H-1B Temporary Work Visa Sponsorship Process

The office of Immigration Services at the University of Georgia is responsible for processing all visa sponsorships for international students, scholars, faculty, and staff. International employees needing a U.S. work visa in order to accept or continue employment at UGA may be sponsored by their hiring Department for an H-1B work visa.

Eligibility
Both the position offered and the employee must meet the eligibility criteria set by federal regulation.

**Position Offered**
- Bachelor’s or higher degree or its equivalent is normally the minimum entry requirement for the position
- The degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree
- The employer normally requires a degree or its equivalent for the position
- The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor’s or higher degree.
- May be full-time or part-time. If part-time, the department must agree to track the actual hours worked by the employee (federal requirement even for salaried part-time employees)

**Employee Qualifications**
- Have completed a U.S. bachelor’s or higher degree required by the specific specialty occupation from an accredited college or university
- Hold a foreign degree that is the equivalent to a U.S. bachelor’s or higher degree in the specialty occupation
- Have education, training, or progressively responsible experience in the specialty that is equivalent to the completion of such a degree, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

**Process**
An H-1B sponsorship requires three steps:
1. Request the Prevailing Wage from the Department of Labor (DoL). The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific
occupation in the area of intended employment. If the prevailing wage is higher than
the salary offered, the department will be notified. The department must agree to meet
or exceed the wage set by DoL, or the sponsorship cannot be continued. Prevailing
wages can take up to 8 – 10 weeks to be returned, depending upon variable DoL
processing timeframes.

2. The second step is certification of the Labor Condition Application (LCA), also from DoL.
The LCA cannot be submitted earlier than six months before the anticipated
employment start date, and until DoL has determined the prevailing wage and we have
confirmed that the salary offered to the H-1B employee meets or exceeds that
prevailing wage. After the LCA is submitted, it is certified in seven to fourteen days.
By submitting the LCA, the employer agrees to abide by the following Labor Condition
Statements:
   a. Wages: The employer will pay the higher of the actual or prevailing wage rate,
      pay for nonproductive time, and offer benefits on the same basis as offered to
      U.S. workers
   b. Working Conditions: The employer will provide working conditions (including
      hours, shifts, vacations, seniority-based benefits) which will not adversely affect
      similarly employed U.S. workers
   c. Strike, Lockout or Work Stoppage: There is no strike or lockout in the same
      occupational classification on the LCA
      i. ETA will be notified if a strike/lockout occurs
      ii. No H-1B will be placed at a site with a strike/lockout

3. After the LCA has been certified and our office has received all of the necessary
documentation from the department and employee, we will mail Form I-129 and all
supporting documentation via FedEx or UPS to US Citizenship & Immigration Services
(USCIS), at the cost of the sponsoring department.

Duration
An initial H-1B sponsorship may be requested for up to three years. An extension application
may be filed to allow for an additional three year period. No extension beyond a total of six
years is possible, unless the employee has a pending and backlogged green card application.
The six year total is inclusive of any prior periods of H-1B status with other U.S. employers.

Timeframe
The time required to process an H-1B sponsorship can vary widely depending on the current
status and location of the international employee. An employee who currently holds H-1B
status at another U.S. employer may be able to transfer that status to UGA within 8 – 10 weeks.
An employee who currently holds a different nonimmigrant status in the U.S. will need to either
file a change of status application with the U.S. government, or depart the U.S. once our H-1B petition is approved, apply for the new H-1B visa, and returned to the U.S. Either of these processes may take 6 to 8 months. To ensure timeliness and efficiency our office should be notified as soon as a job offer is accepted by an international employee needing a sponsorship.

Unless the employee already holds H-1B status with another employer, or has alternate work authorization, he or she may not begin working until the H-1B petition is approved, and the approval notice is received by our office. If the employee holds another non-immigrant status that does not allow work, or is outside the U.S., the employee may not begin work until the H-1B approval is received, or the employee receives a valid H-1B visa abroad, and enters the U.S. with H-1B status.

**Costs**

As of winter 2018, the Department of Homeland Security filing fees for an initial H1B sponsorship are as follows:

- I-129 employer petition: $460.00
- Anti-fraud fee: $500.00
- Premium Processing fee: $1,225.00 (only needed if an adjudication is needed within 2 weeks after filing)

The Immigration Services office at UGA is a cost recovery program and so fees are charged for sponsorship services in order to fund the operations of our office. The internal office fee for an H1B sponsorship is $876.00 as of Spring 2018. Our Fee information sheet can be accessed online at: [http://issis.uga.edu/docs/Info_Section/IS_Fees_Current_Year.pdf](http://issis.uga.edu/docs/Info_Section/IS_Fees_Current_Year.pdf)

UGA departments paying these fees may pay them from departmental discretionary accounts (foundation, UGARF F&A return (900 accounts), or residual balance (950 accounts).

With the exception of the premium processing fee all the above fees must be paid by the sponsoring department and may not be paid by the employee. The employee may pay the premium processing fee only if the annual salary paid to the employee is at least $1,225.00 more than the prevailing wage for the position set by the Department of Labor.

**Dependents**

Immediate family members (spouse and children under 21 years of age) of H-1B sponsored employees may also be sponsored for H-4 dependent visas. These visas allow for full or part-time study but no employment is possible.
Maintaining Status and Regulatory Compliance

Immigration Services must be notified prior to any change in employment status or conditions, including, rate of pay, full / part-time status, work location, job title or duty change. An amended petition may be required, and must be filed before any changes can be effected. Under no circumstances may the wages of an H-1B employee be reduced prior to notifying the Immigration Services office, and allowing time to assess whether a new petition must be filed.

If the hiring department terminates the employment in advance of the approved end date, the employer must offer to pay the return airfare back to the employee’s home country.

Requests for extensions of H status should be received by the Immigration Services office six months prior to the current expiration date.

Please consult our caseload assignment sheet to find your H-1B immigration advisor:
http://issis.uga.edu/docs/Fac_Scholar_Section/Scholar_caseload_division.pdf

Government Site Visits

USCIS will occasionally send officers to inspect the work site locations and employment conditions of any H-1B sponsored employee. These visits are often random and unannounced and may occur before or after a petition approval. The officer may ask for any information relating to the employment of the international as well as proof of employment (pay stubs or W-2 forms). If an officer does visit your office please notify your immigration advisor immediately.

U.S. Permanent Residency

Employees hired under the H-1B visa sponsorship are often eligible for an additional sponsorship for US permanent residency (a.k.a. “green card”). If the hiring department is interested in a permanent residency sponsorship for an international employee they should contact our office as soon as possible after a job offer is made to the employee.