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Department Instructions for H-1B Applications

The H-1B Temporary Worker visa allows foreign nationals to work in the United States in specialty occupations for a period of up to six years. Each application can be made for a period up to 3 years. The application must be filed by the employer; an individual cannot gain an H-1B visa on his own. The H-1B application process can be time consuming. There are multiple stages (and agencies) in the application process. After a UM St. Louis department submits the necessary materials, International Student and Scholar Services (ISSS) will process the application following these steps:

Step 1: Department paperwork compiled. Prevailing wage request submitted by ISSS to Missouri Department of Economic Development (DED). Applicant's application materials are collected. Processing time: approximately 2-5 weeks.

Step 2: After MO DED responds, a Labor Condition Application is filed with the Federal Department of Labor (DOL). Processing time: immediate.

Step 3: H1B application materials are sent by ISSS to US Citizenship and Immigration Services (USCIS) in Laguna Niguel, CA. Processing time: 1-2 weeks with Premium Processing, 3-5 months otherwise.

Step 4: When case is approved by USCIS, ISSS notifies the applicant and/or department of approval.

Step 5: If the H-1B employee is not in the U.S., s/he will need to take the approval documents to an American consulate abroad to apply for an H-1B visa to enter the U.S. Processing time: depending on consulate and nationality of applicant, it can range from one day to two months.

Because of the multiple steps, and the multiple government agencies involved, it is not possible to guarantee that the H1B petition will be approved for any specific date. Applications should be made as far in advance of the proposed start date as permitted by the law – up to six months in advance of a proposed H1B start date. The paperwork for extensions should also be submitted approximately six months before the current authorization expires.

Term of employment in most cases should be a minimum of one year. The total length of an initial application may not exceed three years and is renewable for up to three additional years. The maximum time permitted in the H-1B classification is six years, after which time a foreign national must reside abroad for a minimum of one year before regaining H-1B eligibility.

Application packet for a new H-1B employee

Documents Provided by Department

1. Required fee in the form of a check payable to the *US Citizenship and Immigration Services (H-1B Adjudication Unit, I-129)*. The Department is required to provide two checks for Form I-129: one for \$320 and one for \$500. The USCIS fee schedule is available under “Immigration Forms” at:
<http://www.uscis.gov/>
2. The “Internal Request Form for an H-1B Employee”
3. Copy of the original offer letter
4. Statement (Sample Letter A) agreeing to the conditions of the H-1B.
5. A letter (Sample Letter B) on departmental letterhead outlining the terms of the position, including:
 - a. Title, salary and duties
 - b. the qualifications for the position;
 - c. the individual’s qualifications.
6. A statement (Sample Letter C) on departmental letterhead outlining the terms of the position including:
 - a. title and salary
 - b. date H-1B employment will begin (if the individual is already working here on another type of visa, indicate the effective date of the H-1B)
 - c. how long the employee is expected to continue in this position.

Documents provided by Beneficiary

1. The “H-1B Beneficiary Information Form”
2. Copies of diplomas, transcripts or a letter from the registrar of the school where studies were undertaken. This documentation must indicate the level of the degree, field studied, and the date of completion.
 - a. If diplomas or transcripts are not in English, an official translation of the document. Note that some diplomas, although granted by American universities, are in Latin, and therefore, must be translated. A sample of the statement which the translator must sign is shown in Sample D.
 - b. If the individual was granted a degree in another country, it will be necessary to establish the equivalency to the required degree in the U.S. ISSS can determine the equivalency on some cases. If equivalency cannot be determined using University resources, it will be necessary to refer the documents to a credential evaluation agency, at additional costs to the individual. Note that not all Bachelor’s degrees from other countries are equivalent to a Bachelor’s degree in the U.S.
3. Copy of any license required for the position.
4. Copy of identity page in passport. Copy of most recent visa and current Form I-94, if the applicant is in the country.
5. Beneficiary’s CV.
6. Documentation of any previous immigration status:
 - a. If currently in F-1 status, submit copies of any I-20’s or EAD’s that have been issued.

- b. If the beneficiary has previously been in J-1 status, submit copies of all DS-2019/IAP-66's s/he has been issued.
 - c. If the beneficiary has previously been in H status, submit copies of all previous I-129 approval notices.
7. If any dependents are applying for an extension of stay or change of status, submit a completed I-539 form (to be completed by the dependent, not the beneficiary) with the necessary fee of \$300. The fees should be in the form of a check or money order payable to "US Citizenship and Immigration Services." The Department is not required to pay this fee. Form I-539 is available under "Immigration Forms" at <http://www.uscis.gov/>

Application packet for a continuing H-1B employee

Documents provided by the Department

1. Required fee in the form of a check payable to *US Citizenship and Immigration Services (US CIS, H-1B Adjudication Unit, I-129)*. The Department is only required to pay \$320 for filing Form I-129. The USCIS fee schedule is available under "Immigration Forms" at: <http://www.uscis.gov/>
2. The "Internal Request Form for an H-1B Employee"
3. Statement agreeing to the conditions of the H-1B (Sample Letter A).
4. A statement (Sample Letter C) on departmental letterhead stating the position is a continuation of the previously approved position including:
 - a. title, duties and salary
 - b. requested period of extension

Documents provided by the Employee

1. The "H-1B Beneficiary Information Form"
2. Copy of the employee's most current Form I-94, identity page in passport and most recent visa.
3. Copy of employee's updated CV
4. If any dependents are applying for an extension of stay or change of status, submit a completed I-539 form (to be completed by the dependent, not the employee) with the necessary fee of \$300. The fees should be in the form of a check or money order payable to "US Citizenship and Immigration Services." The Department is not required to pay this fee. Form I-539 is available under "Immigration Forms" at <http://www.uscis.gov/>

Premium Processing

Premium Processing is an expedited service that is available from the U.S. Citizenship and Immigration Services (USCIS) for H-1B petitions. The USCIS charges a \$1,000 fee in exchange for 15-calendar day processing. USCIS guarantees that within 15 days they will issue either an approval notice or a request for evidence. If the USCIS fails to process the petition within 15 days, it will refund the \$1,000.

Generally, the Department is responsible for paying this fee, although there may be cases where the beneficiary may choose to pay the fee. Please consult ISSS staff for further information.

Sample Letter - A

Conditions of the H-1B and Labor Condition Application

The following statement should be submitted with the H-1B application. It should be on letterhead and signed by the head of the department or division.

Date

To Whom It May Concern:

I agree to the following terms of the labor condition application for the duration of *name of H-1B's* authorized period of stay for the H-1B employment:

Name of H-1B will be paid at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment, whichever is higher.

The employment of *name of H-1B* will not adversely affect the working conditions of workers similarly situated in the area of intended employment.

There is no strike, lockout or work stoppage in the course of a labor dispute in the occupation in which *name of H-1B* will be employed at the place of employment.

A notice of filing of the labor condition applications will be posted for 10 days in a conspicuous place where H-1B nonimmigrants will be employed.

I certify that the *department/division* will be liable for the reasonable costs of return transportation of *name of H-1B* if he/she is dismissed from employment by the employer before the end of the period of authorized stay.

Sincerely,

Signature, name and title of Department/Division Head

Sample Letter - B

Sample Letter Indicating the Statement of the Position

US Citizenship and Immigration Services
California Service Center
P.O. BOX 30040
Laguna Niguel, CA 92607-3004

Dear Sir/Madam:

I am writing in support of an H-1B application for *name of H-1B*. S/He has been offered the position of *title* in *department* at UM-St. Louis at the annual salary of *salary amount*.

In this position *name* will be responsible for the following: *list duties of the position*.

The qualifications for the position are *list of qualifications*. *Name of H-1B* is qualified for the position because of his/her degree from *University* and *list other qualifying experience*.

Sincerely,

Signature, name and title of Department/Division Head

Note: This is a skeleton letter. The actual letter can be adapted to fit the situation. For a position for which the qualification is Bachelor's degree, it is necessary to elaborate on the nature of the position to establish that the position is, in fact, a specialty occupation. Drafts of letters may be submitted to ISSS for review.

Sample Letter - C

Sample letter outlining Terms of Employment

US Citizenship and Immigration Services
California Service Center
P.O. BOX 30040
Laguna Niguel, CA 92607-3004

Dear Sir/Madam:

This is to confirm the terms of the appointment for *name of H-1B*. We are applying for an H-1B for him/her for the position of *title* in the *academic department* at UM-St. Louis, effective *date*. The annual salary is *salary amount*.

Sincerely,

Signature, name and title of Department/Division Head

Note: If the length of the appointment is known, it should be stated. The total H-1B employment may not exceed six consecutive years. For a renewal application, please include a statement that the position is a continuation of a previously approved position.

Sample Letter - D

Certification of Translation

I, _____, certify that I am fluent (conversant) in the English and languages, and that the attached document is an accurate translation of the document entitled _____.

Date

Signature

Name and address of translator

Note: This certification requires that the translation, as well as a photocopy of the original document, be attached.