

Webchat

Webchat March

1. Does a previous visa rejection affect an H1B application?

Prior refusal remarks are always reviewed when an applicant comes in for any type of visa interview. The reasons for the prior refusal may affect the outcome of an H-1B visa application, but this would depend on the nature of the previous refusal. Some reasons for a prior refusal do not affect a H-1B application. In all cases though, the applicant must demonstrate that s/he is eligible for an H-1B visa in accordance with the United States Immigration and Nationality Act.

2. Will the US financial crisis affect the issuance of H1B visas?

The current financial crisis does not have any effect on an applicant's own ability to qualify for an H-1B visa once a petition is approved by USCIS.

3. If I have brothers, sisters, or other family members in the U.S., will that affect my chance of qualifying for an H1B?

Having a brother, sister, or any family member in the U.S. has no bearing on an applicant's ability to qualify for an H-1B visa.

4. I am on an H1B visa in the USA. I would like to visit Nepal during July-August of 2009. Is a 3-4 week time period long enough to get an interview appointment for an H1B visa?

The Consular Section at the U.S. Embassy in Kathmandu cannot provide an estimate of how much time you will need in order to schedule and appear for an interview in July or August. In general, this is a busier time of year than others and wait times can be longer than normal. It is always advisable to submit an application as early as possible. All appointments are scheduled through Nabil Bank in Maharajgunj and they provide information on wait times.

5. What is the fee to apply for an H4 visa? Is there any additional fee once the visa is approved?

There is an application fee of US\$131.00 to apply for any U.S. nonimmigrant visa, including an H-4 visa. This is the standard worldwide nonimmigrant visa application fee. The fee is non-refundable and is paid at the time the interview appointment is made. H-4 visa issuances to Nepali citizens do not have any additional fees after the application fee is paid. Please visit our website at <http://kathmandu.usembassy.gov> for more information about applying for a visa and the associated fees.

6. What is the procedure to apply for an H4 visa in Nepal and how long does it take from the date of application to the interview date?

Applicants for H-4 visas should generally submit their applications at the Nabil Bank - Maharajgunj Branch (Tel: 977-1-472-0870/472-0865). The bank will collect the application processing fee, which is non-refundable regardless of whether a visa is issued or not. The bank will issue a receipt, schedule an appointment and prominently mark the interview date and time on the receipt. The interview will be held at the Consular Section of the U.S. Embassy in Maharajgunj, Kathmandu. Supporting documents relating to the marriage and principal applicant's status in U.S. should be brought to the interview. The average wait time varies throughout the year and may range from one week to three weeks.

7. Does a marriage registration suffice as a proof of marriage (along with wedding pictures from the traditional ceremony) when applying for an H4 visa? Do you require a marriage certificate to prove the relationship?

In general, one should provide as much evidence as possible to prove their marital status. A marriage registration or certificate is the main document that establishes that a marriage exists. Additional evidence, such as photos, letters, or other evidence of a couple's relationship is also helpful. The most important aspect of the case is the interview, and the officer will put the most emphasis on the interview.

8. I am a Nepalese citizen working outside Nepal at a large manufacturing company. I have a bachelor's degree from Tribhuvan University. Am I eligible to get an H visa?

Eligibility for an H visa must be demonstrated by each individual applicant. The Immigration and Nationality Act (INA) created the H nonimmigrant visa classification for temporary workers and trainees. The INA provides several categories of H visas for a qualified person who wishes to work legally but temporarily in the United States. However, you must find a prospective employer in the U.S. who needs your qualifications and experience and is willing to file Form I-129, Petition for Nonimmigrant Worker, on your behalf with the appropriate Department of Homeland Security (DHS) office. DHS uses Form I-797, Notice of Action, to notify an employer (petitioner) that the petition for an H visa has been approved. The employer will provide Form I-797 to you for the purpose of applying for an H visa. The approval of a petition by DHS does not relieve you of the burden of establishing visa eligibility, and the consular officer may request any additional evidence based on the information developed during the visa interview to determine your visa eligibility.

9. What options are available for nurses from Nepal to immigrate to US on an H visa?

An H visa, including H-1B, H-1C, H-2A, H-2B, H-3, and H-4 visas, are nonimmigrant visas. H visas are not immigrant visas. No one can immigrate to the United States on an H visa. H visas permit a qualified person to temporarily and legally work in the United States. This visa does not automatically confer an immigration status for an H visa holder.

Currently, nurses can potentially seek H-3 status if it can be established that there is a genuine need for the nurse to receive a brief period of training that is unavailable in Nepal, and that such training is designed to benefit the nurse and the foreign employer upon the nurse's return to his or her country of origin. In order to meet the Department of Homeland Security's (DHS) qualifications the nurse must have a license to practice in Nepal and the petitioner's certification that, under the laws where the training will take place, the petitioner is authorized to give such training and the H-3 to receive it. An H-3 visa is a temporary visa for a nonimmigrant.

Nurses can also seek H-1C status. In H-1C status, a person may work as registered nurses for hospitals that meet eligibility standards and other requirements established in Department of Labor regulations. The H-1C program is set to expire on December 20, 2009. An H-1C is also a nonimmigrant visa for temporary work.

10. What are the requirements for an H visa application?

The Immigration and Nationality Act (INA) created the H nonimmigrant visa classification for temporary workers and trainees. The INA provides several categories of H visas for qualified persons who wish to work legally but temporarily in the United States. A prospective employer (petitioner) must file Form I-129, Petition for Nonimmigrant Worker, with the appropriate DHS Service Center in the United States which has jurisdiction over the area where you will perform services in accordance with the H visa classification. The approval of a petition does not guarantee visa issuance if an applicant is found to be ineligible under provisions of the INA. DHS uses Form I-797, Notice of Action, to notify the petitioner that the petition for an H visa has been approved. The petitioner may furnish Form I-797 to you for the purpose of applying for an H visa, or to facilitate your entry into the United States in H status.

Applicants for H visas should generally submit their applications at NABIL Bank at the Maharajgunj Branch (Tel: 977-1-472-0870/472-0865). The bank will collect the application processing fee, which is non-refundable regardless of whether a visa is issued or not. The bank will issue you a receipt, schedule you for an appointment and prominently mark your interview date and time on the receipt. Your interview will be held at the Consular Section of the U.S. Embassy in Maharajgunj, Kathmandu. Any supporting documents you wish to be reviewed by the consular officer should be brought with you to the interview. The applicant for an H visa must submit:

- 1) An application Form DS-156 completed and signed. The form should be completed online at: <http://evisaforms.state.gov/> and printed. Male applicants between the age of 16 and 45 must also fill out and print a supplemental Form DS-157. The bank can provide the supplemental form.

- 2) A passport valid for travel to the United States and with a validity date at least six months beyond your intended entry into the United States.

3) One colored photograph two inches by two inches in size for each applicant, showing full face, without head covering, against a light background. The photograph must have been taken within the last six months.

4) A notice of approval, Form I-797, issued by a DHS office in the United States.

5) Other relevant documents such as evidence of employment in the United States on the letterhead of the current employer (job letter and pay stubs), tax return documents, prior visas and passports, academic records (transcripts) and any other documents that you think would be useful.

Under certain H visas, applicants need to show proof of binding ties to a residence outside the United States which they have no intention of abandoning. It is not possible to specify the exact form the evidence should take since applicants' circumstances vary greatly. The basis for H visa issuance not only consists of an approved Form I-129, Petition for a Nonimmigrant Worker, from DHS, but the applicant must also clearly show that s/he has met all DHS requirements, including having fulfilled the requirements of educational background and of skills to successfully perform the intended work responsibilities.

11. How long is an H1B visa valid?

The validity of an H-1B visa may not exceed the period of validity of the approved H-1B petition. The validity period on the petition is the period of time for which you are authorized to stay in H status in the United States. The validity of your H-1B visa may be less than that indicated on your petition. This happens when the period of reciprocity for your country is less than the validity period of the approved petition. Reciprocity refers to the validity period that your home country issues visas for American citizens working or living in your country.

12. If I am accepted for an H visa, can my wife apply with me?

Your wife may either apply together with you or apply separately at a later date. Any spouse or child of an H-1B visa holder can potentially also travel to the U.S. on an H-4 visa.

13. If I am offered an H1B, how long can I stay in my country?

We are authorized to accept your H visa application up to 90 days in advance of the beginning of your employment status. If you are issued an H visa, you can use that visa to enter the U.S. starting only ten days prior to the beginning of your employment. Your visa will be annotated by the consular officer stating "Not valid until (ten days prior to the petition validity date.)".

14. What is an H1B and what are the criteria?

An H-1B visa is a nonimmigrant visa that allows a person to work legally and temporarily in the United States. The H-1B classification applies to persons in a specialty occupation which

requires the theoretical and practical application of a body of highly specialized knowledge requiring completion of a specific course of higher education. This classification requires a labor attestation issued by the Secretary of Labor. You must have completed a degree or have experience in the specialty equivalent to the completion of the degree (as determined by DHS) and expertise in the specialty through progressively responsible positions relating to the specialty occupation. Prior to filing a petition with DHS on your behalf, the prospective employer must have filed a labor condition application with the Department of Labor (DOL). DHS is responsible for determining whether the application involves a specialty occupation and whether you qualify for H1B status to perform services in the occupation that is being sought.

15. What is an H4?

An H-4 is a nonimmigrant dependent visa. This visa is issued to qualified spouses and unmarried, minor children (under 21 years of age) of the recipient of any H classification visa. The spouse and minor children, who are accompanying or following to join the principal applicant in the United States, may be accorded an H-4 classification, and are subject to the same visa validity, period of admission, and limitation of stay as the principal applicant.

A person who is in the U.S. on an H-4 visa may not work or accept any type of employment in the United States. An H-4 visa holder is allowed to study during their stay in the United States. The principal applicant must show his/her ability to support the family in the United States. When a spouse or child applies for an H-4 visa to follow to join the principal applicant in the United States, the consular officer must be satisfied that the principal applicant is maintaining H status before issuing the visa.

16. Is it true that all H1 visas will be cancelled from the year 2010?

The U.S. Embassy in Kathmandu is not aware of any plan to stop the issuance of H visas or for DHS to cease accepting H visa petitions.

17. I have a job offer from a U.S. University for a post-doctoral position. I am planning to apply for a new H1B visa from Kathmandu. My I-140 (NIW) is now pending. I have not applied for the I-485. Does my pending I-140 affect the new H1B (in terms of approval/denial)?

Until your "adjustment to an immigrant visa" is fully processed, having an I-140 petition on file will not have any adverse affect on your H-1B application.

18. I want to ask about the advertisement in the Himalayan Times today saying "US Visa Guaranteed". Can anyone other than the Consular Section do that?

No one can guarantee the issuance of a U.S. visa. Any company, consultant, or other institution promising the issuance of a U.S. visa is engaging in fraud. Only a Consular Officer working in accordance with U.S. immigration law can make a decision on a visa application. This can only be done at the time of the interview.

