

**Frequently Asked Questions**

**H-1 B Cap FY2024**

**Table of Contents**

[1.0 H-1B CAP FAQs 3](#_Toc36793047)

[2.0 H-1B Roles 7](#_Toc36793048)

[3.0 H-1B Projects 9](#_Toc36793049)

[4.0 Change of Worksite 10](#_Toc36793050)

[5.0 GM Scope of Service 10](#_Toc36793051)

# H-1B CAP FAQs

1. **What is an H-1B specialty occupation?**

The legal standard of a specialty occupation is one in which the job duties involve a body of highly specialized knowledge in a specific field of education/ study that is directly related to the job duties.

A specialty occupation requires at least a U.S. bachelor’s degree (i.e., a 4-year program of study) or its foreign equivalent in a field related to the position as the minimum educational requirement for entry into that occupation.

1. **What is the H-1B cap?**

The U.S. immigration regulations limit the number of H-1B new petitions that can be approved in a fiscal year (known as the cap) as follows.

* 65,000 Standard Cap (Bachelor’s degree)
* 20,000 Advanced Degree Cap (U.S. Master’s or higher degree from an accredited, not-for-profit U.S. college or university)

1. **How should I submit the details and documents for the petition processing?**

You should submit the details and documents ONLY in 1C H1B Nomination App. You would receive communication from one communicator on the same.

Please note that we have 90 days from April 1, 2023, to submit your petition to USCIS. We are fully committed to ensure your petition will be filed timely. Cognizant has in house immigration specialist and legal counsel to support our Immigration matters. If you are contacted by anyone outside of Cognizant immigration team regarding your H-1B petition, please bring this to our attention. Please refrain from sharing any personal information / document other than our global mobility team member.

1. **How can associates track the case status?**

The initial status can be tracked in 1C H1B Nomination app after the case initiation, once when the petition is filed, associates will be notified by e-mail and instructed to access 1C for the USCIS filing receipt number. Associates may then track the status of the petition by entering the petition filing receipt number online at USCIS’ case status update. [**https.//egov.uscis.gov/**](https://egov.uscis.gov/)

1. **Will completed courses leading toward a degree (PG/ UG) wherein not all coursework or exams were completed for issuance of the degree/ diploma along with external certificates be sufficient for the H-1B education requirement?**

Only coursework, degrees and diplomas completed through properly accredited foreign schools are permitted for U.S. education equivalencies. Professional certificates are not acceptable and cannot be used for U.S. education equivalencies.

1. **Why are detailed prior employment letters required?**

If the field of study or foreign bachelor’s degree on its own does not relate to the work and/ or equate to a U.S. Bachelor’s degree, then to qualify for H-1B status progressively responsible experience in the field is required and must be presented in the form of employment letters. USCIS regulations establish the minimum acceptable standards for prior employment letters, which includes prior employer letterhead, address and telephone number of the prior employer, the name and job title of the manager/ supervisor writing the letter who had first-hand knowledge of the work performed by the associate while at that company, and a specific detailed description of the job duties performed throughout employment with that employer.

1. **What happens if a prior employer is not willing to provide a detailed employment letter?**

You may try to obtain notarized supervisor affidavit from the supervisor of your previous employer. It is at the discretion of USCIS to accept a signed and notarized affidavit on personal stationary/ letterhead of a supervisor/ manager who has first-hand knowledge of the associate’s work activities during the period of employment. All the above criteria must be included in the affidavit. That said, there is still risk that USCIS will use discretion, it may reject the affidavit and, thus, deny the petition.

1. **If educational documents are in a regional language is that sufficient “As Is”?**

All documents submitted for the H-1B processing should be in English. If there are any documents in the regional language, it is mandatory to have them translated in English and notarized on stamp paper.

1. **Is the most recent degree/ diploma/ certificate sufficient, or do all degrees/ diplomas/ certificates need to be submitted?**

All degrees/ diplomas/ certificates are required, not just the most recent. If all of the documents have not already been uploaded in 1C, please update all your degree/diploma details in 1C (Undergraduate, Postgraduate, Diploma or Post Graduate Diploma). Any additional education/experience will be subjected to Background Verification (BGV) which will take minimum of 30 days. GM will not be able to include any additional education/ experience documents for evaluation or submission purposes without the BGV.

1. **What should be the validity of passport when applying for the H-1B visa?**

Passports must be valid through December 2023 for FY2024 H-1B cap.

1. **Is passport renewal required if a passport expires in the next 8-12 months?**

It is required to have passport valid through December 2023.

As well, a passport must be valid for at least 1 year at time of visa stamping. Associates must timely renew their passports. If you have renewed the passport post registration, please submit both the old and the new passport for the processing.

1. **If an associate does not have a surname in his/ her passport, is it acceptable “As Is”?**

Yes. Please note that not having a surname in a passport often leads to discrepancies in issuance of the H-1B approval notice, visa stamping, U.S. driver’s license, and U.S. social security card, creating significant inconvenience to associates. Therefore, GM recommends that associates amend or renew the passport to include both a given and surname before H1B initiation; however, that is not a legal requirement. If an associate does not wish to add a surname, proceed with existing passport.

1. **What is meant by an annotation in a passport?**

Annotation in the passport means additional information stamped or written on the passport by the official passport officer (e.g. name change, address change, spouse addition, ECR/ECNR, passport validity extension etc.)

1. **If an associate’s passport address is different from his/ her current residence, will it impact the petition filing?**

No, the residential address in the passport is not relevant.

1. **The H-1B Cap petition filed in 2022 and not selected during random lottery process, should the associate upload all the documents again?**

Yes, associate are required to gain nomination, and to upload all of the documents again in H1B Nomination App in 1C.

1. **If an L-1 petition or L Blanket application was previously denied on behalf of an associate, is that associate eligible for FY2024 H-1B Cap New processing?**

GM will accept the nomination and proceed with assessment based on the FY2024 H-1B CAP New process requirements and eligibility standards; the prior L denial is not relevant.

1. **If an associate is in the process of applying for a visa for a different country/ geography, is it also permitted to process a FY2024 H-1B Cap New case?**

Yes, an H-1B visa can be processed for an Associate even when another country visa is under process.

1. **Is it permitted to concurrently process an L-1 visa and FY2024 H-1B Cap New case?**

GM will not permit simultaneous L-1 and H-1B Cap New initiations/ processing.

* **Are associates permitted to travel to the U.S. as Business Visitors (BV visa) while the** BV travel may potentially be permitted provided proposed travel meets with Cognizant’s BV Zero-Tolerance Policy and such BV travel does not involve 1) BV travel to same location on H-1B filing, and (2) BV travel after July 1, 2023.

1. **H-1B Cap New case is in process?**

In general, associates should not engage in BV travel if an H-1B petition is filed and in progress at USCIS.

BV travel may potentially be permitted provided proposed travel meets with Cognizant’s BV Zero-Tolerance Policy and such BV travel does not involve. (1) BV travel to same location on H-1B filing, AND (2) BV travel after July 1, 2023.

1. **If an Associate does not have any prospective U.S. based project assignments, is FY2024 H-1B Cap New processing permitted?**

No. The business must forecast the need for an associate to be assigned to a U.S. project for GM to process the FY2024 H-1B Cap New petition. It is a legal requirement to be on record with USCIS for the actual, in-fact U.S. worksite location. If the petition is filed for a U.S. worksite that is not the one to which the associate will travel, the case is not compliant with legal requirements.

1. **If an associate has traveled extensively to the U.S., are all entry and exit details required for FY2024 H-1B Cap New processing?**

Yes. Associates must provide all entry and exit dates to/ from the U.S.

1. **Are associates who are currently in Active Deployment Pool (ADP), Practice Deployment Pool (PDP) or Corporate Deployment Pool (CDP) eligible for FY2024 H-1B New processing?**

No, associates must be nominated and identified for an actual engagement/ assignment.

1. **Are nominations permitted based on a proposed client and Master Service Agreement (MSA) that has not yet been signed?**

No. Only existing, unexpired signed MSAs are permitted for H-1B nominations. USCIS consistently denies H-1B Cap petitions where the MSA or other client related contractual documentation was not signed and valid at the time the petition was submitted to USCIS. H-1B filings are not permitted for speculative or otherwise unconfirmed or uncorroborated specialty occupation work in the U.S.

1. **Is a client letter required for FY2024 H-1B Cap New petition processing?**

No, in fact, a client letter is absolutely **prohibited** for FY2024 H-1B Cap New petition cases.

1. **If Cognizant is the only company an associate has worked at and, if that associate requires proof of progressively responsible experience (e.g., 3 years or more of experience) to be H-1B eligible, how would an associate obtain the experience letter from Cognizant?**

Associates should initiate an Experience letter request in the E letters in 1C.

1. **Do associates need to upload the Cognizant offer letter?**

Yes, you may upload a Cognizant Offer Letter / recent revision letter. However, it wouldn’t be used for filing.

1. **If an associate’s prior Employer / Supervisor refuses to provide a detailed experience letter / supervisor affidavit, will Cognizant still proceed with the FY2024 H-1B cap case?**

Not if an associate’s education does not equate to the U.S. equivalent of at least a Bachelor’s degree in a field of study related to the U.S. project.

1. **Does an associate need to upload an Onsite Manager Letter? If yes, is there a sample manager letter format available?**

Manager letter templates will be sent to the onsite manager directly by GM, not to associates. Therefore, associates do not upload the onsite manager letter.

1. **How long can an associate hold H-1B status?**

Federal law defines maximum periods of stay in the U.S. per visa classification, as follows.

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| **Visa Classification** | **Maximum Period of Stay In The U.S.** |
| H-1B | 6 years |
| Exceptions to the H-1B max-out premised on GC (“Green Card”/” Lawful Permanent Residence”) sponsorship discussed as below |
| L-1B | 5 years |
| L-1A | 7 years |

The term “max-out” refers to the date that an associate will reach the maximum period allowed in the U.S. for the visa classification held.

All time in H-1B and/or L-1 status is counted towards the H-1B and L-1 max-out. For example, an associate who spends 4 years in L-1B status and converts to H-1B, is only eligible for an additional 2-year period of stay in H-1B status (i.e., 4 years in L-1B + 2 years in H-1B = 6 year H1B max-stay). Time in H-4 / L-2 dependent status and time outside of the U.S. does not count towards H/ L max-out.

1. **How does an associate calculate the maximum period of stay based on time spent outside the U.S.?**

Start calculating from the date of first entry/ admission to the U.S. in H-1B status, or first date of grant of change of status to H-1B/ L-1 status. Thereafter, count the days physically outside the U.S. Importantly, the day of U.S. entry/ admission and the day of U.S. departure count as days spent in H-1B or L-1 status for max-out calculations, thus those days cannot be recaptured and should not be used when calculating time spent outside the U.S. For example.

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| --- | --- | --- | --- | --- | --- |
| **H-1B Visa Status** | | | | | |
| **Initial Date of Entry/ Admission to U.S.** | **H-1B Max-Out Date** | **Date of Departure from U.S. (vacations, business trips, etc.)** | **Date of Reentry to U.S.** | **Total Number of Days Spent Physically Outside the U.S.** | **New H-1B MaxOut Date** |
| 2-Jan-10 | 1-Jan-16 | 2-Feb-11 | 3-Apr-11 | 62 days | 2-Mar-16 |
| X | X | 2-Feb-13 | 3-Apr-13 | 62 days | 16-May-16 |
| X | X | 2-Feb-15 | 3-Apr-15 | 62 days | 16-Jul-16 |

1. **After all possible recapture, will Cognizant be able to obtain CIS approval for an H or L Extension after reaching the max-out?**

Exceptions to the maximum period of stay depend on the visa type and green card (GC) process.

* + L-1 - Currently the law does not provide for L-1 extensions after max-out. L-1 associates must either.
    - Depart the U.S. for a continuous period of 365 or more days to acquire a new max-out or
    - Have a USCIS-pending Form I-485 application, which is the last phase of the GC process, and EAD (Employment Authorization Document) to remain and continue to work in the U.S.
  + H-1B - There are two ways to qualify for H-1B extension after max-out.
    - Method 1 – A PERM application was filed for the associate more than 365 days ago, and is pending or has been approved by the U.S. Department of Labor (“DOL”). These cases are eligible for 1-year extensions.
    - Method 2 –DOL certified a PERM application, and CIS approves a Form I140 petition, and an immigrant visa (GC number) is not available (i.e., the associate’s priority date is not current). These cases are eligible for 3-year extensions until CIS makes a final determination on the associate’s Form I485 application.

# H-1B Roles

1. **Are there any limits on the type of work that an associate does while holding H-1B status?**

The roles and responsibilities must be related to an associate’s underlying college/ university field of study, and must fall within the level set forth within Cognizant’s band/ grade structure, as shown below.

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| **Associate less than 2yr in the U.S.** | **Entry level position:** requires a basic understanding of the job duties/ job requirements under direct/ close supervision of onsite Cognizant manager. Performance of the job duties associated with this position likely require less than 2 years of work experience. This requirement should be evaluated based on the amount of work experience required to complete the job duties, rather than the actual work experience of the associate. |
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| **Associate 2yr or more in the U.S.** | **Elevated entry level position**: requires a good understanding of the job duties/ job requirement. under direct/ close supervision of onsite Cognizant manager. Performance of the job duties associated with this position likely require at least2 years of work experience. This requirement should be evaluated based on the amount of work experience required to complete the job duties, rather than the actual work experience of the associate. |
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| **Senior Associate** | **Qualified level position**: requires a good understanding of the job duties/ job requirement. Senior Associates perform moderately complex tasks that require limited judgment; and may mentor and train Cognizant associates. |
| **Manager** | **Experienced level position**: requires a sound understanding of the job duties/ job requirements. Managers use independent judgment and coordinate and/ or supervise other Cognizant associates. |
| **Senior Manager and Above** | **Competent level position**: requires sufficient understanding of the job duties/ job requirements to plan and conduct work using independent judgment. Senior Managers and above use advanced skills to solve unusual and complex problems. They may manage and/ or supervise Cognizant associates. |

1. **Are there any requirements on who assigns and reviews the work activities of an associate who holds H-1B status?**

To obtain and maintain approval of H-1B petitions, Cognizant) must continuously maintain:

1. An employer-employee relationship with an H-1B associate, and
2. Right-of-control, particularly in cases entailing a work at client location
3. To be clear, Cognizant U.S. based manager must always assign, supervise, oversee and review the work of an H-1B Cognizant associate, and the H-1B Cognizant associate must use a **Cognizant** tool, platform, method, best practice or body of knowledge to do the work.

# H-1B Projects

* 1. **Are H-1B associates permitted to take work assignments directly from a Cognizant client?**

Cognizant Managers are required to supervise and control all H-1B associates and those associates are prohibited from engaging in staff augmentation projects.  Whether working at a Cognizant office or onsite at a client location, every H-1B associate must always.

* Receive assignments directly from a Cognizant manager.
* Use Cognizant tools, methods, platforms, or frameworks which are part of the service agreement; and
* Be supervised by a Cognizant onsite manager, which means oversight, review, assessment and feedback regarding his or her work activities.
  1. **Are there any other ways that an H-1B worker can be assigned work?**

A client may confer / communicate with a Cognizant H-1B worker on required tasks, however, the onsite Cognizant manager must always be immediately informed of what work is being performed, and review the work before it is delivered to the client. The Cognizant onsite manager and associate must be in regular contact either in-person or via IM, telephone, or video conferencing to discuss work assignments, work product, and job performance.

* 1. **Are there any restrictions on where an H-1B associate performs his or her work?**

Yes! An associate must always remain at the worksite location specified in the H-1B petition filing. A worksite is considered where an associate is physically performing his or her Cognizant job duties (e.g., client facility, home office, Cognizant office, Cognizant Regional Delivery Center, etc.). Associates are not permitted to work at any other worksite location without first requesting and obtaining an assessment from GM as to whether an H amendment filing is required. Associate must access the H-1Bamendment FAQ at [Amendment FAQ](https://ecm.cognizant.com/cs/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=Latest&dDocName=ctsecmin_22825126&Rendition=web&allowInterrupt=1&noSaveAs=1&fileName=ctsecmin_22825126.pdf)

* 1. **Are there any penalties imposed on an H-1B associate for changing work locations without first obtaining GM review and confirmation of the change in worksite location?**

Under the immigration regulations, worksite at a location not on record with the USCIS is a violation of nonimmigrant status and does carry penalties to the associate. As well, any violation of immigration regulations will be considered for purposes of disciplinary action, including and up to termination of employment.

# Change of Worksite

1. **After an H-1B cap new is approved, is an associate permitted to obtain visa stamping using the same approval notice if there has been a change of worksite location for the US project?**

Associates are not permitted to obtain H-1B visas using an H-1B approval notice for a filing that has a different work address. An H-1B amendment must be initiated, filed and approved by USCIS before the associates proceed with H-1B visa stamping and/ or travel to the U.S.

1. **Are H-1B associates permitted to change projects when there is no change in worksite location without having an H-1B amendment filed with CIS?**

An H-1B amendment is not required for change in project only when there is no change of worksite location. The new project should be substantially similar to what is on record for the most recent petition filing, meaning an associate is still doing the same level and type of work but the technology and/ or tools used may differ.

# GM Scope of Service

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| **NOTICE ABOUT GM SCOPE OF SERVICE** |
| The specialists comprising Cognizant’s in-house Global Mobility (“GM”) corporate function and their supervising in-house immigration legal counsel render services to the corporation, Cognizant. GM’s scope is limited to gaining business and work visa approvals for Cognizant associates to the extent that such approvals are needed to enable Cognizant employment in a given geography. Cognizant’s in-house immigration legal counsel and GM specialists are not permitted to serve as legal representatives for individual associates in personal immigration matters (i.e., in the U.S. H-1B and L-1 visa stamping applications, and Form I-94 status documents, I-539 and visa stamping applications for H-4/ L-2 classification and Form I-94 status documents, I-485 GC applications, and employment authorization document (“EAD”) and advance parole (“AP”) applications).  **Personal Immigration Matters.** For U.S. personal immigration matters, GM has associates and their family’s complete form packages on their own. To be sure, the bare transmittal of personal immigration forms to governmental agencies does not amount to handling, nor in any manner representing, personal immigration matters substantively. Associates and their families have the option to obtain at their own cost their own immigration advisor for these personal immigration matters. In cases where a legal question arises that will require legal analysis and/ or advocacy, GM will always instruct associates to contact their individual legal advisor. GM does not offer and cannot provide legal advice to associates with respect to personal immigration matters.  **Associate Obligation.** For any and all matters specific to GM, Cognizant requires that every manager and associate provide full, accurate, and correct information. The provision of false information is a serious offence that may result in disciplinary action up to and including termination of employment, subject to local laws and regulations.  Associates are encouraged to access Cognizant’s Compliance Policies and Statements at <https://be.cognizant.com/> and contact Corporate Security using the Compliance Helpline at [www.cognizant.com/compliance-helpline](http://www.cognizant.com/compliance-helpline) with any concerns. |