Information on Application Process for Continuing in H-1B Status at the University of Minnesota

Effective October 26, 2005, the USCIS standard filing fee for an H-1B petition will be increased to $190.

Effective March 8, 2005, USCIS added a new $500 anti-fraud fee for an initial H-1B. The new fee was in addition to the standard filing fee. The optional premium processing fee of $1000 remained unchanged, as did the ISSS administrative fee. Department of Labor regulations require that employers pay (and not recoup from employees) expenses required for H-1B applications.

The United States Citizenship and Immigration Services (USCIS http://uscis.gov/), part of the Department of Homeland Security, will adjudicate the application prepared by ISSS. ISSS encourages early applications—USCIS processing times vary without notice. Current USCIS processing times are available at https://egov.immigration.gov/cris/jsps/index.jsp Premium processing is a USCIS program which permits processing within 15 days.

This is a general overview only. It is not designed to take the place of direct contact with ISSS. Each employee’s circumstances are unique and any advice or course of action must be tailored to the individual employee’s circumstances and the University department’s needs. ISSS is the point of contact for information and advice. Please do not hesitate to call us with questions.

Description of H-1B

The H-1B legal status is a vehicle that allows U.S. employers to hire qualifying foreign nationals temporarily in certain types of employment positions. The employer is responsible for petitioning the U.S. Citizenship and Immigration Services to obtain permission to hire a particular foreign employee for a particular position. An employee cannot obtain H-1B status on his or her own.

The H-1B status is employer-specific and job-specific. This means a new H-1B petition must be filed and approved before an employee can move from one employer to another, or change from one job to another while working for the same employer. The H-1B duration is a maximum of 6 years (granted in increments of up to 3 years.)

Qualifying Criteria for H-1B

Any petition for H-1B status must meet minimum criteria:

• The position must require theoretical and practical application of a body of highly specialized knowledge and require a minimum of a Bachelor’s degree in the specific specialty as a minimum for entry into the occupation in the United States.

• The employee must have received the required degree before the petition is submitted. The employee must have a diploma or other certification from the institution that all degree requirements have been met.

• The wage for the position must meet the requirements of the USCIS and Department of Labor regulations. ISSS will facilitate this process, but should not be viewed as setting the wage.
**Application Process**

The entire process ordinarily takes 4 to 6 months. The approval of the H-1B can be delayed by requests for more information from the Department of Labor or the USCIS. ISSS takes two to four weeks to process the application.

The government agency process for obtaining an H-1B for an employment position has two phases:

1. The U.S. Department of Labor must review a Labor Condition Application (LCA), to determine that the wage requirement is satisfied. ISSS submits the LCA to the Department of Labor for approval.

2. ISSS submits the petition and approved LCA to USCIS. The U.S. Citizenship and Immigration Services reviews the H-1B petition and the approved LCA, and determines whether to grant the H-1B status.

As the office designated to handle visa issues for the University, ISSS will coordinate all documentation to be distributed to the appropriate government agencies. The USCIS sends the approved H-1B petition directly to ISSS. ISSS will notify the department contact person. The department is responsible for keeping copies of the approved petition and accompanying documents as part of the employee’s records.

**Premium Processing**

Premium Processing is an expedited service that is available from the U.S. Citizenship and Immigration Services (USCIS) for H-1B petitions. The USCIS charges a $1,000 fee in exchange for 15-calendar day processing. USCIS guarantees that within 15 days they will issue either an approval notice or a request for evidence. If the USCIS fails to process the petition within 15 days, it will refund the $1,000.

In order to have an H-1B petition adjudicated with premium processing, either contact an H-1B adviser to discuss your case and/or attach a University of Minnesota check for $1,000 payable to the Department of Homeland Security, written in full.

**Contract/Offer Letter Statement**

In conjunction with the University of Minnesota General Counsel’s Office, ISSS recommends the following statement be included in all contract/offer letters excluding those for tenure-track faculty positions:

`Continuous employment is contingent on annual renewal, satisfactory performance, the availability of funding, your ability to receive work authorization in the United States from the U.S. Citizenship and Immigration Services, and maintain your legal status according to the requirements of your visa category while you are in the United States.`

**Information Specific to H-1B Extension Applications**

For payroll purposes, if the employee has filed a timely application for extension of stay, he/she is authorized to continue employment with the University of Minnesota for a period not to exceed 120 days beginning on the date of expiration of the authorized period of stay. When the application has been sent to the USCIS, a staff member of ISSS will input the information into the Visa Permit Data panel on a future-dated row. This will allow payroll to identify within PeopleSoft® the current visa information and the extension procedure when it is in process. Once the approval is received at ISSS and the department representative has been notified, the employee will need to bring the H-1B Approval Notice to the payroll office at 545 West Bank Office Building (WBOB) to update their I-9 records.

Due to the fact that the `Renewal in Progress` is shown on a future-dated row, the employee will continue to show up with an expiration date on the Payroll Visa Expiration Report until the last day their stay is valid. Department payroll staff may, therefore, wish to view the individual Visa Permit Data panel to make sure `Renewal in Progress` has been entered by ISSS.
H-1B UMN Department Request Form
For UMN Department Use

INSTRUCTIONS: In order to begin processing this H-1B request, PLEASE SUBMIT ALL required forms, supporting documents, and appropriate fees four to six months in advance of start date. Processing currently takes approximately four months. Type or print clearly. All questions must be answered. Write “N/A” where appropriate.

Name of Employee ______________________ UMN Employee ID# ______________________

I. TYPE OF PETITION – Check One

[ ] Extension (Continuation of previously approved H-1B employment without change)
[ ] Amendment (Change in previously approved H-1B employment with title/duties/salary/sponsoring department)
[ ] Extension of Concurrent Employment (Continuation of previously approved H-1B employment without change)

II. INFORMATION ABOUT THE POSITION (All questions must be answered.)

1. Name of sponsoring department ______________________

2. College/Academic Unit ______________________

3. Name of supervisor of the employee ______________________

4. Title of the Supervisor ______________________ Phone # ______________________

5. Employee’s job title at UMN (Please verify with hiring representative in department that this title is available and applicable.) ______________________

       (UMN will consider appointments for less than a semester on a case by case basis. Please contact ISSS for details.)

       [ ] Full Time   [ ] Part Time   ____ Hours/Week

6. Job Class # ______ Appointment Term/Type ______ Job Class Entry Date ________________

7. Non-technical description of position ______________________

8. Intended H-1B employment dates for this position (not to exceed three years) /______/______ to /______/______

       (Dates should correspond to dates in new contract/offer letter.)

9. Annual 100% base salary $ ______________________

10. Is this job covered by a bargaining unit? [ ] Yes   [ ] No   If yes, indicate union name ______________________

11. ALL ADDRESSES where the employee will physically work ______________________

12. Will the employee be eligible for the University’s employee benefits (e.g. medical insurance)? [ ] Yes   [ ] No

13. Is the employee in the process of pursuing permanent residency status (“green card”)? [ ] Yes   [ ] No   If Yes, please explain: ______________________

DEPARTMENT CHECKLIST

A. From Department: (Submit all forms and documents at one time.)

[ ] ISSS Administrative Fee, payable by CUFS#, $900 per petition

[ ] Form H-1B Request – UMN Department Request Form and Beneficiary Request Form

[ ] Contract/Offer Letter (include job title, dates of employment, 100% annual base salary, % time appointment, job duties and General Counsel’s statement explained on Page 2)

B. Employee Forms and Supporting Documents

[ ] Please be sure to submit all required documents from the employee’s checklist

C. USCIS Petition Fee (University of Minnesota check payable to the Department of Homeland Security):

[ ] Fee $910 (payable by department—Department of Homeland Security, 850 S, Lincoln, NE 68508)
[___] Optional—Premium Processing Fee $1,000 (payable by department-Department of Homeland Security, 850 S, Lincoln, NE 68508)
STATEMENT OF RESPONSIBILITY

To the best of my knowledge, the information I have provided in these forms is complete and true. I understand that the information will be used to determine the wage expected to be paid to the H-1B employee. If the wage determination is accepted by all parties involved, then I agree to the following statements which are included in the Labor Condition Application Form ETA 9035.

1) H-1B employees will be paid the actual wage for the occupation at the place of employment or the prevailing wage level, whichever is higher.

2) The employment of H-1B employees will not adversely affect the working conditions of workers similarly employed in the area of intended employment.

3) There is not a strike, lockout or work stoppage taking place involving the occupations at the place of employment.

4) Notification of the ETA 9035 will be provided to workers employed in the occupations in which H-1B workers will be employed by either posting the notice where H-1B workers will be employed or notifying the specific bargaining representative for workers in the occupation.

In addition, the U.S. Citizenship and Immigration Services’ regulations require that the employer be responsible for the reasonable costs of return transportation of the H-1B employee to the foreign national’s last place of foreign residence. This is applicable if the H-1B employee is dismissed for any reason by the employer before the end of the period for which his/her employment is authorized. A written agreement to provide such costs is a prerequisite for the H-1B petitioning process.

The Department, which employs the H-1B employee, is ultimately responsible to provide for the costs of the return transportation.

By signing this document, the Department Head or Designee signifies an understanding of these conditions and agrees that the Department shall provide the necessary costs of return transportation should this situation occur for the employee listed below. Please keep a copy of this document for your records.

Signature of Department Head or Designee ___________________________  Date __________

Title ___________________________

This memorandum accompanies an application on behalf of ___________________________ (name of employee) from ___________________________ (country of citizenship) for H-1B status.
I certify that the information provided in this H-1B request is correct. I attest that the position meets the requirements for H-1B approval and that the employee meets the requirements for the position. (Please see General Information pages 1-2.)

Print name of Dean/Department Head ____________________________ Signature of Dean/Department Head ____________________________

Print name of Contact Person for this Petition ____________________________ Phone ____________________________ Fax ____________________________ Email ____________________________

Department FedEx Account # ____________________________ Internal Billing Reference # for FedEx ____________________________

(Required, documents will be sent express to USCIS.)

Please provide the following information for payment of the ISSS Administrative Fee.

Name of Employee ____________________________

Non-sponsored CUFS# ____________________________ Fund _____ Area _____ Org _____ Org _____

Department Name ____________________________

Department Address ____________________________

Budget Contact Person ____________________________

Phone ____________________________ Fax ____________________________

Email ____________________________

FOR ISSS USE ONLY

Date CUFS# Received ____________ ISSS Staff initials ______

_____ H-1 ($900) Sent to OIP ____________
INSTRUCTIONS: In order to help your department obtain H-1B status, please complete this form and return it to your sponsoring faculty member or the contact person in your department with all required supporting documents. Type or print clearly. All questions MUST be answered. Write “N/A” where appropriate. Please see checklist for additional documents required for this petition.

INFORMATION ABOUT THE EMPLOYEE
A. Personal
1. Last Name______________________________ First Name______________________________ Middle Name______________________________
   (As it appears on your immigration documents and passport.)
   2. Date of Birth ___/___/______ Gender ___ Male ___ Female Marital Status ___Married ___ Single
   mm dd yy
   3. Social Security Number (if available): ______-______-______ Province & Country of Birth ____________________________
   5. Current Occupation ____________________________
   6. Foreign Address ________________________________________________________________
   7. U.S. Home Address (if applicable) ________________________________________________________________
   8. Current Home Phone # (______)__________________________ Work Phone # in US (______)__________________________
   9. Fax # (______)__________________________ Email __________________________________________________
   10. Passport: Country of Issuance ____________________________ Passport # ____________________________ Expiration Date ___/___/___
       mm dd yy
   11. Highest Level of Education (Please check only one box):
       [__] Bachelor’s degree (for example: BA, AB, BS)
       [__] Master’s degree (for example: MA, MS, MEng, MEd, MSW, MBA)
       [__] Professional degree (for example: MD, DDS, DVM, LLB, JD)
       [__] Doctorate degree (for example: PhD, EdD)
   12. Major Field of Study from diploma and/or transcript __________________________________________________________
   13. If you earned a Master’s degree or higher from a U.S. institution, please complete the following:
      Date degree awarded ____________________________ Name of U.S. institution ____________________________
      Registrar/Graduate School Street Address, City, State & Zip Code __________________________________________________

B. Immigration Status (complete only if currently inside the U.S.)
Part I:
1. Initial Arrival Date ___/___/______ Most Recent Arrival Date ___/___/______ I-94 # ____________________________
   mm dd yy
   2. Current Non-immigrant Status ___F-1 ___F-2 ___J-1 ___H-1B ___H-4 ___TN ___Other (specify) ____________________________
   3. Expiration Date of current status (ending date on I-20, EAD, IAP-66 or DS-2019, I-797, etc.) ___/___/___
   mm dd yy

H-1B Extension Request Form (10/4/05)       Page 7 of 10
4. Do you have any plans to travel outside of the US between now and the start date of this petition?  __No  __Yes  If yes, please list dates of travel:__________________________________________ Consult with ISSS before finalizing travel plans.
Part II:
1. Are you in exclusion or deportation proceedings?  __ Yes  __ No  If Yes, write explanation on separate sheet.
2. Has a permanent labor certification been filed on your behalf?  __ Yes  __ No
3. Has an I-140 immigrant visa petition been filed by you?  __ Yes  __ No
   If Yes, explain:
4. Has someone ever filed an I-140 immigrant visa petition for you?  __ Yes  __ No
   If Yes, explain:
5. Have you filed an I-485 application for permanent residence with the U.S. Citizenship and Immigration Services?  __ Yes  __ No
   If Yes, explain:

C. Visa Application Information
If outside the U.S., specify the City and Country of U.S. Embassy/Consulate where you will apply for your visa:

D. H-1B Petition Information
1. Have you ever been in J-1 status?  __ Yes  __ No
2. If yes, are you subject to the 2-year home residence requirement (212[e])?  __ Yes  __ No
3. If yes, have you fulfilled this requirement by obtaining a waiver or by going home for 2 years?  __ Yes  __ No
   If you are still subject to 212[e], you are not eligible for H-1B status.
4. Have you been granted H-1B status during the last 7 years?  __ Yes  __ No
5. Have you been denied H-1B status during the last 7 years?  __ Yes  __ No  If Yes, please explain below:

6. Have you ever been granted any other H status?  __ Yes  __ No  If Yes, please explain below:

7. Please list all of your entry and departure dates for all trips in and out of the U.S. while holding H status over the last six years. Include USCIS case numbers if available. Provide copies of approval notices and I-94s.

E. Family Information
   [____]  1. I do not have dependents in the U.S.
   [____]  2. My dependents do not require H-4 status.
   [____]  3. I do have ____ dependents who require H-4 status.

4. Please list any dependent family members’ entry and departure dates for all trips in and out of the U.S. while holding H status for the last six years. Include name, relationship to you, and USCIS case numbers if available. Provide copies of approval notices and I-94s.

If dependents (spouse and/or children) are currently in the U.S. and need to apply for H-4 status, the Form I-539 can be obtained on the ISSS web site on the same page as the H-1B application.

I certify that the information above and documents submitted are true and correct. I understand any misrepresentation of information or document fraud will result in termination of my employment at UMN.

_________________________     ______________________      ________
Signature of Employee      Print Name of Employee      Date
EMPLOYEE CHECKLIST
Submit the following required documents

A. All Employees:
   [__] 1. Four copies of diploma/certificate for highest degree AND CERTIFIED ENGLISH TRANSLATION IF APPLICABLE.
   [__] 2. Four copies of transcript if your field of study is not indicated on diploma/certificate AND CERTIFIED ENGLISH TRANSLATION IF APPLICABLE.
   [__] 3. Four copies of current Curriculum Vitae
   [__] 4. Four copies of Document Certification Statement and Translation, if applicable
   [__] 5. Four copies of I-94 (front & back) from official entry into the U.S.
   [__] 6. Four copies of entry visa in passport.
   [__] 7. Four copies of passport identification page and expiration page.

B. If Medical Doctor where Patient Care is involved:
   [__] 8. Four copies of Current Minnesota State License
   [__] 9. Four copies of UMN Resident Agreement and residency permit for the State of Minnesota
   [__] 10. Four copies of ECFMG Certificate
   [__] 11. Four copies of USMLE (Steps 1, 2, & 3) or NBME (Parts I, II, & III) or FLEX (Components I & II)

C. If Dentist where Patient Care is involved:
   [__] 12. Four copies of Current Minnesota License

IN ADDITION, any employee currently in the U.S. must submit the following:

D. If in H-1B or H-4 status:
   [__] 13. Four copies of all previous I-797 Approval Notice(s)

E. If Dependent(s) are in the U.S. and need to apply for H-4 extension:
   [__] 14. Completed Form I-539 (dependents’ application to request an extension of stay and/or change of status)
      (Form I-539 is available from the ISSS web site—on the same page as the H-1B application forms.)
   [__] 15. Four copies of dependents’ previous I-797 Approval Notice(s) if applicable
   [__] 16. Four copies of dependents’ I-94(s), entry visa(s), passport information page(s) and any other evidence of entering legally and maintaining status.
   [__] 17. USCIS I-539 fee $200 (separate check or money order in U.S. dollars payable to the Department of Homeland Security)
   [__] 18. Four copies of marriage certificate AND CERTIFIED ENGLISH TRANSLATION IF APPLICABLE.
   [__] 19. Four copies of birth certificate(s) for dependent children AND CERTIFIED ENGLISH TRANSLATION IF APPLICABLE.

Additional information may be requested.
H-1B Employee Request Form
For H-1B Employee Use

DOCUMENT CERTIFICATION STATEMENT(S)

TO THE U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Copies of documents submitted are exact copies of unaltered original documents. I understand that I may be required to submit original documents to an immigration or consular official at a later date.

__________________________
Print Name of H-1B Employee

__________________________
Signature of H-1B Employee

__________________________
Date Signed

TRANSLATION OF FOREIGN LANGUAGE DOCUMENT(S)

I, ________________________________, hereby certify that I am competent to translate from the __________________________ language into English and that the attached is the accurate translation of the original document(s).

__________________________
Print Name & Title of Translator

__________________________
Signature of Translator

__________________________
Date Signed