

## Immigration ADVISORY

JANUARY 22, 2024

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### Everything You Need to Know About the H-1B Visa Stateside Renewal Pilot Program

by [Kerri-Ann Griggs](#)

Starting January 29, 2023, the Department of State (DOS) will resume a program that will allow certain individuals in H-1B status to renew their H-1B visas while remaining in the United States instead of traveling to a U.S. consulate abroad to renew their visa stamps. The stateside visa renewal pilot program has been greatly anticipated, given the protracted visa appointment wait times – at some U.S. consulates, the wait time to get an H-1B visa appointment is over a year.

Situations are exacerbated when an H-1B employee runs out of time in their current status and has no other recourse but to depart the country and wait abroad for an appointment to become available. These scenarios are fraught with inordinate stress and costs for both the worker and the employer. It is disruptive to the business (now having to tackle authorizing remote work from a foreign jurisdiction and triage any tax liabilities and labor laws that may now attach to the company, in addition to the challenge of working across time zones that make collaboration on certain projects difficult or near impossible) and disruptive to the lives of the worker and their dependents (foreign nationals may have to relocate temporarily and secure lodging abroad for themselves and their dependents, their children may forgo time in school in the United States, and their spouse's employment may also be interrupted).

The new pilot program is a limited attempt by the DOS to assess its capabilities for processing domestic visa renewals and the impact it will have on its overall performance. The pilot program will be limited to H-1B principals and to those who were previously issued visas from U.S. consulates in only two countries – Canada and India. It is hoped that if the pilot program is successful, then this provision will be expanded to not only H-1B primary applicants but also their dependents and other visa categories for those previously issued visas by other consulates.

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## Eligibility

The pilot program is restricted to principal H-1B applicants (not H-4 dependents) who:

- Are renewing an H-1B visa between January 29 and April 1, 2024.
- Are renewing an H-1B visa that was issued by a U.S. consulate in:
  - Canada from January 1, 2020 through April 1, 2023.
  - India from February 1, 2021 through September 30, 2021.
- Are not required to pay a nonimmigrant visa issuance reciprocity fee.
- Are eligible for a waiver of an [in-person interview](#).
- Were previously fingerprinted (10 fingerprints)<sup>1</sup> by the DOS in connection with the prior visa application.
- Has a prior H-1B visa that does not include a “clearance received” annotation.
- Are not eligible for a visa or would require a waiver before visa issuance.
- Have an approved, unexpired H-1B petition, were most recently admitted to the United States in H-1B status, and are maintaining H-1B status in the United States.
- Have a period of authorized admission in H-1B status that has not expired.
- Intend to reenter the United States in H-1B status after a temporary period abroad.

## Application Period for the Pilot Program

The DOS will begin accepting [online applications](#) on January 29, 2024. The DOS will release approximately 2,000 application slots each week for eligible applicants whose most recent H-1B visa was issued by a U.S. consulate in Canada, and an additional 2,000 slots for those whose visas were issued by a U.S. consulate in India. The dates of release will be:

- January 29, 2024
- February 5, 2024
- February 12, 2024
- February 19, 2024
- February 26, 2024

When the weekly limits are reached for each group, the online application portal will be locked until the next release date. The application process will close when all slots are filled or April 1, 2024, whichever is sooner.

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<sup>1</sup> January, 2008, all visa-processing posts have collected 10 fingerprints for all interviewed applicants (age 14–79 years old at the time of interview). If you were interviewed in person and were 14–79 years old at the time, and your visa was issued in or after January 2008, you should have been 10-printed.

## Application Process

Applications will be submitted via the [online application portal](#). To complete the application, applicants should:

- Select the consulate where their most recent H-1B visa was issued (Canada or India).
- Answer questions to determine their eligibility.
- Complete and submit the electronic [Form DS-160](#).
- Pay the non-refundable visa processing fee of \$205 by major debit or credit card.
- Receive instructions via the online portal for sending passports and other documents to the DOS.

## Required Documents

Applicants must provide:

- A completed Form DS-160, Online Nonimmigrant Visa Application.
- One recent [photograph](#) (taken within the last six months).
- A passport valid for at least six months beyond the visa application date and contains a blank page on which the visa may be printed.
- An original or copy of the applicant's current Form I-797, Notice of Action.
- An original or copy of the applicant's I-94, Arrival-Departure Record.

## Adjudication Process

- Applications will be reviewed in the order received.
- Once received, applications will be vetted to determine if they are within the scope of the pilot program. Applications not in scope will be returned with the passport, but the fees will not be returned. Those that are within scope will be forwarded for adjudication.
- Applicants will not receive status updates other than rejection of the application, approval and issuance of the visa, or a denial.
- Applicants can check the status of their application [online](#).
- Processing time is expected to be 6–8 weeks from the time the DOS receives the passport and documents.
- The DOS intends to complete processing of all applications by May 1, 2024.
- There will be no option for expedited processing.
- Passports, submitted documents, and visas issued through the program will be returned to the applicant via the U.S. Postal Service or a courier service.
- Applicants will have the option of withdrawing their applications submitted to the pilot program without prejudice if urgency requires them to obtain the visa stamp at a consulate abroad rather than await the DOS's pilot program's adjudication.

## **Visa Issuance Is Not an Extension of H-1B Status Inside the U.S.**

Applicants should note that visa issuance by the pilot program *does not* constitute a grant of nonimmigrant status and does not extend their nonimmigrant visa status in the United States. The visa only allows individuals to present it at a U.S. port of entry after travel overseas to seek admission to the United States.

## **Rejected Applications and Visa Refusals**

Applications that do not meet the scope of the pilot program will be returned without the processing fee. An accepted application later found to be ineligible will also be refused under INA Section 221(g). In those cases, applicants have the option of continuing their visa renewal process at a U.S. consulate abroad. The DOS will request additional information for applications that require more information, but applicants must provide the supplemental information by April 15, 2024 for the DOS to complete the processing of their visa applications. Visa applications will be refused after May 1, 2024.

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