

ACADEMIC PERSONNEL & FACULTY

UNIVERSITY *of* WASHINGTON

H-1B BASICS



International Scholars Operations (ISO)

02/12/2025





AGENDA

- > **What is an H-1B?**
- > **H-1B Process**
- > **Labor Condition Application**
 - Prevailing Wage
 - Actual Wage
 - Posting and Filing
- > **Filing with USCIS**
- > **Changes to H-1B Employment**
- > **Q&A Break**

H-1B TEMPORARY WORKER

- > **Worker coming to U.S. to work in a “specialty occupation”**
- > **Position must require at least a bachelor’s degree in a relevant field**
- > **More compatible with application for permanent residence than J-1, F-1, TN, or E-3**
- > **Filing fees of up to \$3,765**



H-1BS ARE HIGHLY REGULATED

- > Employer-, site-, and position-specific**
- > Require wage protections and notice to workers**
- > Changes must be reported to Department of Labor (DOL) and U.S. Citizenship and Immigration Services (USCIS)**

UW SPONSORSHIP OF H-1BS

Full-time appointments in the following titles/ranks:

- > **Professorial including acting; teaching, research, clinical salaried, and clinical practice tracks**
- > **Lecturers Full-Time Temporary**
- > **Acting Instructors**
- > **Postdoctoral Scholars, if in the U.S. and exhausted another status (usually F-1 OPT or J-1)**
- > **Medical Residents and Fellows (by exception only)**
- > **Staff (with eligibility screen from UWHR; must exhaust F-1 OPT)**



H-1B PROCESS



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VISA REQUEST PROCESS (GENERAL)

Pre-Request

- Unit gathers information on the **H Visa Intake Form**
- Submits **H Visa Request Form** online

Visa Request

- APF reviews **H Visa Request Form** and contacts unit with questions
- APF sends a PDF of the **approved H Visa Request**

*Review may include gathering documents to confirm visa or appointment eligibility.

*Contact ISO regarding any changes after conditional approval is issued

Post-Request

- Unit gathers **supporting documentation**
- Unit gets signatures on **approved H Visa Request**
- Unit returns **approved H Visa Request**, with supporting documentation, to ISO for further processing
- ISO initiates next steps with various government agencies

ADJUDICATION PROCESS

ISO performs initial review and prevailing wage self-determination, requests any missing documents

ISO has the host department post the Labor Condition Application*, then submits it to the DOL

ISO prepares and files the I-129 Petition with U.S. Citizenship and Immigration Services (USCIS)

Scholar applies for H-1B visa at U.S. consulate and enters U.S.
1 week to 2+ months

DOL approves the Labor Condition Application
7 business days

USCIS reviews and approves I-129 Petition
15 business days ** to 12 months

***For CBA positions, ISO will post notice directly to the union**

****With payment of \$2,805 Premium Processing Fee to USCIS**

PROCESSING TIMES

- > **Federal agency processing times change regularly**
- > **ISO tries to anticipate times throughout the process**
- > **We currently suggest submitting the visa request at least**
 - 7 months ahead for new H-1Bs without USCIS premium processing
 - 4 months ahead for amendments, extensions, and changes of employer, and for new H-1Bs with USCIS premium processing
- > **These suggested times are subject to change**
- > **Remember: ISO can process LCA and I-129 petition only after the unit provides supporting documentation, so units should provide the packet as soon as possible after conditional approval**



LABOR CONDITION APPLICATION



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WHAT IS THE LABOR CONDITION APPLICATION?

The Labor Condition Application (LCA) is meant to protect the rights and working conditions of U.S. workers and H-1B workers.

By submitting the LCA, we do the following:

- > Lock in dates, salary minimum, and worksites for the H-1B employee.
- > Make promises regarding notice and working conditions for the H-1B employee and other workers.

WHAT PROMISES?

On the LCA, the employer must promise that:

- > Employer will pay H-1B employee at least the “required wage”**
- > Employer has given notice to U.S. workers**
- > No strike, lockout, or work stoppage is taking place**
- > Employment of H-1B employee will not adversely affect working conditions of U.S. workers**

Some of these promises require additional documentation, which ISO keeps in a “public access file” as required by law.

WHAT IS THE REQUIRED WAGE?

The required wage is the higher of:

> **Prevailing wage**

Average wage paid to similarly employed workers in a specific occupation in the geographic area of intended employment.

> **Actual wage**

Rate paid by employer to “all individuals with experience and qualifications similar to the H-1B nonimmigrant's experience and qualifications for the specific employment in question at the place of employment.”



PREVAILING WAGE DETERMINATIONS



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WHAT IS THE PREVAILING WAGE?

Average wage paid to similarly employed workers in a specific occupation in the geographic area of intended employment.

- > **For CBA positions, prevailing wage is set by CBA.**
- > **For all non-CBA positions, ISO will do a self-determination to move the H-1B forward.**
- > **For some non-CBA positions, ISO will request a determination from the Dept. of Labor to support**
 - Permanent residence sponsorship, or
 - UW's prevailing wage compliance.



PREVAILING WAGE SELF-DETERMINATION

ISO will use the Prevailing Wage Intake Form (and job ad, if competitively recruited) to choose an occupational category (“SOC”) and wage level (1-4) based on job duties and requirements, and assign a prevailing wage based on the Department of Labor’s local wage data.



FOR EXAMPLE:

An acting instructor position performing research in the Department of Biochemistry, with a requirement for 5 years of postdoctoral experience:

Category: 19-1021 Biochemists and Biophysicists

Wage Level: 2

Wage: \$60,112/year

FOR EXAMPLE:

An acting instructor position performing teaching and research in the Department of Biochemistry, with a requirement for 5 years of postdoctoral experience:

Category: 25-1042 Biological Science Teachers, Postsecondary

Wage Level: 2

Wage: \$83,923/year



PREVAILING WAGE PROBLEMS

- > Sometimes ISO's prevailing wage self-determination will result in a wage higher than that offered to the H-1B employee
- > Sometimes DOL will issue a prevailing wage determination higher than that listed on the H-1B petition

We'll talk about how to deal with these problems in our Advanced H-1B training next month!

PREVAILING WAGE TIPS

When you fill out the Prevailing Wage Intake Form:

- > Describe the job in detail, including whether or not it is “entry-level” or involves training or direct supervision
- > Provide all requested information, especially regarding teaching/instructional duties.
- > List the absolute minimum required experience, training, and education for the position – NOT the beneficiary’s qualifications
- > Confirm unusually high experience requirements
- > Match requirements to those listed in the ad

ISO will contact you with any questions or concerns we have.



ACTUAL WAGE



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HOW IS THE ACTUAL WAGE DETERMINED?

Unit includes wages paid to similarly-situated workers in the appointing unit on the Actual Wage Memorandum in the H-1B packet.

H-1B employee must not be paid less than all other similarly-situated workers.

WHO IS “SIMILARLY-SITUATED”?

- > **Generally, workers in the same title in the same appointing unit**
- > **If your unit has many employees in the same appointment title, you can further differentiate by**
 - education
 - experience
 - skills/specialized knowledge
 - job responsibilities and duties
 - publications
 - license/certification
 - other “legitimate business factors”
 - Are they in a different lab?
 - Are they doing different work?
 - Are they a PI?
 - Are they the most senior/junior?

FOR EXAMPLE:

Which employees would you include on the Actual Wage Memo for Alpha?

Name	Title	Unit	Degree field	Years of experience	Salary
Alpha	Postdoctoral Scholar	Microbiology, Zeta Lab	Biochemistry	2	\$69,829
1	Postdoctoral Scholar	Microbiology, Theta Lab	Microbiology	3	\$71,226
2	Acting Instructor	Microbiology	Pharmacy	4	\$61,572
3	Postdoctoral Scholar	Microbiology, Zeta Lab	Biochemistry	1	\$68,460
4	Acting Assistant Professor	Microbiology	Microbiology	2	\$85,000



THERE ARE MULTIPLE RIGHT ANSWERS

- > You can include both postdoctoral scholars (1 and 3) on the Actual Wage Memo.**
- > You could include only the postdoctoral scholar with a degree in the same area (3).**
- > Since both postdoctoral scholars are at different experience levels than the H-1B employee, you could choose to include neither.**
- > But you can't include people in other titles (2 and 4) in the same unit.**



POSTING AND FILING



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POSTING NOTICE

- > **For CBA cases, ISO sends notice directly to the union**
- > **For non-CBA cases, notice can be posted**
 - **Physically:**
 - Posted at two locations in each worksite for ten business days
 - **Electronically:**
 - Emailed to faculty or departmental listserv, or
 - Posted on intranet (departmental internal website) for ten business days
- > **Notice must be posted before ISO can submit LCA**



SUBMITTING THE LCA

DOL has seven business days to approve LCA once submitted.

ISO advisors may reach out after submitting LCA for any remaining documentation.



FILING WITH USCIS



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WHAT IS THE PETITION TO USCIS?

USCIS is the agency that grants most immigration benefits in the U.S.

The I-129 petition filed with USCIS is our request to employ someone in H-1B status.

WHAT DO WE FILE WITH USCIS?

- > Filing fee check(s) or Form(s) G-1450 for credit card payment**
- > USCIS Form I-129 Petition for a Nonimmigrant Worker**
- > Evidence that position is a “specialty occupation”**
- > Evidence of employee’s immigration status and history**
- > Evidence of employee’s qualifications**

ISO will provide unit with a copy or scan of everything we file with USCIS.

USCIS PROCESSING TIMES

- > **Current processing times for all H-1B petitions:**
3.5-4.5 months
- > **Historical processing times:**
2 weeks to 10 months

Processing may also take longer if USCIS issues a “Request for Evidence”

PREMIUM PROCESSING

- > \$2,805 fee paid to Department of Homeland Security**
- > Must be paid by unit**
- > USCIS will take action (approval, request for evidence, or denial) within 15 business days of receipt**
- > Does not expedite action by other agencies (DOL, Department of State) or by ISO**
- > Sometimes USCIS suspends Premium Processing during peak periods**

APPROVAL

- > **USCIS will mail approval notice with dates of H-1B status to ISO**
- > **ISO will forward approval notice to unit by campus mail unless you request documents be held for pickup**
 - Unit can provide FedEx labels to have documents sent directly to employee
- > **Unit gives the approval notice to the employee**
 - They will need the original as proof of status and to reenter the U.S. after international travel



CHANGES TO H-1B EMPLOYMENT





BEYOND INITIAL H VISA REQUESTS

You must submit a new H Visa Request, with supporting documentation, for any of the following:

- > **Extend** the person's H-1B status
- > **Change** the person's appointment **title or worksite**
- > **Move** an H-1B already at UW to your department
- > **Transfer** an H-1B already in the U.S. to UW

Submit as early as you can, but we recommend at least **four months in advance**.

ENDING H-1B EMPLOYMENT

- > **H-1B employers must report any early termination or resignation to DOL and USCIS**
- > **If an H-1B employee resigns or is terminated, contact ISO**
- > **For any early termination, employing unit must offer to pay the “reasonable costs of repatriation” to the employee’s home country**

WHAT'S NEXT

- > **The H-1B Advanced workshop (03/12) will cover:**
 - H-1B history and policy affecting UW sponsorship
 - H-4 dependents
 - Time limits on H-1B eligibility
 - Troubleshooting H-1B problems
 - More tips and tricks

If you have an area you'd like addressed, please let us know!

Q & A

Q: Are DocuSign signatures allowed on visa request documents?

A: Yes, DocuSign signatures and other e-signatures are allowed on all visa request documents **except the G-1450 Credit Card Authorization**, which requires a wet (ink) signature; however, we can accept scans (rather than originals) of those.

Q: Can we use different teams/sub-teams as a differentiating factor on the Actual Wage Memo?

A: Yes, if that's a meaningful distinction in your unit. You can either list everyone and include team/sub-team as a differentiating factor, or only list the employees on the same team/sub-team.



RESOURCES



[ISO Landing Page](#)

[H-1B Landing Page](#)

[How to Sponsor an H-1B Page](#)

[H-1B Visa Request Form](#)

[H-1B Required Documents](#)

[APF Visa Blog Posts](#)

