



University at Buffalo
The State University of New York

Office of International Education
Immigration Services

H-1B TEMPORARY WORKER STATUS: EXTENSION

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 must 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). Moreover, if an individual will work for more than one employer, separate concurrent H-1B petitions for each employer must be filed with the USCIS.

An individual can remain in H-1B status for a maximum of six (6) years. Therefore, if the initial grant of H-1B status was for three years, then an extension of no more than three years can be requested.

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 H-1B extension process involves three stages: 1) a prevailing wage application to the New York State Department of Labor, 2) a Labor Condition Application to the U.S. Department of Labor, and 3) an H-1B petition to the U.S. Citizenship and Immigration Services. Generally, processing by the New York State and U.S. Departments of Labor (DOL), and the USCIS takes 4-6 months.

The H-1B process begins with an application to the New York State Department of Labor, where a prevailing wage determination is made with respect to the minimum wage the individual should be offered as compensation for the position. A determination from the NYS DOL can take up to three weeks.

The second step is to submit a Labor Condition Application (LCA) to the U.S. DOL. Certification generally takes one to two days. Once the approved LCA is received, it is attached to the H-1B petition, which is filed with the USCIS.

The H-1B extension petition may remain pending at the USCIS for a period of three to four months (or longer). The receipt notice from the USCIS will indicate a processing time of thirty to one hundred and twenty days. As these forms are standard, they do not accurately report current processing times. Please note that individuals from certain countries may experience longer processing times because of 9/11/01-related background checks.

USCIS Filing Fees

The following USCIS filing fees must accompany H-1B petitions. **All filing fee checks should be drawn on a bank located in the U.S. and made out to the “U.S. Citizenship & Immigration Services.”**

- \$320 USCIS filing fee
- \$500 Fraud Prevention and Detection Fee (unless this H-1B petition filing is your second or subsequent request for an extension)
- \$300 for dependents who are already in the U.S. (\$300 regardless of the number of dependents)

Legal Services Fees

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

- \$750 for an H-1B extension petition
- \$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 New York State and U.S. Departments of Labor, and the U.S. Citizenship and Immigration Services.