

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 **\$325.00 plus** Initial petitions will require a Fraud and Detection Fee of **\$500.00**. In order to expedite a request - an additional premium processing fee of **\$1225.00** 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.**

Departmental Request for H-1B Petition – Initial or Extension. All documents must be submitted to the Office of Human Resources for review, approval and processing. Documents for academic departments must include the signatures of the Dean and the Provost. **All documents requiring the signature of the Provost must be first routed through the Office of Human Resources for review.** Documents for other departments must include the signatures of the department's hiring authorities and the appropriate Vice President.

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.

Instructions and all required forms are attached.

Revised March 10, 2015 EJM

INSTRUCTIONS FOR THE H-1B APPLICATION PROCESS

Sign all documents in blue ink.

Confirm in writing who will be the point of contact as it relates to the processing of this H-1B.

Signature Authority:

Documents for academic departments must include the signatures of the Dean and the Provost. **All documents requiring the signature of the Provost must be first routed through the Office of Human Resources for review.** Documents for other departments or divisions must include the signatures of the department's hiring authorities and the appropriate Vice President. All documents must be signed in blue ink.

Document Correction/Completion - Documents requiring correction or completion may be picked up by the hiring department or new documents may be submitted. Documents that are resubmitted must be dated with the current date. Documents that are corrected/completed must be initialed and dated with the current date.

Whiteout or Correction Tape - Documents with whiteout or correction tape will not be accepted and will be returned to the hiring department.

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:

1. Institutional Support Letter – The letter must be an original document printed on departmental letterhead and signed by departmental hiring authorities.

Documents for academic departments must include the signatures of the Dean and the Provost. **All documents requiring the signature of the Provost must be first routed through the Office of Human Resources for review.** Documents for other departments or divisions must include the signatures of the department's hiring authorities and the appropriate Vice President. All documents must be signed in blue ink.

**To: Mrs. Radhika Ayyar, Director of Human Resources
P.O. Box 519, Mailstop 1337, Prairie View, TX 77446**

The letter must state the following required information:

- 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.

2. Copy of the Initial University Job Offer Letter

3. Copy of the University PDAQ for the Offered Position

4. Job Offer and Acceptance Letter – Letter must include the following:

Documents for academic departments must include the signatures of the Dean and the Provost. **All documents requiring the signature of the Provost must be first routed through the Office of Human Resources for review.** Documents for other departments or divisions must include the signatures of the department's hiring authorities and the appropriate Vice President. All documents must be signed in blue ink.

- 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.

5. 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.

6. APPLICANT INFORMATION FORM - This document is to be completed by the applicant. 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.

The applicant must attach the following documents:

- a. 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.
- b. Curriculum Vitae or Resume.
- c. 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.

7. 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.

8. 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.

9. Deemed Export - As the direct employer and supervisor of the foreign national employee (or proposed employee), you know the details of the position's job duties and responsibilities and whether the technology or technical data being released to the foreign national may be restricted to foreign nationals. You are also aware of the details of the instruments, equipment, methods and other technology employed to conduct the research. Accordingly, you are best suited to complete the attached attestation and provide it to the Office of Human Resources before the institution can petition for the foreign national employee.

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: \$325.00 (Required on All Applications)

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

Premium Processing Fee: \$1225.00 (Expedite – Optional)

Example of Required Fees:

Initial Request (first time filing for the applicant)

Application Fee: \$325.00

Fraud Fee: \$500.00

Premium Processing Fee: \$1225.00 (Optional to Expedite)

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

Application Fee: \$325.00

Premium Processing Fee: \$1225.00 (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) _____

____ \$325.00 Application Fee ____ \$500.00 Fraud Fee ____ \$1225.00 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.

Hiring Department: _____

Departmental Contact: _____ Ext. _____

Name of H-1B Applicant: _____

1. Job Title of Offered Position: _____

2. Offered Salary: \$ _____

3. The Offered Position is: 9 Months 12 Months Full-Time Part-Time

4. Numbers of hours per week: _____ Basic 40 Hours _____ Overtime Hours

5. Hourly Work Schedule: _____ A.M. to _____ P.M.

6. Description of Job Duties: Must be specific. Academic departments must include area(s) of instruction and research positions must state purpose of research:

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

8. 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: _____

9. Will this position supervise the work of other employees? Yes No
If Yes - Number of employees the worker will supervise: _____
Please indicate the level of employees to be supervised: Subordinate Peer

10. Title of the person who will supervise the applicant: _____

11. Will travel be required in order to perform the job duties? Yes No
If Yes – Explain: _____

12. Are there any other working conditions that affect the rate of pay? ____Yes
____No

If Yes – Explain: _____

13. Education: Minimum U.S. Diploma/Degree Required: _____
Major and/or Field of Study Required: _____

14. Do you require a Second U.S. Diploma/Degree? ____Yes ____No

If Yes - List Requirement _____

15. Do you require Training for the job opportunity? ____Yes ____No

If Yes - Number of Months _____ Type of Training: _____

16. Do you require Employment Experience for the job opportunity? ____Yes ____No

If Yes - List minimum Number of Months _____

Occupation Required: _____

17. Special Requirements: List specific skills/licenses/certificates/certifications and requirements of the job opportunity: Do not answer "None".

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 suspension of Prairie View A&M University's filing of labor condition applications and visa petitions for one year along with penalties and fines.

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.

HIRING DEPARTMENT

Name of Hiring Department: _____

Title of Offered Position: _____

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: _____

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: _____

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H-1B APPLICANT INFORMATION FORM

H-1B Applicant Name: _____

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 been granted J-1 Status? Yes No

If Yes, List all periods of 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: _____

Have you ever been granted J-1 Status? Yes No

If Yes, List all periods of stay: _____

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H-1B APPLICANT INFORMATION FORM

H-1B Applicant Name: _____

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 \$290.00. 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.

H-1B APPLICANT ATTESTATION

I CERTIFY THAT ALL INFORMATION PROVIDED ON THIS FORM IS TRUE AND CORRECT. I FURTHER CERTIFY THAT ALL DOCUMENTS I AM SUBMITTING FOR THE PROCESSING OF MY H-1B APPLICATION ARE EXACT COPIES OF UNALTERED ORIGINAL DOCUMENTS.

Please sign with blue ink.

Printed Name: _____

Signature _____ **Date:** _____

INSTRUCTIONS FOR COMPLETING

THE DEEMED EXPORT CONTROL ATTESTATION FOR SPONSORSHIP OF H-1B, H-1B1 and O-1A EMPLOYEES

As the direct employer and supervisor of the foreign national employee (or proposed employee), you know the details of the position's job duties and responsibilities and whether the technology or technical data being released to the foreign national may be restricted to foreign nationals. You are also aware of the details of the instruments, equipment, methods and other technology employed to conduct the research. Accordingly, you are best suited to complete the attached attestation and provide it to the Office of Human Resources before the institution can petition for the foreign national employee.

Prior to completing and certifying the attestation, please be aware of the following:

- You are advised to take the Export Control TAMUS online training module 2111212 "Export Control & Embargo Training" available on TrainTraq through the Single Sign On (SSO) login at <https://sso.tamus.edu/Logon.aspx>.

The hiring Department is required to:

- Review the EAR and the ITAR regulations.
- Certify that you have reviewed the two sets of regulations
- Make a determination that an export license is not required for the individual you intend to employ to have access to Prairie View A&M University technology or technical data, or that such a license is required.
- Should a license be required – make a statement that you will prevent the foreign national from having access to the controlled technology or technical data until an export license has been obtained.
- You must document and keep a file of sources used to make your determination.
- Your attestation is what the University will use to file the nonimmigrant petition with the Department of Homeland Security.
- You must attach a statement to the attestation justifying your determination.

You are certifying that technology or technical data you will release or otherwise provide access to the foreign national as a result of the offered employment may or may not require a license. This certification will be made available to the federal authorities in case of a request or audit.

All documentation used for your certification must be submitted to the Office of Human Resources with the attached attestation.

DEEMED EXPORT CONTROL ATTESTATION

My name is _____ I am the _____
(Department Head, Principal Investigator) at the department of _____ at
Prairie View A&M University.

I have knowledge of the proposed employment of _____ as an
_____ (title) for which a nonimmigrant petition is being sought. I have
reviewed the duties and responsibilities for said employment and I have knowledge of the type of
technology and/or technical data that will be released to the employee. In this regard, I hereby certify the
following:

With respect to the technology or technical data that I will release or otherwise provide access to
_____ (name of the foreign person proposed employee or employee) as a
result of the employment, I certify that:

- I have reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) with regard to such technology or technical data; or
- I have reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) and thereafter have contacted the Research Compliance Office at Prairie View A&M University to further clarify potential restrictions regarding such technology or technical data

And I have determined that:

- 1. A license is not required from either the U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the above named foreign person; or
- 2. A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the foreign person and I will prevent access to the controlled technology or technical data by the named foreign person until and unless Prairie View A&M University has received the required license or other authorization to release it to the named foreign person.

I hereby certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Principal Investigator:

Printed Name

Signature & Date

Department Head:

Printed Name

Signature & Date

Dean:

Printed Name

Signature & Date