 1998 to 2003. In 1984, at the age of 22, Khatri became the youngest attorney admitted to the Florida Bar. He began his legal career working for personal injury attorneys. In the aftermath of the Union Carbide gas explosion, he subsequently was sent to Bhopal, India where he developed and coordinated case files of more than 500 injured clients for the firm. Mr. Khatri is a graduate of Stetson University and Stetson College of Law in Florida. He is a member of the Florida Bar and the District of Columbia Bar.

Courtney Black graduated from the University of Tennessee, Knoxville in 2005 with a B.A. in English. She is currently a student at the University of Memphis, Cecil C. Humphrey's School of Law and a 2009 J.D. candidate. Ms. Black is a law clerk at Siskind Susser Bland, PC and a member of the Tennessee Journal of Practice and Procedure.

Mikiel Jennifer Davids is an associate attorney in the Atlanta office of Siskind Susser Bland. She practices exclusively in immigration law and was admitted to the Georgia Bar in 2005. Prior to joining Siskind Susser Bland, Ms. Davids' practice focused on business-based immigration, employers' I-9 compliance, and the immigration needs of both small and large corporations. During law school, Ms. Davids served as a Student Attorney in the International Human Rights Law Clinic in Washington, D.C. representing clients in their claims for asylum and U.S. permanent residence. She also interned with World Organization for Human Rights, USA, assisting individuals with claims under the Convention Against Torture. Ms. Davids is a member of the American Immigration Lawyers Association, the State Bar of Georgia, and Stonewall Bar Association. She is admitted to practice before the Georgia Supreme Court, Georgia Superior Court, and the Federal Court for the Northern District of Georgia. Ms. Davids graduated with honors from American University's Washington College of Law (JD; 2005) and Emory University (BA; 2002), where she earned dual degrees in Political Science and Journalism.

Melissa Downing is a recent graduate of the University of Memphis, Cecil C. Humphrey's School of Law (2008 J.D. candidate). Ms. Downing was a law clerk at Siskind Susser Bland PC during 2008.

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Ari J. Sauer is an associate attorney in the Memphis office of Siskind Susser Bland, PC. While Mr. Sauer covers a wide variety of immigration matters, his main focus is on visas for employees of our corporate clients, before joining Siskind Susser Bland in 2006, Mr. Sauer was an immigration lawyer for the Frager Law Firm in Memphis, TN and the Law Firm of Michael Phulwani in Maywood, New Jersey. Mr. Sauer earned his Juris Doctor degree from Benjamin N. Cardozo School of Law, and his Bachelor of Science degree in Business Management from Yeshiva University. He is licensed through the States of New York and New Jersey. Mr. Sauer has been published several times in the AILA Dispatch. He has also been a lecturer for Continuing Legal Education seminars for AILA, the Federal Bar Association, and the Tennessee Bar Association. He is involved in local politics as a member of the executive board of the Shelby County Young Republicans. Mr. Sauer is also an active member of the Congregations of Young Israel of Memphis and Baron Hirsch Synagogue.



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[Elissa Taub](#) is an attorney in the Memphis office of Siskind Susser Bland, where she practices exclusively in the area of corporate immigration, focusing on extraordinary ability petitions, investors and other temporary nonimmigrant workers. Elissa handles a large number of cases for clients in the arts, fashion and sports industries and is an editor of the Visalaw Fashion, Arts and Sports Newsletter. She is a member of the American Immigration Lawyers Association, the Tennessee Bar Association and The Florida Bar. Prior to joining the firm in 2007 and embarking on a career as an immigration attorney, Elissa was an associate with White and Case LLP and Dechert LLP, where she represented corporate clients in a variety of complex litigation matters, including antitrust, white collar criminal and class action litigation. Elissa earned her Juris Doctor degree from Villanova University School of Law in Villanova, PA where she graduated magna cum laude, Order of the Coif. She earned her Bachelor's Degree in Anthropology from Washington University in St. Louis, MO, where she also studied German. She is actively licensed to practice in the states of Florida and New Jersey and before the U.S. District Court for the Eastern District of Pennsylvania and the U.S. District Court for the District of New Jersey.

TESTIMONIALS

"I found the book an easily usable and convenient guide to practically assist someone to complete the H-1B process for a client. I believe that the "Book" will be an indispensable tool for paralegals and new practitioners handling these type cases. In addition, there is sufficient detail for experienced practitioners to gain from its usage as an accurate and handy resource for updated and specific H-1B issues". **Joseph H. Rosen**

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