

What is an H-1B visa?

- Temporary work visa for specialty occupations requiring a minimum of a bachelor's degree
- Valid for up to six years; visas can be issued in up to three year increments or less
- Visa belongs to the employer (Rice) and is specific to the job, job duties, work location, and work schedule (full time or part time)
- Salary to be paid must meet "prevailing wage" based on job duties and job location
- Possibility of extension beyond six years is possible if the individual is applying for permanent residency and has reached a specific status within the permanent residency application process
- For corporate employers there is a quota limit on the number of H-1B visas granted within a year; universities are exempt from the quota

H-1B Program Requires

- Prevailing wage determination,
- Attestation to Department of Labor (through proof of good faith recruitment),
- Maintenance of a Public Access File,
- And is subject to audit from the Department of Labor (DOL) and United States Citizenship & Immigration Services (USCIS)

Cost/Fees (for Universities)

- Estimated cost for are \$4,000 to \$4,500. This includes required anti-fraud fee, premium processing, revocation fee if necessary and fees for family members.
- Anti-fraud fee (\$500) is required for the individual's first Rice H-1B visa (not extensions and must be paid for by Rice; it cannot be paid for by the employee. The remainder of the initial H-1B application expenses may be paid by either Rice and/or the employee*.
- Revocation fee (\$215) is paid for by Rice and is required if the employee leaves Rice, involuntarily or voluntarily, before the end of their H1B visa end date. This fee also applies if the individual remains at Rice but changes status (i.e., move from H-1B to permanent resident.)
- Premium processing is available for \$1,475.
- For Postdoctoral Research positions, there is a fund to help pay for legal fees, which is sponsored by the Office of the Provost, but co-administered through the Office of International Students & Scholars (OISS) and the General Counsel's Office. Since the funds are limited, they are used on a first-come, first-serve basis, and may not to be used for "premium processing". For additional information, please contact Adria Baker in OISS.

**Ability for employer or employee to pay is currently under review by USCIS.*

Agency Involvement

- Department of Labor (DOL) —governs wage, recruiting and compliance.
- Foreign Labor Certification Data Center Online Wage Library determines prevailing wage for the area of employment.
- United States Citizenship & Immigration Services (USCIS) —adjudicates temporary employment based petitions, collects data and issues immigration benefits.
- US Embassies—issues entry and travel visas.
- US Customs and Border Protection (CBP)—determine status legibility at the US port of entry.

Processing Time for Visa

- Preparation for application – two to four weeks to gather information and complete all necessary forms. Requires information gathering from the individual as well as from the Rice department.
- Application processing and review by government – three to five months. Takes three to five weeks if “premium processing” is requested and fee (\$1,475) is paid.

When Employment Can Begin at Rice

If...	Can begin work and pay...
the individual is not working for Rice currently and this will be his/her 1 st H-1B visa (i.e., moving from F-1 or J-1 visa to H-1B visa)	when the <u>Approval Notice</u> is received by Rice from US Citizenship & Immigration Services (USCIS)
the individual is not working for Rice currently, but is coming to Rice directly from his/her previous employer where he/she had an H-1B visa (<i>this is known as “porting” his/her H-1B to Rice</i>)	when USCIS receives the visa application and issues a receipt notice (Form I-129)
the individual is currently a Rice employee and is moving from another work visa (i.e., J-1, F-1) to an H-1B visa	when the <u>Approval Notice</u> is received by Rice from US Citizenship & Immigration Services (USCIS)
the individual is currently working at Rice, has an H-1B visa which is ending, and a visa extension is being requested	continue to work for Rice even after the current H-1B expires for up to 240 days when USCIS receives the visa application and issues a receipt notice (Form I-129)

When Must an H-1B Visa be Amended?

The H-1B visa is filed and approved based on a specific job (job duties, job schedule (full time or part time), salary and work location).

If there is a “material” change to any of these factors, then an H-1B amendment may be required. The department should be in contact with Diana Garcia Acero in the Rice Human Resources Office as soon as a change is being considered.

Examples of some “material” changes that require an amended H-1B before an individual can make the change include:

- Move from full time to part time status (or vice versa)
- Change in actual job duties (not funding) or adding additional work duties (ex: teaching a course if teaching was not part of the original H-1B application.)
- Changing work location (i.e., working in lab within the TMC)
- Decrease in salary.

Amendments can take 3 to 4 weeks to process and cost the same as a regular H-1B minus the \$500 anti-fraud fee.

Depending on the change, the employee cannot begin to work under the new hours, duties, salary or work location until the amended H-1B visa petition (Form I-129) has been received by USCIS.

Terminating Visa

- If an H-1B employee (including postdocs) leaves Rice either voluntarily or involuntarily before the end of his/her H-1B visa (not always the same as their Rice appointment period), Rice will have to pay the \$200 revocation fee to have the H-1B revoked.
- If the employee is terminated involuntarily or is not reappointed through the end of his/her H-1B visa end date, then the employer must offer to pay for “reasonable return transportation” to their home country.
- Offer should be made in writing. If the individual declines return transportation, this also should be documented in writing.
- Revocation of the H-1B visa is sent by Rice’s outside immigration attorney to the Department of Labor and U.S. Citizenship & Immigration Services, thus relieving Rice from further payment obligations and responsibilities for the H-1B employee. Revocation of the H-1B is necessary to limit payment obligations.
- The H-1B employee should be advised with as much notice as possible of their Rice end date in order to plan ahead for other employment opportunities, immigration options, etc.
- In these situations, H-1B employees should be directed to contact Adria Baker to discuss other possible visa options.