

## Extending the Stay of an H-1B International Employee

Both the department and the H-1B employee must submit fully completed and signed data collection forms to the Office of the Provost **no later than 90 days prior to the expiration of the employee's current work authorization**. Be sure to include information regarding any changes in the position classification, description, duties, requirements or salary.

Upon receipt of these documents, the Office of the Provost will prepare all necessary forms and assemble the appropriate documentation and cover letter for submission to the USCIS.

There are filing fees associated with the submission of any petition or application to the USCIS. The sponsoring department must arrange to have a check, payable to the Department of Homeland Security, issued by the Accounts Payable office. **This fee must be included with the application at the time of filing.** If the employee has dependents in the U.S., there will be an additional fee to cover the costs of filing extensions for dependents. Payment of filing fees for dependents is the responsibility of the employee.

The employee and the department will be responsible for providing the Office of the Provost with all necessary information and documentation (listed below) required to be submitted with the USCIS application. Approval of the extension application by USCIS currently takes approximately 3-6 months from the time it is received at USCIS; however, there is a 240 day grace period during which an H-1B employee is allowed to work past the expiration of their current H-1B visa as long as an extension is filed prior to the expiration date and the employee's duties have not significantly changed.

### From the Department:

- A fully completed department data collection form which includes updated information about the position duties and salary;
- A fully completed Actual Wage Worksheet
- Current salary information of similarly employed individuals
- A signed Labor Condition Attestation
- A UNCG check for \$320 payable to the Department of Homeland Security.

### From the International Employee:

- Clear, legible copies of the front and back sides of most recent I-94 (yours and any dependents')
- A copy of your most recent H-1B visa;
- Copies of passports for yourself and any family members. Send only the following pages: identification page, the page containing expiration date and pages with any U.S. visas;
- Two copies of your most recent C.V. or resume;
- Copies of any additional degrees conferred since you obtained your initial H-1B visa classification;
- A check to cover the filing fees for application for extensions for any family members (if applicable). The current fee is \$300.

Send or bring these items to the Director of Immigration Services, Office of the Provost, UNCG, 1000 Spring Garden Street, 201 Mossman Building, Greensboro, NC 27412, 336-334-5398



Please check all that apply. This is:

A Faculty Appointment	
An SPA Position	
An EPA Nonfaculty Position	
A Permanently Budgeted Position	
A Grant Funded Position. (Please provide name of funding source)	
A Benefits Earning Position	
A Non-Benefits Earning Position	
A Full-Time Position	
A Part-Time Position (Number of Hours Per Week)	

This data sheet was prepared by:

Name	Title	Department
Signature		Date

Current H-1B regulations require that an employer assume responsibility for the reasonable costs of return transportation of the alien employee to his/her last place of residence if the alien is dismissed from employment prior to the end of the authorized period of employment. The University requires that the following statement be signed by the Department Chair, Dean, or other designated official who is authorized to commit funds in the event that this becomes necessary. (Please read and sign the statement below).

I certify that in the event that the University of North Carolina at Greensboro terminates its employment relationship with \_\_\_\_\_

(Name of Employee)

prior to the end date of employment being requested, funds will be made available for the cost of his/her return transportation to the last place of residence outside the U.S. as required by law. It is my understanding that this responsibility will not apply in the following scenarios. 1) if the alien is dismissed for good cause; 2) if the alien violates the terms of his/her visa status; 3) if the alien voluntarily terminates his contract; or, if the alien becomes the beneficiary of another employer.

Name \_\_\_\_\_  
 (Type or Print) (Title) (Date)

Signature \_\_\_\_\_

## **The Prevailing Wage and the Labor Condition Application**

At the heart of the visa H-1B visa petition is the U.S. Department of Labor with its prevailing wage and the Labor Condition Application. Before it can submit an H-1B visa petition to the USCIS, the employer is required to attest to a number of conditions. Failure to follow these procedures, or to abide by the regulations of the Labor Condition Application, subjects the employer to serious consequences, which include:

- fines of \$1000 to \$5000 for each offense;
- payment of back wages,
- prohibition from hiring foreign workers for a year or more.

The employer is also required to maintain substantial documentation that it is in compliance with these regulations and to hold that documentation in a Public Access file which may be audited by the Department of Labor at any time.

"To knowingly and willingly furnish any false information in the preparation of a Labor Condition application, and to aid, abet, or counsel another to do so, is a federal offense, punishable by fine or imprisonment of up to five years."

Therefore, as the Office of the Provost takes responsibility for the preparation, signing, submission, and maintenance of the LCA, and to ensure that all hiring departments are aware of and prepared to comply with all of the federal regulations which govern the H-1B visa, the Chair of the Department or Dean is required to read and sign this document.

The employer must attest to the following on the LCA:

- it will pay the non-immigrant worker at least the local prevailing wage or the employer's actual wage, whichever is higher, and will pay the employee for any non-productive time;
- it will offer the non-immigrant worker benefits on the same basis as U.S. workers;
- it will provide working conditions for non-immigrants which will not adversely affect the working conditions of other similarly employed;
- there is no strike, work stoppage or lock out in the occupational classification at the place of employment;
- it will provide notice to the union or other workers of its intent to hire a non-immigrant worker (The Office of the Provost will forward the necessary notice for the department to post in order to comply with this requirement.);
- it will provide a copy of the LCA to the non-immigrant worker prior to the beginning of his/her employment (This will be done by the Office of the Provost.).

For additional information on the Labor Condition Application and Requirements for Employers Using Nonimmigrants on H-1B Visas In Specialty Occupations, please contact the Office of the Provost or visit the Labor Department web site at:

[http://www.dol.gov/dol/allcfr/ETA/Title\\_20/Part\\_655/Subpart\\_H.htm](http://www.dol.gov/dol/allcfr/ETA/Title_20/Part_655/Subpart_H.htm)

## **Labor Condition Application Attestation Form**

I have read and understand all of the conditions and regulations associated with the filing of a Labor Condition Application on behalf of my foreign employee and agree to abide by all federal regulations which govern the LCA and the H-1B visa classification. I also confirm that all of the information I have provided to the Office of the Provost is correct and accurate:

- As the hiring department at the University of North Carolina at Greensboro I agree to pay the higher of the actual or prevailing wage for the position;
- I agree to pay the H-1B worker the required wage for non-productive time due to a decision by the employer, or due to the H-1B worker's lack of a permit or license;
- The employment of the H-1B worker will not adversely affect the working conditions of other workers similarly employed and the H-1B worker will be afforded working conditions on the same basis, and in accordance with the same criteria, as is offered to similarly employed US workers;
- The H-1B worker will be offered benefits and eligibility for benefits on the same basis, and in accordance with the same criteria, as offered US workers;
- There is no strike, lock out of work stoppage in the occupational classification at the time of the filing of the LCA. If such a strike, lock out or work stoppage occurs after the application is submitted, I will notify the Office of the Provost within three days to enable them to notify the Department of Labor as required by law;
- Notice to a union bargaining representative of our intent to hire an H-1B worker has been provided; or, if there is no bargaining representative of the position,
- Notice of our intent to hire an H-1B worker has been provided to other workers at the place of employment by posting of the LCA in a prominent place;
- A copy of the LCA will be provided to the H-1B worker prior to the date of employment.

**Name of Person with Hiring Authority** \_\_\_\_\_

**Title** \_\_\_\_\_ **Department** \_\_\_\_\_

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Actual Wage Determination Form**  
(To be kept in Public Access File for H-1B employee)

**Explanation of the System Used to Set the Actual Wage**

Actual Wage Definition: The range paid to all employees in the department with similar experience and qualifications as the prospective H-1B worker. The H-1B worker will be considered to be receiving the actual wage if his or her salary falls within or above the range of wages currently paid to comparable employees in the same department. Where no other such employees exist at the place of employment, the actual wage shall be the wage paid to the H-1B worker by the University.

This document also includes: **A Summary of Benefits Offered to U.S. Workers in the Same Classification as the H-1B worker, and a Statement Explaining any Differentiation.**

Name of prospective H-1B Employee: \_\_\_\_\_

Degree held by prospective H-1B Employee: \_\_\_\_\_

Number of years of relevant post degree experience of prospective H-1B employee: \_\_\_\_\_

Position title: \_\_\_\_\_

Salary and FTE: \_\_\_\_\_

Brief description of job duties: \_\_\_\_\_

\_\_\_\_\_

List of all individuals (or id (peoplesoft, etc.) numbers) in Department with same position title as H-1B candidate (both USCs and foreign nationals). Include salary of each. When salary is higher than H-1B candidate, explain why there is a salary differentiation. (**Attach additional sheet if necessary.**)

- 1.
- 2.
- 3.
- 4.
- 5.

Criteria that MAY be used to justify salary differential:

1. Employee has more relevant work experience than prospective H-1B holder
2. Employee has more responsibility than prospective H-1B holder
3. Employee has higher or more relevant educational credentials than prospective H-1B holder
4. Employee does not work same amount of hours as prospective H-1B holder

Criteria that MAY NOT be used to justify salary differential:

1. Employee is funded by different grant than prospective H-1B holder
2. Employee has different area of research than prospective H-1B holder
3. Employee has demanded more salary than prospective H-1B holder
4. University has/had a salary freeze which resulted in a higher pay to non-H-1B holder
5. Insufficient, uncertain or change of funding

**Actual Wage Determination Statement**

I certify that the information contained on the "Actual Wage Determination Form" is correct and that the prospective H-1B employee is or will be paid the actual wage for this position.

\_\_\_\_\_  
Signature of Faculty Sponsor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Department Head

\_\_\_\_\_  
Date