

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 January 11, 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.
- **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.

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 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 – NOTICE OF FILING & LABOR CONDITION APPLICATION

Notice of Filing – The Office of Human Resources will provide the hiring department with the Notice of Filing 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.