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## General Information on the H-1B Employment Process

The H-1B immigration status is intended for businesses or organizations that wish to hire an employee who is not a U.S. citizen or permanent resident for a specialty occupation.

A “specialty occupation” is defined as an occupation that requires “(A) theoretical and practical application of a body of highly specialized knowledge, and (B) attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.” *INA 214 (i)(1)*

To put this in context for UIU, an H-1B can only be requested for individuals who have earned a bachelor’s or higher degree who are expected to work in a position that requires at least a bachelor’s degree. An individual is eligible for an H-1B for a period of up to 6 years. However, UIU can only request H-1B status for up to 3 years per petition.

All H-1B requests and questions for Fayette and all U.S. centers must be directed to the Center for International Education in Fayette. The CIE will assist the hiring department in compiling the H-1B petition and answering any questions.

### H-1B Application Process

UIU may be required to:

- 1.) Obtain a Prevailing Wage Determination (ETA Form 9141) from the Department of Labor’s National Prevailing Wage Center (NPWC).
- 2.) Submit a Labor Certification Application (LCA) (Form ETA 9089)
  - A labor certification is a finding by the U.S. Department of Labor (DOL) that there are not sufficient U.S. workers in the geographic area of employment who are able, willing, qualified and available to do the job in question and that the employment of an alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.
  - This application can only be submitted by the Employer or the Employer’s attorney(s).
  - The DOL will review and certify the LCA and then return it to UIU. The LCA must be certified by DOL before the H-1B process can be continued.
- 3.) Submit an H-1B Petition (Form I-129, certified LCA, and supporting documentation)
  - In conjunction with the potential employee, it must be determined whether a change of status or a request for consular adjudication is appropriate.
    - i. Change of Status Request – This would most likely be used for individuals currently in the U.S. in another immigration status and who do not plan on leaving the U.S. before beginning their employment. If the individual plans to

- travel outside of the U.S. after the H-1B petition has been approved, the individual will then need to apply for an H-1B visa before reentering the U.S.
- ii. Consular Adjudication Request – This would most likely be used for individuals not currently in the U.S. or those who wish to return to their home country before beginning employment. This process will require the individual to obtain an H-1B for entry to the U.S. before beginning employment.
- This form is submitted to the U.S. Citizenship and Immigration Services (USCIS) for review and processing.
  - This form must be submitted within 180 days of the LCA's approval.
  - Upon approval, the applicant (UIU) will be issued an approval notice (Form I-797).

### **Associated Fees and Costs**

All fees for an H-1B application must be paid by the university.

Labor Certification Application:

- The university is responsible for any attorney fees or other costs required for the preparation and submission of the LCA. However, there is no fee for the LCA that must be paid to the Department of Labor.

Form I-129 (Immigrant Petition for Alien Worker): \$325

Fraud Prevention and Detection Fee: \$500

Form I-907 (Request for Premium Processing): \$1,225

- Requests for Premium Processing may be submitted when timely processing of an application to U.S. Citizenship and Immigration Services is required for some reason.
- Premium Processing means the application in question will be reviewed and processed within 15 calendar days of receipt by U.S. Citizenship and Immigration Services.

### **General Timeline for the Process**

- 1.) Prevailing Wage Determinations (Form ETA 9141) (If needed)
  - The Department of Labor has not issued any guidelines or information regarding processing times. They advise submitting the form at least 60 days before the Prevailing Wage Determination is needed.
- 2.) ETA 9089 ("Labor Certification Application")
  - Official processing time is listed as 7 days from date of submission via the online portal. However, actual processing times can vary if the LCA is determined by DOL to be "incomplete or obviously inaccurate". Some applications appear to take as long as 4-8 months.
- 3.) Form I-129 ("Immigrant Petition for Alien Worker")
  - Official USCIS processing time is listed as 2 months.

### **H-1B Extensions**

An extension for H-1B status must be submitted prior to but no more than 6 months before the expiration of the current H-1B approval.

The H-1B extension process is not as involved as an initial H-1B petition. For an H-1B extension, the following documentation must be submitted:

- Form I-129 (Immigrant Petition for Alien Worker)
- ETA 9089 (Certified Labor Certification Application)
- Additional documentation from UIU proving the employee's status as a current employee
- Additional documentation from the international employee regarding their employment and status.

The associated fees and expenses will be:

- Form I-129 (Immigrant Petition for Alien Worker): \$325
- Form I-907 (Request for Premium Processing): \$1,225

The international employee is eligible to continue working while the petition is pending for up to 240 days after the current H-1B expires. However, this is dependent up on the extension being filed prior to the original H-1B approval's expiration date.