Information on Application Process for New 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. This was in addition to the standard filing fee (separate checks required). The optional premium processing fee of $1000 remained unchanged, as did the ISSS administrative fee of $900 payable by CUFS. 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

The University of Minnesota General Counsel’s Office requires the following statement be included in all contract/ofer 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.
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 ________________________________________________________________
SS# ____________________________________________________ UMN Employee ID#________

I. TYPE OF PETITION – Check one
  [ ] New employment (First time working at UMN in H-1B status)
  [ ] Current H-1B changing to UMN employment
  [ ] New Concurrent Employment (Will continue H-1B at another place of employment and will work simultaneously at UMN)

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.)
   ____________________________________________________ [ ] Full Time [ ] Part Time _______ Hours/Week
   (UMN will consider appointments for less than a semester on a case by case basis. Please contact ISSS for details.)

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 Employee 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 $690 (SEPARATE CHECKS FOR $190 and $500 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.
DEPARTMENTAL AUTHORIZATION

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 ___________________________ Sub ___________________________

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
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
EMPLEYEE 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 credentials evaluation if degree earned abroad (highly recommended, but not required)
   [ ] 4. Four copies of current Curriculum Vitae
   [ ] 5. Four copies of Document Certification Statement and Translation, if applicable
   [ ] 6. If currently in the U.S., four copies of I-94 (front & back) from official entry into the U.S.
   [ ] 7. If currently in the U.S., four copies of entry visa in passport
   [ ] 8. Four copies of passport identification page and expiration page

B. If Medical Doctor where Patient Care is involved:
   [ ] 9. Four copies of Current Minnesota State License
   [ ] 10. Four copies of UMN Resident Agreement and residency permit for the State of Minnesota
   [ ] 11. Four copies of ECFMG Certificate
   [ ] 12. 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:
   [ ] 13. Four copies of Current Minnesota License

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

D. If in F-1 or F-2 status:
   [ ] 14. Four copies of all previous I-20(s) pages 3 & 4 (SEVIS I-20 pages 1 & 3).
   [ ] 15. Four copies of Employment Authorization Document (EAD), if applicable.
   [ ] 16. If currently in F-2 status, submit four copies of F-1’s I-94 (front and back)

E. If in J-1 or J-2 status:
   [ ] 17. Four copies of all previous IAP-66(s) front and back or DS-2019(s) pages 1 & 2.
   [ ] 18. Four copies of U.S. Dept. of State waiver letter of two year home residence requirement (212[e]) and USCIS approval notice or receipt notice (if received), if applicable
   [ ] 19. If currently in J-2 status, submit four copies of J-1’s I-94 (front and back)
   [ ] 20. Four copies of Employment Authorization Document (EAD), if applicable

F. If in H-1B or H-4 status:
   [ ] 21. Four copies of all previous I-797 Approval Notice(s)
   [ ] 22. If currently in H-1B status with another employer, submit four copies of a letter from current employer stating you are currently employed.
   [ ] 23. If in H-1B or H-4 status, submit four copies of H-1’s I-94 (front and back) and evidence of H-1’s maintenance of status (letter from current employer)

G. If Dependent(s) are in the U.S. and need to apply for H-4 status:
   [ ] 24. 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.)
   [ ] 25. Four copies of dependents’ previous I-797 Approval Notice(s) if applicable
   [ ] 26. Four copies of dependents’ I-94(s), entry visa(s), passport information page(s) and any other evidence of entering legally and maintaining status.
   [ ] 27. USCIS I-539 Fee $200 (separate check or money order in U.S. dollars payable to the Department of Homeland Security)
   [ ] 28. Four copies of marriage certificate AND CERTIFIED ENGLISH TRANSLATION IF APPLICABLE.
   [ ] 29. Four copies of birth certificate(s) for dependent children AND CERTIFIED ENGLISH TRANSLATION IF APPLICABLE.

H. If in TN or TD status:
   [ ] 31. Four copies of all previous I-797 Approval Notice(s), if applicable
   [ ] 32. If currently in TN status with another employer, submit four copies of a letter from current employer stating you are currently employed.

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

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