Steps for Initiating an H-1B Petition

To initiate an H-1B application, the following information must be completed and submitted to International Student & Scholar Services (ISSS) at Campus Mail Code A7000.

1. **H-1B Worksheet**
   Information from this form is used to prepare the H-1B petition. The Worksheet includes a statement on the Return Travel Guarantee: the department must agree to provide one-way return transportation to the home country or country last resided in outside the U.S. if the employment is terminated prior to the end of the H-1B period for which the department petitioned. This guarantee is signed by the dean/director or chair of the department.

2. **Statement of Actual Wage Determination**
   Information from this form is used to determine the “actual wage,” which is defined as the wage paid by the employer to all other individuals with similar experience, qualifications, education, job responsibility and function, and specialized knowledge for the employment in question.

3. **Export Control Certification**
   U.S. Citizenship and Immigration Services (USCIS) has changed its form I-129, adding a section that requires mandatory review and certification relative to export controlled technology or technical data released to a prospective employee. More information about export controls is available through the UT Austin export controls training module (SP 701) that can be found on the personal compliance page ([https://utdirect.utexas.edu/cts/index.WBX](https://utdirect.utexas.edu/cts/index.WBX)) and on the export controls website ([http://www.utexas.edu/research/osp/export_control/index.html](http://www.utexas.edu/research/osp/export_control/index.html)). It is now mandatory that you review the SP 701 training module and the export control website before answering the below questions in advance of preparing the visa petition, so the H-1B packet for the Department has been updated accordingly.

4. **Letter of Support**
   The sample letter offers guidelines on what should be placed in the blanks of the letter of support. Once you have completed the letter, have it signed by the department chair, dean or director.

5. **Copies of employee’s documents** (listed in H-1B Packet for Employee)
   Once all of the above forms and documents are received, the ISSS Faculty and Scholar Advisor will request the prevailing wage determination from the Texas Workforce Commission.
**Prevailing Wage**
The prevailing wage determination is the wage the TWC determines is the average wage paid to all similarly employed individuals within a certain area (city, state, region).

- It may take up to four weeks to receive the prevailing wage determination.
- The salary for your employee must be at least 100% of the prevailing wage in order to proceed to the next step in the process of obtaining the H-1B.
- If the salary does not meet 100% of the prevailing wage, the salary must be raised or an alternate prevailing wage source must be consulted in order to proceed. If this occurs, the Faculty and Scholar Advisor will contact the department about the determination and discuss the alternatives.

Once the prevailing wage is met, the Faculty and Scholar Advisor will file the **Labor Condition Application (LCA)** with the Dept. of Labor and post the LCA on the UT Austin website for 10 business days.

The Faculty and Scholar Advisor will attest to the following when filing the LCA:

- H-1B employees will be paid at least the actual wage or prevailing wage, whichever is higher;
- The employment of H-1B internationals will not adversely affect the working conditions of other workers similarly employed;
- A copy of the LCA will be provided to the H-1B employee and notice of the LCA will be posted on the employer’s website for 10 business days

**NOTE:** The University is able to make these attestations based on information provided by the department on all required forms. Therefore, it is very important that these forms are filled out completely and correctly.

The Faculty and Scholar Advisor will also complete the Form I-129 and email it to the department with the check request instructions. Once the checks are picked up from the Office of Accounting and delivered to ISSS, the H-1B petition is ready to be submitted to USCIS.

All the information is compiled and mailed to USCIS with the checks for the appropriate USCIS fees. The **filing fee of $325** is required for all H-1B petitions; the **anti-fraud fee of $500** is required for new and transfer petitions only. Both fees are paid by the employing department. The filing fee for an accompanying **dependent petition is $290.** If the employee or department wants the USCIS to adjudicate the petition within 15 days, the **$1,225 premium processing fee** may be paid.

**NOTE:** A transferring H-1B employee may begin employment once the University receives the receipt of filing from USCIS. Both the department and the employee must sign a memo stating the possible consequences of beginning employment prior to approval. This temporary work authorization may not be advisable in all situations.
USCIS will mail a receipt of filing to ISSS.

The receipt is usually received within three weeks. Processing times for approval of the H-1B petitions vary depending on time of year, taking from 3 to 6 months.

**H-1B Approval Notice arrives.**

Once the petition is approved, the Form I-797--Notice of Action (H-1B approval notice) will be mailed to ISSS. The Faculty and Scholar Advisor will notify the department and the employee. The employee will pick up the documents and take them to the Human Resource Services (Records Section) or the administrator in the employing department, where he/she will complete or update his/her I-9.

If the employee is out of the U.S., the documents will be sent to him/her for the visa application at the U.S. Consulate. The employee may usually enter the U.S. up to 10 days prior to the start date on the approval notice and will present the H-1B documents to the department upon arrival at UT for completion of the I-9.