



**University at Buffalo**  
*The State University of New York*

**Office of International Education**  
Immigration Services

## **H-1B TEMPORARY WORKER STATUS**

### General Considerations

The H-1B category is designed for temporary workers who hold advanced degrees and are employed in specialty occupations. In order to qualify for an H-1B visa, an individual must possess a Bachelor's degree or higher, and receive a job offer from the University. The position must require the use of the degree and be a professional or a specialized position.

H-1B petitions are filed by an employer, not the employee. Moreover, these petitions are "employer-specific;" therefore, if the individual changes employment, a new petition must be submitted to the U.S. Citizenship and Immigration Services (USCIS). Additionally, if an individual will work for more than one employer, separate concurrent H-1B petitions for each employer must be filed with the USCIS. If the beneficiary will be assigned by the sponsoring department to a position in a new location, the sponsoring department is responsible for obtaining the approval of UB Immigration Services, which must obtain and post a Labor Condition Application for that site prior to reassignment.

An individual can remain in H-1B status for a maximum of six (6) years. The initial H-1B can be for up to three years; (an) extension/s must be requested thereafter.

Unlike other types of non-immigrant status, H-1B dependents (spouses and children in H-4 status) are not permitted to work.

There is a limit ("cap" or quota) on the number of H-1B visas available in a given year. Although universities are no longer subject to the "cap", for-profit employers continue to be subject to the H-1B cap.

### Processing Information

The processing of an H-1B Request Packet by UB Immigration Services (UBIS) involves the following steps: (1) Opening and review of the H-1B Request Packet for documentary and legal sufficiency as well as travel- and family-related issues; (2) Prevailing/Actual Wage Procedures (Union Agreement, Occupational Employment Statistics, DOL Prevailing Wage Request (may take DOL 3 to 6 weeks to issue), or Survey); (3) revision of department support letters, requests for further evidence from department or employee and associated communications; (4) initiation of Public Access File; (5) preparation of Labor Condition Application(s); (6) compliance with LCA posting and DOL-

mandated notice procedures; (7) preparation of forms, including forms for dependents, and assembly of petition while DOL processes LCA (DOL will issue certified LCA no earlier than 7 calendar days from date of filing); (8) finalization of Public Access File; (9) assembly and review of petition; (10) signing of forms by designated officials and dependents, if applicable; (11) final review and submission of petition to USCIS; (12) scanning and dissemination of receipt Notice(s); (13) scanning and dissemination of electronic and hardcopy Approval Notices; (14) furnishing of assistance with consular procedures and travel to ensure procurement and maintenance of immigration status by the employee and family, if applicable.

Depending upon the time of the year and government resource allocation, it typically takes between 4 to 6 months in total for the U.S. Department of Labor (DOL), USCIS and the U.S. Department of State to complete processing of an initial H-1B petition and issue the H-1B visa. Accordingly, hiring units should submit H-1B Request Packets at least 6 months before the proposed start date in order to ensure timely processing of their request.

The receipt notice from USCIS will indicate a processing time of 30-120 days. As these forms are standard, they do not accurately report current processing times. Please note that individuals from certain countries may experience longer visa processing times because of 9/11/01-related background checks.

There is a method for expediting petitions with the USCIS called “premium processing.” For an additional fee of \$1,225, USCIS will review the H-1B petition within 15 days of its receipt of a premium processing request. A departmental request for premium processing will shorten the amount of time USCIS will take to process the H-1B petition but does not affect processing times at UBIS because H-1B Request Packets are, absent extraordinary circumstances, processed in the order in which they are received.

### USCIS Filing Fees

The following filing fees must accompany H-1B petitions. **All filing fee checks should be drawn on a bank or other institution located in the U.S. and made out to the “U.S. Department of Homeland Security.”**

- \$325 USCIS filing fee **AND**
- \$500 Fraud Prevention and Detection fee\* **AND**
- \$1,225 for premium processing, if desired
- \$290 for dependents who are already in the U.S. (\$290 regardless of the number of dependents)

**\*Note: The \$500 Fraud Prevention and Detection fee must be paid by the employer and, therefore, must be drawn on an employer check. The U.S. Department of Homeland Security will not accept personal checks for this fee.**

### Legal Services Fees

For individuals who will be employed at the University at Buffalo, the following charges will be invoiced to the department or individual requesting the H-1B status:

- \$1,200 for initial H-1B petition **AND**
- \$200 for dependents who are already in the U.S.

These fees recover some of the costs of evaluating, preparing, submitting and monitoring the progress of H-1B petitions with the U.S. Department of Labor, and U.S. Immigration and Citizenship Services.

7/2011