

Intel Contingent Worker U.S. Immigration Guidelines

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BACKGROUND

U.S. immigration law requires visa workers to be supervised, managed and controlled by the employer sponsoring their visa. As a result, visa workers are by definition ineligible for staff augmentation roles because Intel is always the supervisor of Staff Augmentation Contingent Workers, and their work is just like the work performed by regular Intel employees. On the other hand, Outsourced Contingent Workers work on distinct projects under and are not supervised or managed by Intel. Foreign national employees are generally eligible to work in Outsourced CW roles.

These guidelines identify which visa workers are eligible for contingent worker assignments at Intel U.S.; describe the steps Intel will take to help Suppliers meet their legal obligations; and outline the process required for Suppliers to enlist Intel's assistance. These guidelines do NOT apply to business visitors, including supplier employees on Intel premises for installation or post-sales support.

GUIDELINES

1. Staff Augmentation Roles

Rule: A foreign national with temporary work authorization is not eligible for Contingent Worker ("CW") Staff Augmentation work at a U.S. Intel site. Only "U.S. Workers" may fill Staff Augmentation CW roles. "U.S. Workers" are U.S. citizens, U.S. nationals (from Samoa or the Northern Mariana Islands), Legal Permanent Residents (e.g. "Green Card" holders), or persons granted asylum or refugee status by the U.S. government.

2. Outsourced CW Roles

Rule: A foreign national with temporary work authorization who otherwise meets Intel's site access requirements is eligible to serve in an outsourced function at an Intel U.S. site provided:

- The Supplier is the direct employer and immigration sponsor of the individual (or the individual has a valid Employment Authorization Document ("EAD"));

- The Supplier supervises, manages and directs the work; and
- The Supplier satisfies all immigration requirements for placing the employee at Intel, including, where appropriate, posting Labor Condition Application (“LCA”) notices.

3. Intel Support for Visa Compliance for Outsourced CW’s

Intel helps its suppliers comply with their U.S. immigration obligations through the following support:

Labor Condition Applications (“LCA”)¹:

- (“LCA’s”): Intel supports its Supplier’s H-1B² posting requirements by facilitating Supplier LCA postings through Intel’s electronic posting program. Suppliers must use the process below **and are not otherwise permitted to post LCA’s at Intel premises.**
 - Supplier must complete the [LCA Posting Request template](#), which includes information about the Supplier and CW, the identity of and contact information for the Intel sponsor, and the Intel cost code for the CW project. (If Supplier has not previously posted LCA’s at Intel, Supplier must also provide location where it retains required H-1B visa public access files.)
 - Supplier must email the completed template to intelCW@fragomen.com. Incomplete questionnaires will lead to the return of the request to Supplier to complete the process before posting.
 - Intel’s immigration provider will post the LCA on Intel’s electronic posting site.
 - Upon posting, intelCW@fragomen.com will confirm the posting dates to the supplier representative named in the posting request.
 - Cost of Compliance: It is the business unit’s discretion whether to charge supplier back or absorb the cost.

¹ A document approved by the U.S. Department of Labor whereby an employer of an H-1B worker discloses the location of the H-1B visa workers work location and promises to pay the published salary. This information must be posted and accessible to all employees at the work location, including customer employees.

² H-1B is the primary work permit for foreign national knowledge workers in the U.S. The visa application requires the H-1B employer to identify the regular worksite[s] of the visa holder, even if that worksite is at a customer location.

- Request for Client Letters³ and Requests for Evidence:
 - Upon request, Intel will provide a client letter for visa purposes (visa petition filing or response to request for evidence) to establish that a CW Outsourced visa worker is authorized to work on site at Intel. This letter may be used only to confirm the fact that Intel has contracted with the Supplier to perform the particular project or scope of work and the need for the CW to work at Intel premises as part of Intel’s retention of the Supplier’s services. **No other type of immigration support letter is appropriate.**
 - Suppliers requesting a client letter for a visa filing or response to a request for evidence must complete a “[client letter request questionnaire](#)” and email the completed client letter request to intelcw@fragomen.com.
 - Supplier must include a copy of its completed H-1 B posting questionnaire submitted to Intel, or, if Supplier did not request Intel posting, an explanation of why not; and,
 - In the case of a Request for Evidence, Supplier must include a copy of the RFE as it pertains to the CW’s Intel assignment.
 - IntelCW@fragomen.com will confirm the CW assignment; no client letter will be provided until Intel confirms the assignment.
 - Intel Immigration Manager or his/her designee will sign the client letter and return the signed letter to supplier.
 - Cost of Compliance: It is the business unit’s discretion whether to charge supplier back or absorb the cost.

4. Pro-Active Posting and Client Letter Requests

In circumstances where the Supplier’s foreign national employee is not yet assigned to Intel because his/her work visa is contingent upon the US Citizenship and Immigration Service annual award of H-1B visas (the annual “H-1B cap” or “cap”), and as a result, there is not yet an applicable Intel Sponsor or cost code to enable the Supplier to comply with Intel’s posting or client letter processes, the Supplier should contact

³ A client letter is correspondence from Intel addressed to a U.S. government agency in which Intel confirms its contractual relationship with a Supplier and the assignment of a specific visa worker to a contingent worker role at Intel. Under these guidelines, Intel Immigration confirms the contingent worker Intel role; prepares and signs the client letter; and provides the letter to the Supplier who requests it.

intelcw@fragomen.com for discussion of special cap related processes. Cap-related special requests should be initiated no later than March 1 of each calendar year. Requests for special H-1B cap consideration are coordinated with Intel Supplier Managers. Suppliers may not proactively identify any Intel address on any LCA or in any U.S. immigration filing without explicit advance Intel approval.

5. Post- sales installation or support

On occasion, Sponsors or Commodity Managers may be asked to provide immigration invitation letters in connection with the sale, installation or maintenance of Intel capital equipment. These workers are considered business visitors **who are not covered by these Contingent Worker U.S. Immigration Guidelines**. Where a Supplier requests an invitation letter for a sponsor in connection with sale, installation or maintenance of Intel capital equipment, Sponsors should continue to access and use the template invitation letter available on the Intel Immigration page on Circuit– [US invitation letters](#)

GOVERNMENT SITE VISITS

On occasion, representatives from the U.S. Immigration Service make unannounced visits to the worksites of visa workers to verify information contained in immigration petitions. These visits are random and are not cause for concern. However, because Intel is not the employer or immigration sponsor of these CW's you should not answer questions about the terms and conditions of the CW's employment. If you learn of a site visit for a Contingent Worker for whom you are a sponsor, contact the Supplier manager for the worker for handling and notify intelCW@fragomen.com.

QUESTIONS OR ESCALATIONS

Contact intelCW@fragomen.com for questions or escalations about the application of this policy.

FOR MORE INFORMATION

Any supplier with questions about U.S. Immigration's change in policy regarding supervision, management and control of CW can be given the below link.

<http://www.uscis.gov/news/public-releases-topic/business-immigration/questions-answers-uscis-issues-guidance-memorandum-establishing-employee-employer-relationship-h-1b-petitions>

[Intel CW Training Slides](#)

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