

innovation begins with  
**ideas**

complex  
information  
intensive  
systems

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**analysis**

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optimization

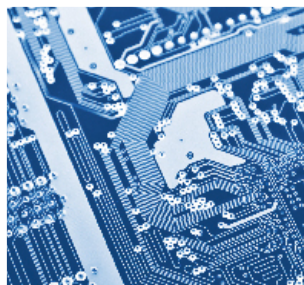
heterogeneous  
**data**

**swarm**  
intelligence

system-of-systems

security and  
**assurance**

complex  
information  
intensive  
systems



## employer's guide

for hiring international students

- > Why I should consider?
- > Methods for hiring
- > Myths and realities
- > Long-term employment options



**IDEAS, INNOVATION & INCUBATION**

The Center for Advanced Systems & Engineering  
At Syracuse University



# introduction

More than 40% of the students enrolled in U.S. masters programs and 50%+ in PhD programs are foreign nationals. This highly educated component of the potential U.S labor force remains under utilized due to the current limitations imposed by the H1-B Visa program.



In addition to these imposed limitations there are other gross misunderstandings related to the H-1B program and other provisions that enable U.S. employers to engage this population in part-time and full-time employment.

This guide will serve as a resource to unlock the potential offered by the employment of foreign nationals through:

1. The clarification of the H-1B Visa process
2. Removing the myths related to the H-1B Visa
3. Exploring methods to engage international students prior to graduation utilizing the CASE Co-op Program and Curricular Practical Training (CPT)
4. Understanding Optional Practical Training (OPT), a mechanism to employ a foreign national for up to 29 months without sponsoring an H1-B Visa

Your organization will benefit by engaging this group through cost effective measures outlined in this guide.

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# why hire international students?



- > International students are from all over the world and bring valuable insight with their diverse cultural backgrounds.
- > Being away from home and studying in a foreign country, applicants who are granted the chance to work for an American company are very loyal and are highly motivated.
- > Gateway to build connections with companies in other countries. International students who come to the U.S. to pursue their higher education are motivated to learn new things and be responsible for assigned tasks. Many international students are outstanding and knowledgeable in the field of their study.
- > Many international students are fluent in at least two languages.

# training

## practical training

Practical training is temporary employment authorization for students to gain practical experience in their field of study. F-1 students must have maintained full-time enrollment status for one academic year in order to be eligible to apply for practical training. There are two types of practical training:

### curricular practical training (CPT)

CPT is a pre-degree completion internship, co-op, practicum, or professional experience that is considered integral to a student's program of study. Accordingly, it is often registered for credit within an academic semester. CPT may be paid or unpaid and may occur on a full-time or part-time (20 hours or less/week) basis, as long as a student is maintaining full-time enrollment status at his/ her University.



Students should be mindful of the amount of full-time CPT they participate in, as F-1 students who engage in an aggregate of 12 months or more of full-time curricular practical training at their present degree level, become ineligible for optional practical training (OPT).

CPT is authorized by the student's international student office. Accordingly, there is no fee attached to processing a CPT request and authorization can be obtained quickly. CPT is employer, location, and date specific but can be extended with a valid academic reason. A student can begin employment when the CPT authorization has been included on the student's immigration document (Form I-20) and it is at least the employment start date noted on the Form I-20.

### optional practical training (OPT)

OPT is temporary employment authorization for practical training directly related to a student's major field of study. Standard OPT is available for a cumulative maximum of 12 months per degree level. A one-time extension of 17 months (for a total of 29 months) is available to certain Science, Technology, Engineering, and Mathematics degree recipients.

OPT can occur both before and after completion of degree: part-time while school is in session; part-time or full-time during vacation periods when school is not in session; and full-time when a student has completed all degree requirements or has completed all required coursework and only has a thesis or dissertation remaining.

OPT is authorized by the United States Citizenship and Immigration Services (USCIS). There is no cost or paperwork required of the employer; the student is presently required to pay a \$380 application processing fee. Students can apply for OPT up to 90 days prior to their program completion date and as late as 60 days after they complete their program of study. Application processing can take up to three months, so applying early is highly recommended. OPT authorization is granted in the form of an Employment Authorization Document or EAD card. It is date specific but not employer specific. Students cannot begin working until they have received their EAD card (or the start date indicated on the EAD card). Students are limited to a maximum accrual of 90 days of unemployment during the standard authorization period of post-completion OPT.



## H-1B cap gap extensions

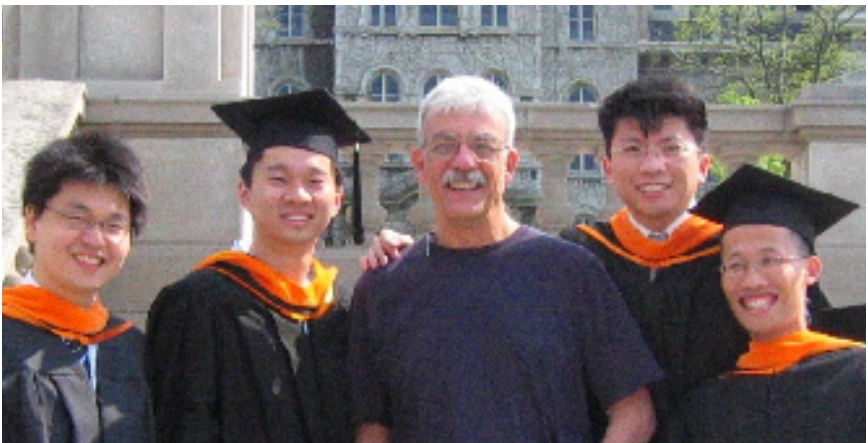
Duration of status and post-completion OPT work authorization will be automatically extended for an F-1 student who is the beneficiary of a timely-filed H-1B petition requesting change of status and an employment start date of October 1 of the following fiscal year. The automatic extension terminates when USCIS rejects, denies, or revokes the H-1B petition. However, a student would still have a grace period after the termination during which she/he is authorized to remain in the United States for up to 60 days to prepare for departure from the U.S., change degree level, transfer, change status, etc. as long as the student has not otherwise violated status.

# long-term employment after practical training period ends

Government regulations require that an international student's employment end upon expiration of the practical training authorization period. However, an international student may continue employment if the employer sponsors a "change of status", most commonly to H-1B temporary worker status, and it is approved by USCIS.

## STEM 17 month OPT extension

Students currently authorized for OPT who received a bachelor's, master's, or doctoral degree in certain STEM (science, technology, engineering, mathematics) fields can apply for a one-time, 17-month extension of post-completion OPT (for a total eligibility of up to 29 months of OPT employment authorization). [A list of eligible STEM degree codes can be accessed online at: <http://www.ice.gov/sevis/stemlist.htm>]. To be eligible for the extension, the student's employer must be registered in E-Verify and agree to report to the DSO when the student is terminated or leaves employment. The student must agree to make periodic reports regarding their employment and contact information to the International Student Office. Once students receive a STEM extension, they are only eligible to work for an employer who is registered in E-Verify. If a STEM student receives a 17-month extension, the limit on unemployment is raised to an aggregate of no more than 120 days, applied to the entire 29-month period of post-completion OPT.



# H-1B Visa

The H-1B visa is a temporary worker visa available for 6 years (in two 3 year increments). The H-1B is employment dependent, which means the employer must sponsor the international candidate.

The H-1B visa is for a professional temporary worker in a “specialty” occupation. “Specialty” means the position requires at least a bachelor’s degree in a particular field (or fields) and the candidate has that degree.

The employer must be a legitimate, on-going business and have the ability to pay the prevailing wage (demonstrated in the Labor Condition Application (LCA) filed with the Department of Labor before filing with the Immigration Service).



The employer files the certified LCA, Immigration Forms, and supporting documentation (individual’s immigration documents and evidence of education credentials) with the US Immigration Service.

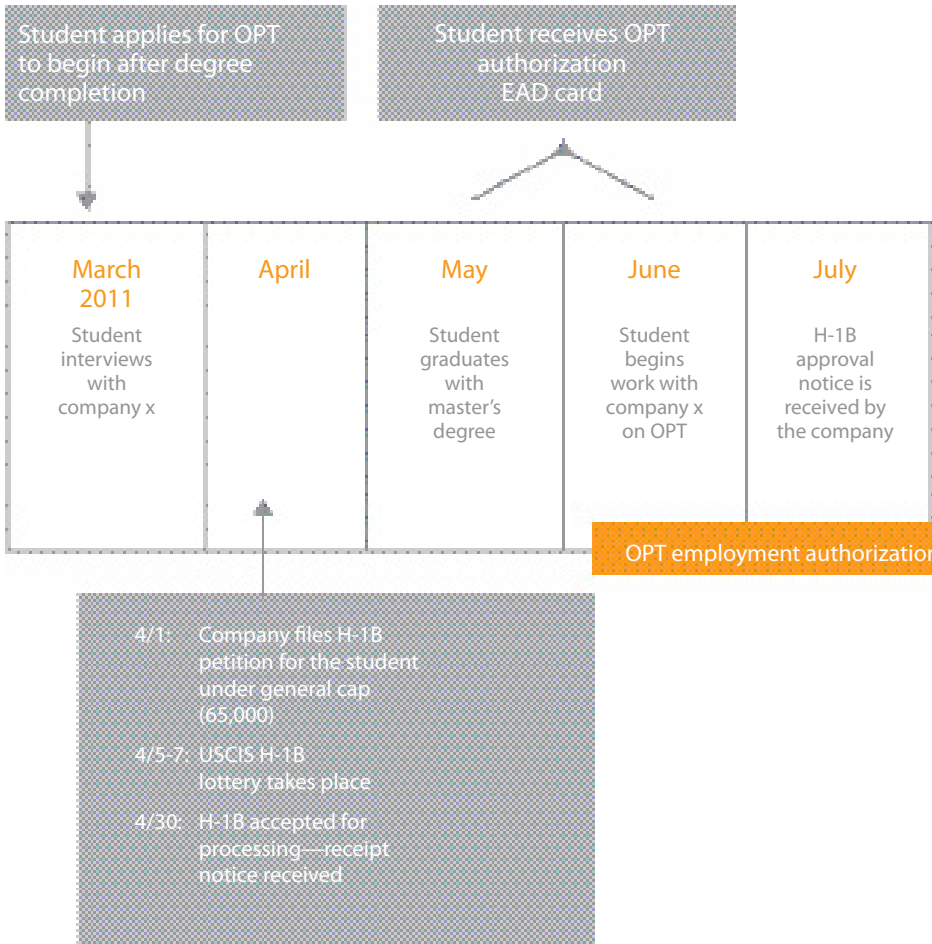
The employer may file up to 6 months in advance of the H-1B start date. For private, for-profit companies, the start date is October 1 (start of the federal fiscal year).

Processing times for an H-1B vary (4-6 months). However, due to high demand, employers should file for an H-1B on April 1 for an H-1B effective October 1 of the same year. There are 65,000 H-1B visas, plus an additional 20,000 for positions requiring a master’s degree or higher, available each fiscal year (October 1st to September 31st).

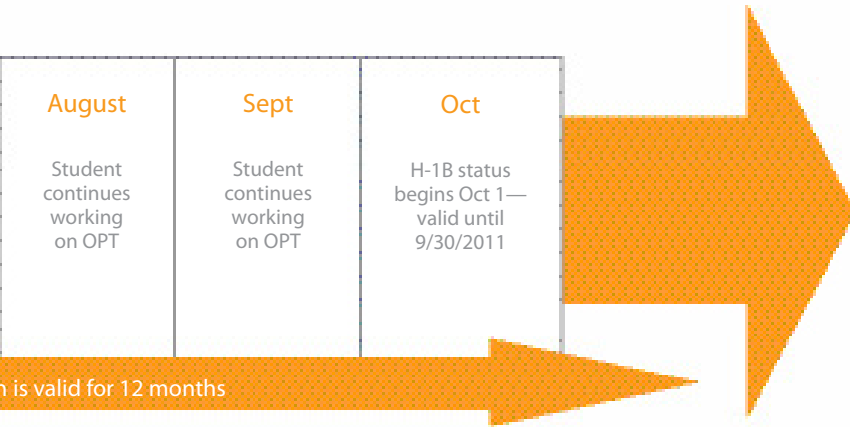
Filing fees associated with an H-1B include the basic filing fee of \$325, the training fee (either \$1500 or \$750 depending on size of employer) and the anti-fraud fee of \$500 for initial H-1B petitions. Other fees include the premium processing fee of \$1225, which provides expedited processing, and attorney fees if counsel is used. The employer should consult legal counsel to determine which fees the employer is required to pay.

Note: Second 3-year increment of the H-1B is not subject to the 65,000 H-1B yearly visa cap.

# sample process for international students—

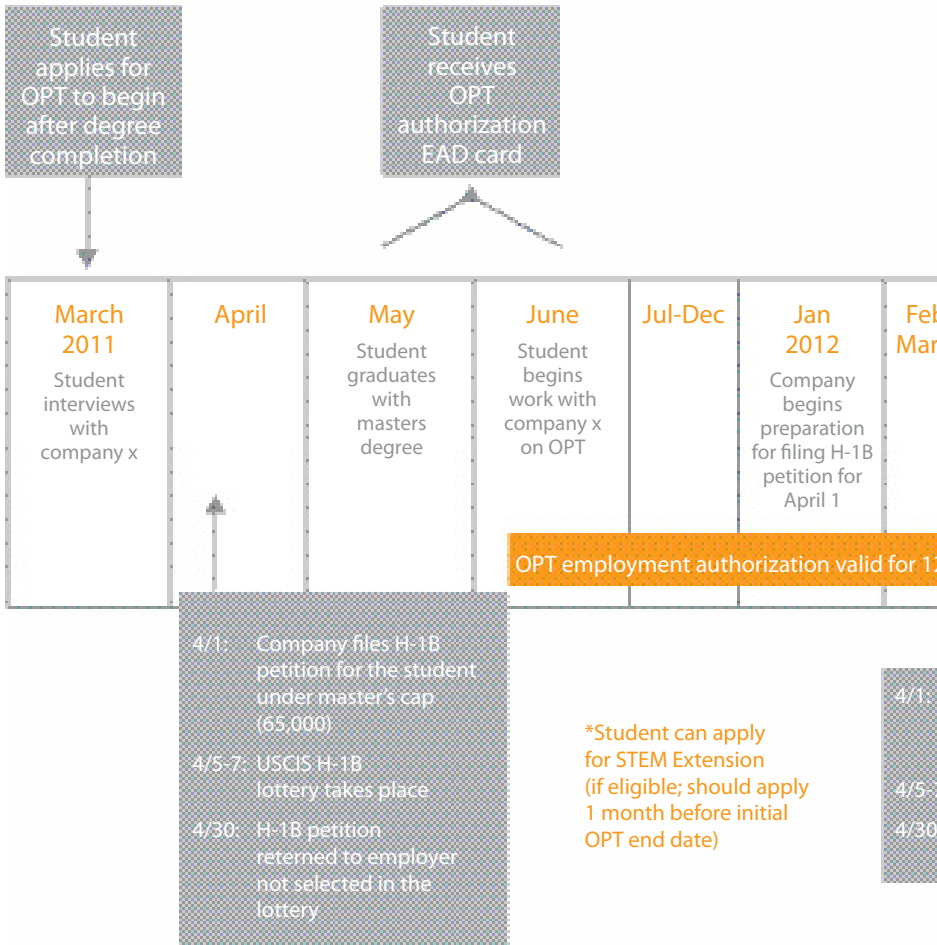


# may 2011 graduate: H-1B granted

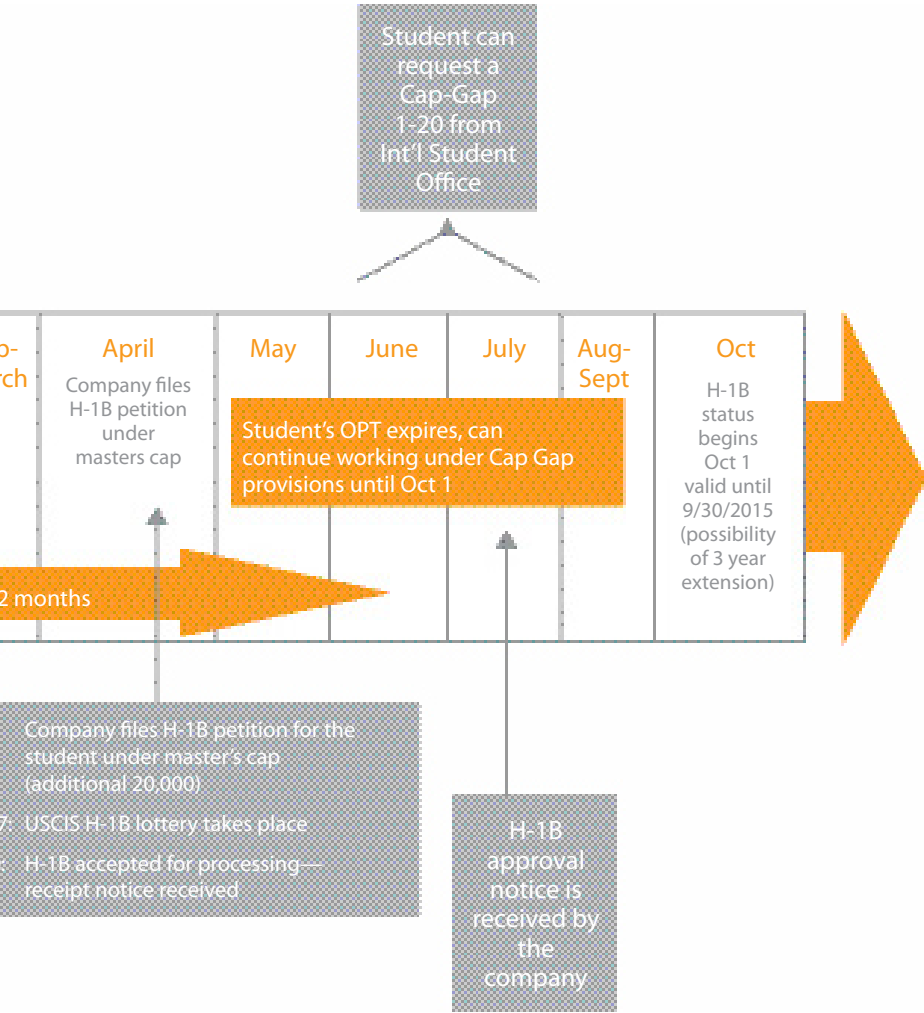


This example illustrates a successful application selected in the April 1, 2011 H-1B Visa Lottery.

# sample process for international students—



# may 2011 graduate: H-1B filing deferred until 2012



This example assumes that the April 2011 H-1B Visa application is not selected but is selected during the April 2012 masters cap filing.

# taxes

## federal, state and local taxes

Federal, state, and local taxes will be withheld from your paycheck by employers unless you qualify for a tax treaty exemption.

## social security & medicare tax

Typically, non-resident F-1 students with authorized CPT or OPT are exempt from Social Security (F.I.C.A) and Medicare taxes as long as they are maintaining their status and considered non-residents for tax filing purposes. Students are not exempt if they have been exempt as a teacher, trainee, or student for any part of more than 5 calendar years, unless they have established to the satisfaction of the IRS that they do not intend to reside permanently in the United States and have substantially complied with the requirements of their non-immigrant status.

## I-9 employment eligibility verification process

All employees in the U.S., citizens and non-citizens alike, must complete the I-9 process with their employers within 3 days of starting employment. Individuals must submit original documents confirming their identity and eligibility for employment in the U.S. (e.g., passport, I-20, EAD card).



## e-verification



E-Verify (formerly known as the Basic Pilot/Employment Eligibility Verification Program) is an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. See link below.

- > <http://www.uscis.gov/portal/site/uscis/>  
Then click on E-Verify Homepage on right menu bar of the webpage

# myths\*

# realities

Hiring an international student is too much of a hassle and overly complicated.	Students are often prepared to do the majority of the work involved and pay a majority of the expenses.
Obtaining a visa for an international student is expensive.	The total current cost is anywhere from \$2,000 - \$5,000, depending on area of the country. Many students are willing to pay a majority of the expenses.
Since September 11, getting the visa is time-consuming and difficult.	For jobs requiring a degree, H-1B processing times can be expedited and may take a minimum of 30 days.
Students on an H-1B visa can only work in the U.S. for one year.	Most students can work for up to six years on an H-1B visa.
The company first has to offer the job to a U.S. candidate, before they can offer it to a foreign national student.	H-1B is a non-competitive visa classification. Employers do not need to test the U.S. labor market before filling petitions on behalf of the employees.
Only a small number of students can be offered H-1B visas each year.	There is a quota of 65,000 H-1B visas available each year, plus an additional 20,000 for International students that graduate with an MBA or higher from a U.S. university. Check with the Department of Labor for the most up-to-date information.
The company needs to have immigration experts to hire a foreign employee.	Outside counsel can be hired to assist with the process. Law firms will prepare all the necessary documents and submit them to the U.S. immigration service on the company's behalf. If necessary, many students are prepared to undertake some or all of the work themselves, including hiring and paying for the lawyer.
What if I want to hire a student for an internship?	Most international students can get permission for U.S. internships prior to starting their internship.
Employees with H-1B cannot travel outside the U.S.	They can travel during the valid period of the visa.

\*Notre Dame MBA Career Development Employer Guide  
for Hiring International Students 2008-2009

# useful links

- > Foreign Labor Certification: U.S. Immigration Guide for Employers:  
<http://www.foreignlaborcert.doleta.gov/>  
<http://www.workpermit.com/us/employee.htm>
- > Find an Immigration Attorney in your Area:  
U.S. Citizenship and Immigration Services:  
[www.aila.org](http://www.aila.org) <http://www.uscis.gov/portal/site/uscis>

# weighing the costs

recruiting costs  
+  
interviewing costs  
+  
training &  
learning curve  
+  
unfilled openings  
+  
incorrect hires  
& turnover  
+  
professional  
staffing fees



internships/  
co-op  
+  
H-1B  
costs

Interns and co-ops converted into full-time employees with H-1B Visa sponsorship are substantially less costly than traditional hiring methods.

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# knowledge is power



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