

H-1B Department's Notice of Required Documents

To: Missouri S&T Department
From: Beth Abner
Re: Sponsoring an H-1B

The following contains information regarding the legal obligations of the employer, an overview of the process and a list of documents needed to file an H-1B petition. Please become familiar with the information before making a final decision to support an H-1B visa. Feel free to call me if you have any questions.

Legal Obligations

Termination. The most infamous regulation concerns termination of employment. In the event you find it necessary to terminate the worker's employment the department is legally obligated to pay the reasonable transportation costs of returning the worker to his/her home country. This obligation extends to the worker and not to the worker's dependents.

Material Change. A second and equally important regulation concerns notifying the USCIS in the event of a material change in employment terms. The H-1B visa is valid for employment only by the sponsoring entity. It covers employment for a particular position, for specific rate of pay, for a specific FTE, and a specific period of time. Before changing any of these factors consultation with HR is necessary. We will help determine if the change can be made and will file the necessary forms with the USCIS.

Prevailing Wage. The prevailing wage is determined by the Missouri Department of Economic Development. The department must pay the prevailing wage or the actual wage whichever is higher. The actual wage is defined as the average wage paid for employees with similar qualifications in similar positions. We must post information containing the prevailing wage (known as the LCA) and we must also provide a copy of the same information to the intended employee.

Strike. Employers can't use H-1B employees to break a strike, and must notify their U.S. workforce when they hire an H-1B worker. Employers cannot make the H-1B employee work under conditions different from their U.S. co-workers, including hours, shifts and benefits.

Not Replace U.S. Workers. The department must make every attempt to find U.S. workers before hiring an H-1B worker. We must also attest that we have not laid off or displaced a U.S. worker and replaced that position with a foreign worker.

Dependents

Beneficiaries living outside the United States should process their dependent visa request through the U.S. Embassy or Consulate they will process through.

Timeline

Here is the outline of the steps and an approximate timeline for each step. Provided that I already have the documents listed below and documents from the beneficiary I can begin the process fairly quickly.

• Obtain Prevailing Wage from the Department of Labor	1-2 weeks
• Prepare I-129, I-129w	1-2 weeks
• Send petition to USCIS	1 day
• USCIS processing time (without premium processing)	6+ months
• USCIS processing time (with premium processing)	15 calendar days

Documents Needed From Department

1. Copy of signed offer letter
2. Copy of the published advertisement for the job

Documents Needed From Department – Continued

3. Letter of Support from the Chairman of the Department. Template attached.
4. Check(s) made payable to US Citizenship & Immigration Services, California Service Center, 24000 Avila Road, 2nd Floor, Room 2312, Laguna Niguel, CA 92677.

(Please request a HOLD on the checks and HR will pick them up from accounting!)
 - \$460.00 filing fees for Form I-129 Petition for Alien Worker
 - \$500.00 for Fraud Prevention/Detection (for **new** H-1B assignment to Missouri S&T)
 - \$1225.00 for Form I-907 Premium Processing (optional)
5. Department's FedEx Account Number to be charged for shipment of documents
6. Statement of Actual Wage Determination (see attached)
7. Internal Export Compliance Form (see attached)
8. The department will be charged a \$1000 fee by HRSAADI for all H-1B Initial, Extension and Transfer petitions. An HRSAADI representative will request a MOCODE from the department after the H-1B process is complete.

Statement of Actual Wage Determination

INSTRUCTIONS: *The person in the employing department who is responsible for employment issues should complete this form. The prospective employee should not have access to the information required of this worksheet as payroll information is confidential.*

Documentation on the actual wage determination is required by Department of Labor regulations in order to ensure that employers are paying similarly situated employees equivalent salaries. This statement must specify the criteria used by the employer to differentiate among employees included in the same occupation with similar experience and education.

A. H-1B Employee's Name:

B. Hiring Department:

C. Position Title:

D. Position Salary:

E. Please check which of the following factors were considered in determining salary:

- Degree(s) earned
- Area of specialization
- Previous work experience
- Comparable rate of pay at similar institutions
- Other (please explain):

As required by the Department of Labor (DOL), please provide the following information for those individuals employed in the department at this time with the same job title and similar skills, education and experience as the person for whom the H-1B petition will be filed (use additional sheets if necessary):

Name	Job Title	Highest Degree	MS&T Years of Experience	Current Annual Salary

I hereby certify that the salary listed above reflects the wage level paid to all other individuals with similar experience and qualifications working in this department.

Signature and title of person completing this form

Date

Sample Letter of Support - Type on Department Letterhead

If you need to change the wording to accurately reflect the duties please do so.

United States Department of Homeland Security
United States Citizenship and Immigration Services
California Service Center

This correspondence is in support of the H-1B petition on behalf of _____ .

I am the Chair of the Department of _____ at Missouri University of Science and Technology and in this capacity I participate in the recruiting and hiring of the faculty for the Department.

An offer has been extended to _____ for temporary/full-time employment at will in the Specialty Occupation of _____ in _____ here in the Department commencing (or as soon thereafter as appropriate visa status is granted), and for subsequent years at least through _____ .

_____ will design and conduct experiments, implement apparatuses at the pilot scale, supervise graduate students and lab activities, develop and implement analytical methods and present research results in various settings. He/she will receive an annual salary of \$_____ per year. In addition, _____ will engage in additional research, publication, lecturing, consultation, and other related activities on behalf of the University. The University will provide him/her to those institutions and organizations that request these services, and will compensate him/her in a manner commensurate with his/her efforts. _____ salary will be augmented periodically based in part upon the amount of receipts he/she generates through these professional activities that are within the scope and terms of his/her appointment. The amount of additional compensation is not identifiable at this time.

Sincerely,

Dept



I-129, Petition for Nonimmigrant Worker

Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States

Visa Beneficiary:
Visa Type:
Faculty Sponsor: Sponsoring
Department: Individual
Completing Form:

FOR OFFICIAL USE ONLY
Export Compliance Review
Date
Name
License Required
License Not Required

Please answer each of the following questions to the best of your ability. These answers will assist in the export compliance review for your beneficiary's application.

1) Will the beneficiary be provided access to any University-owned technical data or technology that is considered proprietary or confidential to the University?

Yes No

2) Will the beneficiary be provided access to any third party-owned technical data or technology that is considered proprietary or confidential to the third party owner? *This includes U.S. government furnished technical data with dissemination controls or other restrictive markings, as well as ITAR-controlled software.*

Yes No

3) Will the beneficiary be provided access to equipment specifically designed or developed for military or space applications?

Yes No

4) Will the beneficiary be involved in any research projects?

Yes No

If yes, please answer these additional questions:

a) Will any of the research be sponsored, in whole or part, by either the University or an external sponsor, including the federal government?

Yes No

b) Please provide the project identification number(s), if available.

c) Please describe in detail the research that will be performed, including whether the research results will be taught, published or otherwise shared with the interested public.

Additional comments/questions