



March 20, 2019

## USCIS Announces Premium Processing Eligibility for Specific Types of Fiscal Year 2020 H-1B Cap Petition Filings

On March 19, 2019, U.S. Citizenship and Immigration Services (“USCIS”) [announced](#) that it will accept premium processing requests (i.e., [Form I-907, Request for Premium Processing Service](#)) for fiscal year (“FY”) 2020 H-1B cap petitions ([Form I-129](#)) filed on April 1, 2019, **only** if the petitioners (1) select a **“change of status”** on their Form I-129 and (2) file their Form I-129 **together with** their Form I-907. A “change of status” is normally requested when a foreign national employee wishes to change from one nonimmigrant status, such as an F-1 student on work-authorized Optional Practical Training (“OPT”), to H-1B work-authorized status. A “change of status” is different from “consular notification.” With “consular notification,” a foreign national employee can apply for an H-1B stamp using the H-1B approval notice and petition at a U.S. embassy or consulate overseas. Once the H-1B visa is issued in a foreign national employee’s passport, then the employee will present that H-1B visa upon U.S. reentry and be allowed to work thereafter for the employer that sponsored the H-1B.

A “change of status” is usually requested for those F-1 OPT employees whose OPT is set to expire between April 1 and October 1, 2019. “Cap gap” allows F-1 OPT employees whose final OPT work authorization expires between those dates to continue employment so long as their FY 2020 H-1B cap petition filed during the first week of April 1 requests a change of status.

With this announcement, some employers may wish to submit their F-1 OPT employees that are on their final OPT employment period to premium processing to gain assurance as early as possible that these employees will be under the cap gap.

Please note that USCIS will begin premium processing for these petitions no later than May 20, 2019, and will notify the public before premium processing starts for these petitions.

Finally, if an FY 2020 H-1B cap petition was filed during the first week of April 1 requesting consular notification or is not filed under premium processing, then premium processing for that petition will not be allowed until possibly sometime in June.

As a reminder, premium processing significantly reduces the adjudication time of non-immigrant petitions (such as H-1Bs). Whereas normal processing may take several months to a year, premium processing allows a petition to be adjudicated within 15 calendar days after it has been received by USCIS. Premium processing requires the submission to USCIS of a \$1,410 filing fee, along with a Form I-907.

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