

# **Establishing an H-1B Visa for Staff Employees (including researchers)**

## **Initiating the H-1B Visa Process**

- Prospective employee or current employee requests sponsorship for an H-1B Visa.
  - Department consults with the Office of International Students & Scholars (OISS) via telephone, e-mail or in person, to ensure that H-1B is the appropriate visa option and that individual meets criteria.
  - Department finalizes details with employee/applicant regarding fees/costs and who will pay what expenses. **University (Department) must pay for \$500.00 anti-fraud fee. Employee/applicant or Rice may pay the following costs:**
    1. Legal Fee of \$1500
    2. Filing Fee of \$325 to USCIS
    3. Dependent H-4 filed with principal – Legal Fee of \$250 and Filing fee for I-539 of \$290 (one application covers spouse and all children under 21)
    4. Dependent H-4 filed alone - Legal Fee \$500 and Filing fee for I-539 of \$290 (one application covers spouse and all children under 21)
    5. Request for Premium Processing – Legal Fee of \$250 and Filing Fee of \$1225
    6. Misc. expenses for courier, copies etc. of estimated \$80

***\*Please note that effective Nov. 23, 2010, the filling fees for most petitions and applications increased.***
  - Department notifies Human Resources (HR) of need to sponsor for an H-1B by sending “Approval to Initiate or Extend H-1B Visa Application for Faculty & Staff” form signed by department chair/head along with print out of current job description from RICEWorks to the Director of Recruitment (MS 92).
  - HR reviews job description and “Approval to Initiate or Extend H-1B Visa Application for All Faculty & Staff” form. If there are any problems at this point with the job description, Human Resources will work with the department to clarify job description and make sure it can meet requirements for Labor Condition Application (LCA).
  - HR contacts pre-approved immigration attorney’s office and copies OISS:
    1. Informs them of need to sponsor Staff employee/applicant for H-1B.
    2. Emails job description and tells them who will be the departmental contact for additional information and the arrangements of fee/payment agreement (who is paying what).
- NOTE: Utilization of firms that have not been pre-approved need to be cleared through the General Counsel’s Office.***
- HR forwards to sponsoring department the “Export Control I-129 Compliance Form”. The hiring supervisor will fill out the form and sign it. The form should then be passed on to the department chair for review and signature and lastly to the dean for review and

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signature. Any questions that arise in regards to filling out the form should be directed to the Office of Sponsored Research (Craig Conway or Sarah White).

- After the “Export Control I-129 Compliance Form” has been completely filled out and signed by all the appropriate parties, then it will be sent to OSR. OSR will complete the form based on how the form was answered by the department and sign it.
- OSR will pass the form back to Human Resources, as it is important to do so because the form attests to Part 6 of the I-129 form. HR will make a copy and will forward the form to the immigration attorney’s office in order to complete the I-129 form. \*\*H-1B paperwork that will need to be submitted United States Customs & Immigration Services (USCIS) will be on hold until the “Export Control I-129 Compliance Form” is returned to Human Resources.\*\*

***(The following steps will run concurrently with previous 3 steps)***

### **Preparing Documentation to Support Labor Condition Application (LCA)**

- Immigration Attorney’s office contacts departmental contact and staff employee/applicant to discuss details of the H-1B process and have the staff employee/applicant complete the employee information sheet and document check list. Employee returns information to attorney once completed.
- Once all information is received from department and staff member, the immigration attorney will obtain “prevailing wage” for job from the Texas Worksource.
- Immigration attorney prepares and emails the *Initiated* Labor Condition Application (LCA) along with the *Notice of Filing* to Human Resources for review and approval. Included in the email will also be the obtained prevailing wage, which will be included in Public Access File.
- Upon HR review/approval, the *Notice of Filing* LCA posting is placed in 2 conspicuous locations for 10 business days and HR proceeds to email immigration attorney’s office immediately after posting to confirm that the posting period has begun.
- At the same time, HR will compile the Public Access File for applicant. It is required that the Public Access File is initiated as soon as notices are posted.
- Included in Public Access File:
  - LCA Cover Pages
  - Initiated LCA (replaced by Certified LCA when available)
  - Wage rate, which is included in LCA
  - Description of Actual Wage System
  - Copy of prevailing wage and it’s source
  - Notices of Filing LCA (2) – when 10 day posting period is completed
  - Summary of benefits

### **Labor Condition Application Submitted to Department of Labor through iCert**

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- Once the immigration attorney's receive the email from HR, they proceed to certify the LCA electronically through the Dept. of Labor's iCert program, which according to DOL regulations may take 7-10 business days for an official decision to be made about the LCA.
- The immigration attorney's office will also finalize the H-1B petition packet and proceed to send it to HR for signatory review and signatures. *\*\*The immigration attorney's office will hold off on sending the packet to Human Resources if the "Export Control I-129 Compliance Form" has not been returned. This will delay the processing time it takes to get the H-1B for the employee\*\**
- HR will:
  1. Review, approve and return signed H-1B petition packet and support letter (provided by immigration attorney's office via email) to attorney's office for filing with United States Customs & Immigration Services (USCIS).
    - ❖ Packet includes: G-28 – Notice of Entry of Appearance as Attorney (3 pages), I-129 – Petition for a Nonimmigrant Worker (2), I-129 – H Supplement (2), I-129 – Data Collection Sheet (2), Statement of Support of H-1B Petition (2).
  2. Remove the LCA posting notices at appropriate time, sign the notices and add them to Public Access File.
- The attorney's office will file the LCA with USCIS attesting on behalf of the University that:
  1. H-1B employee will be paid at least the actual wage or "prevailing wage," whichever is higher.
  2. The employment of the H-1B individual will not adversely affect the working conditions for other workers similarly employed.
  3. That at the time of filing the LCA there are no layoffs, strikes, lockouts or work stoppages in the H-1B individual's occupation.
  4. A copy of the LCA will be posted for 10 business days in two places on the employer's premises.

### **Labor Condition Application is Certified**

- Once the LCA is certified, immigration attorney's office will email it to HR. HR will print 4 copies, which are signed by Director of Recruitment. 2 copies are sent back to immigration attorney's office; 1 copy is placed in Public Access File and 1 copy is given to staff member along with Acknowledgement of Receipt of LCA.
- It is required to give a signed hardcopy to staff member no later than the 1<sup>st</sup> day of employment. Staff member must also sign Receipt and return it to HR as record that LCA was provided.

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### **Approval Notice & Final Steps**

- United States Customs & Immigration Services (USCIS) issues “receipt of filing” to employer. *(If H-1B is portable, I-9 can be completed at this time and employment can begin).*
- About 2-5 months the Approval notice (I-797) is received *(2-5 weeks if it was premium processed)*. The attorney’s office prepares the H-1B approval packet and sends it to HR. HR will get in contact with employee/department to inform that approval packet is ready and can be picked up. *(If this is the initial H-1B for this person, I-9 can be completed at this time and employment can begin).*
- Staff member updates appropriate records with new visa status (i.e. I-9 Forms, tax status, immigration database, etc.) to HR, Payroll and OISS.

### **Termination of Employment**

- If Staff member ends employment either voluntarily or involuntarily prior to H-1B visa end date (Receipt Notice End Date), department needs to pay \$200.00 revocation fee in order to terminate Rice’s payment obligations to the employee. Also, the \$200.00 revocation needs to be paid if the employee changes visa status and the H-1B visa needs to be withdrawn.