

PRAIRIE VIEW A&M UNIVERSITY

H-1B Nonimmigrant Temporary Worker

The H-1B nonimmigrant category can be used to employ a foreign national as a temporary worker in a “specialty occupation”. The law defines specialty occupation as an occupation **“that requires the theoretical and practical application of a body of highly specialized knowledge to perform the occupation and requires the completion of a specific course of study culminating in a baccalaureate degree or higher in a specific occupational specialty”**. The position offered can be permanent in nature, but the employment relationship with the foreign national must be temporary. The H-1B category can be petitioned for any increment of time up to three years per petition. Maximum time allowed in this category is six years.

The Immigration Act of 1990 radically changed the requirements for obtaining the H-1B. It is very important that you read the following information carefully and follow the instructions as outlined. **Do not sign any documents/forms unless you are in total agreement. Any misrepresentation of facts or the employer’s failure to comply with the regulations may result in serious fines and/or penalties.**

The **applicant** must be a professional or otherwise possess highly specialized theoretical and practical knowledge in his/her field. The employee must possess the specific knowledge for the position offered. The minimum entry-level requirement of a bachelor's or higher degree in a specific occupational specialty is required. The position offered must be one of which the employee possesses qualifications at least matching the minimum requirement.

The **position** must require a person with the foreign national's highly specialized qualifications. The U.S. Department of Citizenship and Immigration Services will scrutinize the job duties to determine whether the position requires a professional-level employee. The employer's stated requirement of a bachelor or higher level degree will not suffice if the generally recognized requirements for that position are below a professional level.

The **processing fee** for the H-1B petition is currently **\$320.00**. New petitions will require a Fraud and Detection Fee of **\$500.00**. In order to expedite a request - an additional premium processing fee of **\$1000.00** is required. **Processing fees are considered business related expenses. All fees associated with the H-1B process are the responsibility of the hiring department. The applicant may not assume financial responsibility for the processing of the H-1B request.**

Please read instructions carefully. All documents must be submitted to the Office of Human Resources for review, approval and processing. All documents for academic departments must have the signature of the Department Head and the Dean of the College and Provost. Documents for other departments must have the signatures of the department's hiring authorities and VP.

Submit the H-1B request at least 6 months prior to the requested date of employment. Application packages submitted for processing that are incomplete, require corrections, contain missing information, or whiteout/correction tape will be returned to the requesting department in its entirety.

All documents must be signed in blue ink – this makes it evident to both the Office of Human Resources and the Department of Homeland Security that documents submitted are originals with original signatures.

All required forms are attached.

Revised February 19, 2010 EJM

INSTRUCTIONS FOR THE H-1B APPLICATION PROCESS

STEP 1 - PRELIMINARY DOCUMENTS REQUIRED FOR THE H-1B APPLICATION PROCESS

Please sign all documents in blue ink.

The hiring department must submit all required documents in step 1 as the first step in requesting H-1B status for an individual (initial or extension). The Office of Human Resources will review the H-1B request and will notify the hiring department if the H-1B process can continue – based on the preliminary documents submitted.

Preliminary Documents:

- **Institutional Support Letter** – The letter must be an original document printed on departmental letterhead and signed by departmental hiring authorities. The letter must contain a statement for each item listed below:

**To: Mr. Albert R. Gee, Asst. Vice President for Human Resources
P.O. Box 519, Mailstop 1337, Prairie View, TX 77446**

- a. The purpose of the letter and identify the applicant (initial or extension petition) and the job title.
- b. The reason for the temporary employment of the applicant.
- c. The position is or is not a permanent position.
- d. How the position will be funded.
- e. The position has been advertised – if not advertised state why.
- f. The applicant's credentials and background (education, training and experience).
- g. Terms of offered employment (position title, job responsibilities, exact starting date and exact ending date of offered employment, and salary). Note: The offered employment can be any increment of time up to 3 years per petition (request).
- h. The department accepts full responsibility to comply with the terms of the Labor Condition Application and will pay reasonable cost of return transportation to the individual's home country if the employee is dismissed from employment prior to the expiration of the authorized period of stay.
- i. The hiring department is asked to designate a contact person for the H-1B petition. This individual will be the Office of Human Resources' contact on matters that involve the department's request to petition the H-1B category.

- **Copy of the Initial University Job Offer Letter**

- **Copy of the University PDAQ for the Offered Position**

- **Job Offer and Acceptance Letter** – Letter must include the following:
 - a. State that the letter is an offer of employment.
 - b. State terms of employment (**position title and job responsibilities, exact starting date and exact ending date of offered employment, and salary**).
 - c. Include this statement - "This employment offer is contingent upon obtaining and maintaining the proper employment visa status".
 - d. The letter must be signed by hiring authorities.
 - e. Include a signature line for applicant's signature of acceptance.

- **Prevailing Wage Information Form** – The hiring department is required to pay the applicant the prevailing wage or actual wage whichever is higher. Information must be accurate. Information on this sheet should not be tailored to meet the applicant's credentials. The prevailing wage is determined by the Department of Labor. It is the wage level for the occupation in the area of intended employment. Minimum experience required should be the exact amount of experience required and not a range such as 1 to 3 years. This form must be completely filled out. Form attached.

The law states that the H-1B nonimmigrant will be paid at least the prevailing wage level for the occupation in the area of intended employment or the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment – whichever is higher.

The Department of Labor has stated that it could take up to 60 days to process a prevailing wage request.

- **Applicant Documents** - Request the following documents from the H-1B applicant.
Hiring departments must review all applicant documents.
 - a. A Completed Applicant Information Sheet. This document must be an original. The only exception will be if the applicant is residing outside of the U.S. – in this case a faxed copy will be accepted until the original arrives by mail.
 - b. Photocopy of highest degree earned. If document is not in English, a certified English translation must be obtained with evidence that the degree is the equivalent to the U.S. degree required.
 - c. Curriculum Vitae or Resume.
 - d. Copy of all previous immigration documents issued since entry into the U.S. to include passport, visa, and I-94 card, Form I-20, and any other immigration documents issued to the applicant by Homeland Security.
- **Actual Wage Form** – The Actual Wage is the wage level paid by the employer to all other individuals with similar experience and qualifications for the specified employment. Form attached.
 - a. List all employees in your department who hold the same job title as the applicant.
 - b. Draw a line through any person listed that you do not consider a peer of the H-1B applicant. State specific reasons why they should not be considered as peers. Reasons should relate to experience, education, job responsibilities, publications, as well as, other legitimate business reasons.
 - c. Find the highest salary of the employees who names have not been eliminated. This is the actual wage and is usually the salary that you will pay the H-1B applicant.
- **Employer Labor Condition Statement** - Read this form carefully before signing. It is the hiring department's responsibility to comply with the terms and conditions of the H-1B immigration employment and to notify the Office of Human Resources of any changes. Form attached.

Hiring departments are advised not to submit Step 2 documents until notification is received from the Office of Human Resources.

STEP 2 – APPLICATION FEE(S)

Application Fee(s) - The H-1B applicant cannot pay any fees associated with the H-1B process. Processing fees are the responsibility of the hiring department.

Due to the length of time it will take the Department of Labor to provide the University with a prevailing wage determination – do not request your check for filing fees until the Office of Human Resources advises you that a prevailing wage determination has been received and that it meets or exceeds the offered wage.

Request Checks for Application Fees

- Complete a purchase requisition for the required amount(s).
Prior to submitting the purchase requisition to the Fiscal Office - The hiring department should notify the Office of Human Resources that the requisition is ready for submission. **The Office of Human Resources will provide the hiring department with supporting documents to justify the request. These documents will need to be submitted with the requisition. The documents will include the completed immigration application(s) and the appropriate fee schedule(s).**
- Checks are made payable to Customs and Immigration Services or Homeland Security. **Request a separate check for each fee.** Do not combine the check amounts.
- Mark the requisition "Ready to Pay" & Hold for "Pick Up".
- Once check(s) are ready and picked up - the hiring department will submit checks to the Office of Human Resources.

Application Fees:

Application Fee: \$320.00 (Required on All Applications)

Fraud Detection and Prevention Fee: \$500.00 (Required on Initial Applications Only)

Premium Processing Fee: \$1000.00 (Expedite – Optional)

Example of Required Fees:

Initial Request (first time filing for the applicant)

Application Fee: \$320.00

Fraud Fee: \$500.00

Premium Processing Fee: \$1000.00 (Optional to Expedite)

Extension Request (extending the applicant's H-1B status)

Application Fee: \$320.00

Premium Processing Fee: \$1000.00 (Optional to Expedite)

STEP 3 – FINAL STAGES OF THE H-1B APPLICATION PROCESS – Office of Human Resources

Prevailing Wage Determination/Actual Wage - The law states that the H-1B nonimmigrant will be paid at least the prevailing wage level for the occupation in the area of intended employment or the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment – whichever is higher. The Office of Human Resources will notify the hiring department once a prevailing wage determination is received.

Labor Condition Application - The Office of Human Resources will submit a Labor Condition Application to the Department of Labor a Labor for review and certification.

Notice of Filing – The Office of Human Resources will provide the hiring department with the Notice of Filing Form and the Labor Condition Application for posting. **It is critical that these documents are posted for 10 days and returned to the Office of Human Resources (when posting – do not count the first day).** The hiring department will be asked to confirm in writing that the documents have been posted.

H-1B Application - Once the Office of Human Resources has received the certified Labor Condition Application – the H-1B Application and all required documents will be submitted to Homeland Security for review and approval.

Case Status - The Office of Human Resources will keep the hiring department informed of the current status of the submitted H-1B application.

H-1B Immigration Request - Cover Sheet and Checklist

Please attach this cover sheet to all H-1B paperwork submitted to HR.

Hiring Department: _____

Hiring Authority: _____ EXT: _____

Designated Departmental Contact: _____ EXT: _____

Title of Offered Position: _____

Name of H-1B Applicant: _____

Requested Dates of H-1B Employment: From ____/____/____ to ____/____/____

Step 1 – Preliminary Documents

____ Institutional Support Letter _____

____ Prevailing Wage Information Form _____

____ Actual Wage Form _____

____ H-1B Applicant Information Sheet _____

Attachments: ____ Copy of Highest Degree

____ Resume

____ Copies of Previous Immigration Documents

List: _____

____ Job Offer and Acceptance Letter _____

____ Employer Labor Condition Statement _____

Step 2 – Application Fee(s)

____ Application Fee(s) _____

____ \$320.00 Application Fee ____ \$500.00 Fraud Fee ____ \$1000.00 Optional to Expedite

PREVAILING WAGE INFORMATION SHEET

Department Request for Prevailing Wage Determination

Complete this form based on the offered position – not the qualifications of the applicant.

1. Hiring Department: _____
2. Name of H-1B Applicant: _____
3. Job Title of Offered Position: _____
4. The Offered Position is: Full-Time 9 Months 12 Months Part-Time
5. Numbers of hours per week: _____ Basic _____ Overtime
6. Hourly Work Schedule: _____ A.M. to _____ P.M.
7. Will travel be required in order to perform the job duties? Yes No
If Yes – Explain: _____
8. Are there any other working conditions that affect the rate of pay? Yes No
If Yes – Explain: _____
9. Education: _____ Minimum U.S. Diploma/Degree Required:
Major and/or Field of Study Required: _____
10. Do you require a Second U.S. Diploma/Degree? Yes No
If Yes - List Requirement _____
11. Do you require Training for the job opportunity? Yes No
If Yes: Number of Months _____ Type: _____
12. Do you require Experience for the job opportunity? Yes No
If Yes: List minimum Number of Months _____ Type: _____
13. Do you require a License for the job opportunity? Yes No
If Yes – List Requirement(s) _____
14. List any job related skills requirements: _____
15. Are there any Special Requirements? Yes No
If Yes - List Requirement(s) _____
16. Title of the person who will Supervise the Applicant: _____
17. Number of Employees to be Supervised by Applicant: _____
18. Full Description of Job Duties:

19. Worksite Address (Physical Location, Building and Room #) where duties will be performed: _____

20. Will work be performed in more than one location? ____Yes ____No
If Yes – List worksite Address: (Physical Location, Building and Room #) where duties will be performed: _____

Signature Authorities

Department Head or Hiring Authority

Printed Name & Title: _____

Signature: _____ Date: _____

Dean or Hiring Authority

Printed Name & Title: _____

Signature: _____ Date: _____

ACTUAL WAGE DETERMINATION STATEMENT

Hiring Department: _____

Applicant's Name: _____

Job Title of Offered Position: _____

Applicant's Years of Experience: _____ Degree: _____

Employees within the Department with same Position Title

	Name	Years Experience	Degree	Salary
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

Line through the names listed above of those employees who should not be considered as peers of the H-1B applicant. List them by name and item number below. State specific reasons for their exclusion which relates to factors on the instruction sheet. Use additional pages as needed.

Actual Wage = \$ _____

Signature Authorities

I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED ON THIS FORM IS TRUE AND CORRECT.

DEPARTMENT HEAD or Hiring Authority:

Printed Name & Title: _____

Signature: _____ Date: _____

DEAN or Hiring Authority:

Printed Name & Title: _____

Signature: _____ Date: _____

EMPLOYER LABOR CONDITION STATEMENT

Hiring Department: _____

H-1B Applicant Name: _____

Job Title of Offered Position: _____

The U.S. Department of Labor has specific requirements that an organization must meet under the terms of a petition for H-1B status for a nonimmigrant employee. The signature of the designated representative of the Office of Human Resources on the Labor Condition Application denotes a declaration under the penalty of perjury that the information Prairie View A&M University provides is true and correct and that the university will comply with the regulations governing the employment of a foreign national.

The responsibility of compliance with specific terms of a labor condition application resides with the employing department. It is for this reason that the department's hiring official is required to understand his or her obligations as listed below and sign on the line provided as a declaration of compliance with the regulations with regard to the foreign national employee named above.

DECLARATION OF EMPLOYER

The department will comply with the following regulations during the petition process and during the employment of the above named foreign national under the terms of the petition for H-1B status:

- The department will pay the foreign national at least the salary paid to other Prairie View A&M University employees with similar experience and qualifications in the same occupation or the prevailing wage for the occupation as determined by the U.S. Department of Labor, whichever is higher.
- The employment of an H-1B nonimmigrant will not adversely affect the working conditions of employees similarly employed in the area of intended employment.
- The department has allocated funds for the payment of the foreign national's salary for the duration of his/her employment under the terms of the petition.
- The department will request that the Office of Human Resources file an amended petition should the terms of employment change during the appointment period of the H-1B.
- The department agrees to pay the reasonable cost of the foreign national's return trip to his/her country should he/she be terminated before the expiration of the employment period approved by Homeland Security's Department of Citizenship and Immigration Services.

Any misrepresentation of facts or the employer's failure to comply with the H-1B regulations may result in the following: (1) Assessment of back pay for the foreign national and/or other employees in the occupational classification. (2) Maximum fine for each violation. (3) Imposition of other appropriate administrative remedies. (4) Suspension of Prairie View A&M University's filing of labor condition applications and visa petitions for one year. (5) Federal criminal penalties for knowing and willful submission of false statements to the Federal Government of \$10,000.00 and/or imprisonment of up to 5 years.

Signature Authorities

Department Head or Hiring Authority: Printed Name & Title: _____

Signature: _____ **Date:** _____

Dean or Hiring Authority: Printed Name & Title: _____

Signature: _____ **Date:** _____

H-1B APPLICANT INFORMATION FORM

THIS FORM MUST BE COMPLETED AND SIGNED BY THE H-1B APPLICANT

THE H-1B APPLICANT MUST ATTACH THE FOLLOWING DOCUMENTS:

- Copy of highest degree earned. If document is not in English, a certified English translation must be obtained with evidence that the degree is the equivalent to the U.S. degree required.
- Curriculum Vitae or Resume.
- Copies of all previous immigration documents issued since entry into the U.S. - to include passport, visa, I-94 card, Form I-20 and employment authorization documents.

Please sign this document in blue ink – so that it is evident that the document is original.

APPLICANT INFORMATION

Applicant Name: _____

Date of Birth: _____ Sex: ____Female ____Male

City of Birth: _____ Province of Birth: _____

Country of Birth: _____

Country of Citizenship: _____

Home Country Address: _____

HIRING DEPARTMENT

Name of Hiring Department: _____

Title of Offered Position: _____

RESIDING IN THE UNITED STATES

Are you currently residing in the United States: ____Yes ____No

If Yes, U.S. Address: _____

Telephone Number: _____

Email Address: _____

Social Security Number: _____

If the extension of stay or change of status cannot be granted – list the U.S. consulate you want notified if the H-1B petition is approved:

City: _____ Province: _____ Country: _____

CURRENT IMMIGRATION STATUS - If currently residing in the United States

Current Immigration Status: Visa Type: _____ Exp. Date: _____

Date Last Arrived in the U.S.: _____ Location: _____ Visa Type: _____

Passport No: _____ Country of Issuance: _____

Passport Issuance Date: _____ Passport Expiration Date: _____

I-94 Card Number: _____ Expiration Date: _____

IMMIGRATION HISTORY IN THE UNITED STATES

List all prior periods of time and visa category in an immigration status in the United States:

Visa Type: _____ Dates of Authorized Stay: _____

Visa Type: _____ Dates of Authorized Stay: _____

Have you ever filed an application for permanent residence or has anyone else ever filed an application for permanent residency on your behalf?

___Yes ___No If Yes, Explain: _____

Have you ever been granted H-1B status? ___Yes ___No

If Yes, List all periods of time in H-1B status: _____

Have you ever been in removal, exclusion or deportation proceedings? ___Yes ___No

If yes, Explain: _____

Have you ever been denied the H-1B classification? ___Yes ___No

If yes, Explain: _____

RESIDING OUTSIDE OF THE UNITED STATES

Are you currently residing outside of the United States: ___Yes ___No

If Yes, List the U.S. consulate office to be notified if the H-1B petition is approved:

City: _____ Province: _____ Country: _____

Do you have a valid passport? ___Yes ___No

Home Country Address: _____

Telephone Number: _____ Email Address: _____

DEPENDENT(S)

Will dependent family members require dependent H-4 status? ___No ___Yes

If Yes, List dependent(s) and submit a completed & signed Form I-539, copies of dependent(s) immigration documents and a filing fee in the amount of \$300.00. Attach copies of the principal's current immigration documents (passport, visa, I-797, I-94 card).

Name: _____ Relationship: _____

Name: _____ Relationship: _____

Form I-539 and filing fee is not required if the dependent is not residing in the U.S. Dependents may apply for visas at the embassy with a copy of the approved H-1B petition.

I CERTIFY THAT ALL INFORMATION PROVIDED IS TRUE AND ALL DOCUMENTS SUBMITTED FOR THE PROCESSING OF MY H-1B APPLICATION ARE EXACT COPIES OF UNALTERED ORIGINAL DOCUMENTS.

Please sign with blue ink.

Printed Name: _____

Signature _____ **Date:** _____