



# REQUEST FOR H-1B Departmental Forms

## **General Description of H-1B Status**

The Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) defines an H-1B occupation as a "specialty occupation" which requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States. At Colorado State University, H-1B workers are typically professional staff or faculty. Departments may consider H-1B status for a foreign national if the foreign national will be employed by the University in a full-time position.

## **H-1B Processing Times**

Inconsistent governmental processing times and unexpected problems can greatly lengthen the time needed to obtain an H-1B approval. 'Normal' processing times can be many months. Departments are advised to initiate the H-1B process well in advance, even for extensions. Please note that ISSS cannot guarantee that an H-1B petition will be filed in a certain time frame nor approved by a certain date as processing times at both the Department of Labor (DOL) and USCIS can be highly variable. Premium processing can shorten the processing time at USCIS and is recommended for most petitions.

## **Change of Status, Extension of Status, and Consular Processing Options**

Change of status - If the foreign national is inside the United States in another nonimmigrant status, the H-1B petition will request a change of status and an extension of stay. The foreign national is authorized to be employed by CSU only when the petition and the change of status are approved.

Extension of status - If the foreign national is already in H-1B status and the University applies for an extension of H-1B status, the foreign national becomes employable for 240 days while the extension petition is pending if the new petition is filed prior to expiration of the current H-1B. In most cases, the petition will be adjudicated during the 240-day period.

Consular processing - If the foreign national is waiting outside the United States, the University will file the H-1B petition requesting consular processing. When approved, the H-1B approval notice will be sent to the foreign national in order that he/she may apply for an H-1B visa stamp at a U.S. consulate. After receiving the visa, the foreign national may enter the United States in H-1B status.

A foreign national may receive an initial authorized stay in H-1B status of up to three years, extendable for an additional three years. In most cases, an individual can be in H-1B status for a maximum of six years. ISSS will assist in filing an extension of H status upon receipt from the department of written confirmation that the foreign national continues to be employed by CSU.

## **Portability**

While it is true that H-1B petitions are employer-specific, they are also "portable" in that an individual already in H-1B status may transfer to a new employer as soon as the new employer's H-1B petition is received by USCIS. The beneficiary need not wait for USCIS approval. This can facilitate a quicker transition to a new position of employment for certain foreign nationals.

## **Premium Processing**

Processing times at USCIS can be quite lengthy. A wait of many months has become normal. Hiring departments are advised that Premium Processing will be necessary in most cases, which requires paying an extra fee to expedite USCIS adjudication. By paying the additional fee, USCIS guarantees to act on the H-1B petition within 15 business days. Please note that this speeds up processing only at USCIS. It does not affect the time required to receive a prevailing wage determination, to have a Labor Condition Application certified by the Department of Labor (which must happen prior to drafting the H-1B petition), and to prepare an H-1B petition for filing with USCIS.

## **Health Insurance**

All employees must have adequate health and accident insurance for themselves and any accompanying dependents. Although this is not a matter directly addressed in the H-1B regulations, no responsible individual can live and work in the US without insurance. Departments or faculty sponsors should inform their employees about this requirement as part of their financial arrangements.

## **Housing**

Hiring departments may assist new H-1B employees with their search for housing. ISSS is not involved in this process.

## **Process Overview**

The H-1B process involves three (and sometimes four) major steps:

1. Prevailing wage calculation using U.S. Department of Labor wage data
2. Posting notice and filing a labor condition application (LCA) with the U.S. Department of Labor
3. Filing an H-1B petition with USCIS. A certified LCA must be submitted with the petition to USCIS.
4. If the foreign national is currently outside the U.S., he or she will apply for an H-1B visa (an actual visa stamp to be placed in the foreign national's passport) at a U.S. consulate abroad after the H-1B petition is approved. This visa is required for admission into the U.S. in H-1B status.

The Prevailing Wage Determination and the Labor Condition Application involve the U.S. Department of Labor (DOL). DOL is responsible for ensuring that foreign workers are paid the same wages as American workers in similar positions. If there is a discrepancy between the prevailing wage and the offered wage, ISSS will attempt to work out a solution with the hiring department.

## **Initiating the H-1B Process:**

The department must complete and return the following to ISSS:

- H-1B Fee Agreement
- H-1B Position Information Worksheet
- H-1B Actual Wage Worksheet
- Export Compliance Questionnaire
- A copy of the employee's position description
- A copy of the employee's offer letter or reappointment letter indicating the dates of intended employment and salary.

## **After Approval**

Please note that receiving approval from USCIS means they have approved the beneficiary to work 1) in a specific position, 2) in a specific location, and 3) for a specific period of time. If any changes to the position or location of employment are anticipated, please contact ISSS to determine if an amendment needs to be filed prior to making those changes.



## **H-1B FEE AGREEMENT**

(To be completed by the hiring department)

**Name of Employee:**

**Department:**

This Fee Agreement confirms our understanding and agreement concerning our services. You hereby agree to have CSU International Student and Scholar Services (ISSS) coordinate H-1B processing for this CSU employee. ISSS will provide administrative services on this matter under the following terms:

1. H-1B administrative fee of \$1500 will be paid by IO to International Student and Scholar Services using the account number below. For other fees associated with H-1B processing, please see the Department of Homeland Security Fee Chart at the end of this agreement.
2. The quoted administrative fee includes preparation of an H-1B petition for filing with the proper government authorities. The fee also includes the preparation of any response to a Request for Evidence that may be received from U.S. Citizenship and Immigration Services (USCIS) as part of the petition process.
3. The fee quoted above does not include additional work that may become necessary due to a change in the law or additional facts not initially made known to ISSS, such as undisclosed criminal convictions, deportations, immigration irregularities, or any other issues affecting the case. If such additional work is necessary, a referral to outside counsel may be appropriate and separate fees will apply.
4. In the event that, prior to our completing the services described above, you decide to no longer use our services, we agree to charge you a percentage of the fee above for the work completed to date. However, you will be required to pay the above-described fee in its entirety if the services for which you have retained us are substantially completed when you inform us that you no longer wish to use our services.
5. The administrative fee includes all normal and customary expenses involved in the handling of this type of case including normal shipping charges, phone calls within the United States, photocopies and other normal preparation costs. It does not pay for charges to outside vendors including the filing fees charged by the government, costs for credential evaluation, or other vendor costs.
6. Non-standard costs and expenses, including messenger/express courier services for purposes other than those indicated as standard, translation charges, credential evaluations, computer research services, etc., are not included in the standard costs and must be paid by the hiring department or the employee when appropriate.

7. In addition to the administrative fee, you will be responsible for paying the filing fees to the U.S. Department of Homeland Security (DHS) as they become due (described in the fee chart below). These fees must be paid at the time the H-1B petition is filed with the U.S. Department of Homeland Security.

8. It is agreed that no guarantee has been made as to the time the case will take to complete, nor of the outcome. It is agreed that you will cooperate with ISSS, including providing us with all facts relevant to the case, and that you will keep us advised of changes of address and/or telephone number, employment and other circumstances bearing on the case. It is also agreed that you will execute applications as required and obtain as soon as possible all documents that might be necessary to complete the case.

9. Your signature on this page confirms that you have read this document, understand it fully, and agree to its contents.

**Signature of Department Representative**

**Date**

**Printed Name and Title**

<b>INTERNATIONAL STUDENT AND SCHOLAR SERVICES FEE:</b>	<b>\$ 1500.00</b>
Please provide the account number for charging the ISSS fee:	
ISSS will initiate an IO for payment of the ISSS administrative fee using the account number provided.	

<b>U.S. DEPARTMENT OF HOMELAND SECURITY FEES:</b>	
I-129 Petition to the U.S. Department of Homeland Security	<b>\$ 460.00</b>
Anti-Fraud Fee to the U.S. Department of Homeland Security <i>Not necessary for H-1B extensions of current CSU employees. Mandatory for all other applications.</i>	<b>\$ 500.00</b>
Premium Processing Fee to the Department of Homeland Security <i>Necessary in most cases due to long processing times at USCIS.</i>	<b>\$ 2965.00</b>
Total Homeland Security Fees:	
Please provide the account number for charging the Homeland Security fee(s):	
ISSS will initiate an IO for payment of the Homeland Security fees at the time of filing using the account number provided.	

**H-1B POSITION INFORMATION**  
(To be completed by the hiring department)

Petition Type:      New H-1B                      Extension (at CSU now)                      Portability (H-1B now, but not at CSU)

Name of Department:

Administrative contact person:

Administrative contact email address:

Foreign national's name:

Foreign national's job title:

Full Time Appointment?:      Yes              No              Salary:              per year

Will this individual be allowed to work remotely any percentage of time?              Yes      No

Please list all physical addresses (on campus and remote) where the foreign national will work:

Will travel other than an occasional professional conference be required?:              Yes      No

If field work will be required, please provide details including location and approximate number of days per year:

Immediate supervisor's name:

Title of immediate supervisor:

Number of professional (non-student) employees the foreign national will supervise:

Title(s) of professional (non-student) subordinates (if applicable):

Minimum education, training and experience requirements for the position

Degree(s) required:

Field(s) of study required:

Type of additional training required (if any):

Years of post-degree work experience required (if any):

Other special requirements (if any):

Requested start date of H-1B:

Requested end date of H-1B:

Premium processing is necessary in most cases due to long processing times at USCIS. Please indicate your willingness to pay the premium processing fee:              Yes              No

Please provide a brief description of proposed job duties. If including a copy of the position description with this request, you may simply write “see attached position description.”

In order to sponsor an employee for H-1B nonimmigrant worker status, the CSU hiring Department agrees to the following guidelines and governmental regulations:

- 1) The Department agrees to pay the H-1B employee the salary according to the terms outlined in the H-1B Position Information sheet, which must be 100% of the prevailing wage for the position or the actual wage, whichever is higher, throughout the authorized period of H-1B employment;
- 2) The Department must continue to pay the required wage at 100% full-time employment, per item (1), even during nonproductive time that is due to a decision by the Department (e.g., lack of assigned work, training periods, etc.), within the authorized period of H-1B employment;
- 3) The Department must inform International Student & Scholar Services (ISSS) of any elective employee Leaves of Absence prior to each Leave to ensure compliance with immigration regulations;
- 4) The Department agrees to offer the employee benefits and eligibility for benefits on the same basis as U.S. workers;
- 5) The Department agrees to provide working conditions for the employee that will not adversely affect the working conditions of workers similarly employed, and which are afforded to similarly employed U.S. workers;
- 6) The Department will accept liability for the reasonable costs of return transportation of the employee abroad if the employee is dismissed from employment by the department (for any reason) before the end of the period of authorized H-1B stay (this normally constitutes the cost of a plane ticket);
- 7) The Department will notify ISSS in writing (email is acceptable) when the employee ends employment with the department;
- 8) The Department will initiate paperwork to request an extension of the H-1B employee’s authorized period of employment, should an extension be necessary, well before the authorized period of H-1B employment ends. This typically means initiating an extension request six to seven months in advance;
- 9) **For tenure-track faculty positions**, the Department will initiate the permanent residency process for the employee within six months of the date of the faculty letter of offer;
- 10) The Department will contact ISSS to initiate an amendment to the H-1B petition if there is a substantive change in the terms of the foreign national’s employment, including but not limited to: a change in location of employment, a salary reduction, or a change in position title or responsibilities;
- 11) With respect to the technology or technical data the Department will release or otherwise provide access to the beneficiary, **the Department certifies compliance with all U.S. export control regulations.**
- 12) I recognize the authority of USCIS to conduct audits of this petition. I also recognize that supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, including but not limited to, on-site compliance reviews. The Department will cooperate with inspections by providing any information deemed necessary to confirm ongoing employment, which may include copies of payroll records.

I agree to H-1B sponsorship for foreign national named above according to the terms and conditions outlined within this H-1B Position Information form.

Department Head:

Signature:

Date:

# H-1B ACTUAL WAGE WORKSHEET

(To be completed by the hiring department)

Federal law requires employers to document that H-1B workers will not be paid less than the *actual wage* paid to other similarly employed workers at CSU as documented below. In addition, H-1B workers must not be paid less than similarly employed workers in the geographic area. This figure, called a *prevailing wage*, will be obtained from the U.S. Department of Labor. A Labor Condition Application cannot be filed until this worksheet has been adequately completed.

- Provide the required information on several similarly employed workers in the hiring unit/department holding the same title, performing comparable work to what the H-1B worker will be doing, and with similar experience and qualifications.
- If there are no others with the same title in the hiring unit/department, compare the H-1B worker's position with other positions having similar duties.
- It may be necessary to obtain comparative information from other units within your college. The department or college human resource officer should be able to provide or obtain this information.
- The rationale for arriving at the salary for each worker should be clear - relevant experience, qualifications, education, job responsibilities and functions, and other legitimate factors may be considered.
- Limited grant or departmental funding is NOT a legitimate regulatory reason for paying an H-1B worker less.

Name of this **H-1B employee**

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

Please list other employees holding similar positions. These employees need not be other H-1B holders:

1) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

2) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

3) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

4) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

5) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

6) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

7) CSU ID of other employee

Position Title

Degree required for the position

Years of relevant professional work experience

Total annual salary

Based on hours/week

An explanation is required if the H-1B worker will be paid less than any other similarly employed worker:

Department Representative:

Date:

Signature:

# EXPORT COMPLIANCE QUESTIONNAIRE

(To be completed by the hiring department)

Please complete this form to expedite the CSU export review process and ensure compliance with the “Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States” of the I-129 Petition for Nonimmigrant Worker. The instructions and definitions following this form may be of help in completing this questionnaire. This form *must* be completed before an H-1B or O-1 petition can be filed.

*If you have any questions or need assistance in the completion of this form, please contact Colorado State University's Export Control Administrator at [vpr\\_export\\_control@mail.colostate.edu](mailto:vpr_export_control@mail.colostate.edu).*

Information about current/proposed employee:

Full Name:

Country of Citizenship:

Non-immigrant status being sought:

H-1B

O-1

CSU Department (where employee will be working):

Employee's CSU Supervisor:

Departmental contact if other than Supervisor:

Please answer each question completely to the best of your knowledge at this point in time

1. Employee's most recent university or institution outside the US:

2. The applicant will participate in:

Sponsored research - Sponsor(s) name:

Non-funded research (includes internal funding from CSU)

Research related activities (data analysis, lab assistant, technician, etc.)

No exposure to research, the transfer of technical data or technology, or laboratory related duties.

3. Describe the duties or research that the applicant will perform:

4. Is the applicant a citizen of, or ever been a citizen of, Cuba, North Korea, Iran, Syria, Sudan, or China?            Yes            No
5. For those applicants not only participating in “fundamental research in science and engineering where the results are or will be published broadly among the scientific community” please check all items below, if any, that apply:

(\*keyword definitions linked below)

- Research under an existing [Technology Control Plan](#) (TCP)\*
- Publication preapproval or publication restrictions by sponsor
- Restrictions and/or pre-approval of foreign national participation by sponsor
- Access to and/or creation of [encryption items](#),\* software or encryption technology
- Access to and/or creation of [ITAR](#)\* export-controlled items, [technical data](#), software, or technology
- Access to and/or creation of potential [defense articles](#)\* or [defense services](#)\*
- Access to and/or creation of [EAR](#)\* export-controlled items, [technical data](#), software, or technology
- [Export](#)\* of any physical item, or transmission of technical data,\* to a foreign country or person

6. Additional Information or Comments:

To the best of my knowledge as of this date, I attest that the information provided is true and accurate.

Supervisor Signature:

Date:

Email:

Phone:

Person completing form if other than supervisor (name, title and email):

*Please return this Export Compliance Questionnaire to International Student & Scholar Services.*

## Instructions & Definitions for Completing the Export Compliance Questionnaire

### **Instructions:**

Form should only be completed by applicant's direct supervisor, or a person with intimate knowledge of the work that will be performed by the applicant. Signature indicates responsible party of applicant's work.

Please do not leave any blanks. If a question does not apply, indicate "N/A." If a question will apply in the future, but the details are unknown at the present time, indicate "TBD."

**Question #1:** If you expect the applicant to work on a sponsored project now or in the future, but the sponsor is unknown at the present time, write TBD on the sponsor line.

**Question #2:** Please describe the topic and purpose of the research and the associate duties of the applicant.

**Question #3:** If citizenship is unknown, contact the Office of International Programs for assistance.

**Question #4:** Definitions of key terms used are below.

**Question #5:** If needed, provide further explanation about any answer that you gave, or additional information that may be helpful in the review process.

### **Key Terms Definitions:**

ITAR: International Traffic in Arms Regulations control items, services, and technical data that have a *military or space-related* application. ([back to question](#))

EAR: Export Administration Regulations control dual-use items and technology. Dual-use items are nonmilitary in purpose but could be modified or utilized for military purposes. While this term is used informally to describe items that are subject to the EAR, purely commercial items are also subject to the EAR. ([back to question](#))

Export: Under the ITAR *Export* means:

1. Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or
2. Transferring registration, control or ownership to a foreign person of any aircraft, vessel, or satellite technology covered by the U.S. Munitions List, whether in the United States or abroad; or
3. Disclosing (including oral or visual disclosure) or transferring in the United States any defense article to any agency or subdivision of a foreign government; or
4. Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad; or
5. Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.

Under the EAR *Export* means:

1. An actual shipment or transmission of items out of the United States.
2. Furnishing technical data allowing an individual to develop or produce controlled technology.
3. Furnishing technical data which allows an individual to do *all* of the following: operate, install, maintain, repair, overhaul, and refurbish a controlled piece of equipment.

([back to question](#))

Defense Article: (ITAR): Any item or technical data recorded or stored in any physical form, models, mock-ups or other items that reveal technical data directly relating to any item on the United States Munitions List (USML) ITAR Part 121. ([back to question](#))

### Defense Service (ITAR):

1. The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacturing, production, assembly, testing, repair, maintenance, modification, operation, destruction, or processing of defense articles.
2. The furnishing to foreign persons of any ITAR-controlled technical data, whether in the United States or abroad.
3. Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad, or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, training exercise, and military advice. ([back to question](#))

Encryption Items (EAR): The phrase encryption items include all encryption commodities, software, and technology that contain encryption features and are subject to the EAR. This does not include encryption items specifically designed, configured, adapted or modified for military applications (including command, control and intelligence applications), which are controlled by the Department of State on the U.S. Munitions List, under the ITAR. ([back to question](#))

Technical Assistance (EAR): May take forms such as instruction, skills training, working knowledge, consulting services. "Technical assistance" may involve transfer of "technical data."

### Technical Data:

#### *As defined in the ITAR:*

1. Information other than software, which is required for the design, development, engineering, manufacturing, production, assembly, testing, repair, maintenance, modification, operation, destruction, or processing of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation.
2. Information covered by an invention secrecy order.
3. Classified information relating to defense articles.
4. Software directly related to defense articles.
5. This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges, and universities.

#### *As defined in the EAR:*

Blueprints, plans, diagrams, models, formulate, tables engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories. ([back to question](#))

Technology (EAR): Specific information necessary for the development, production, or use of a product.

Technology Control Plan (TCP): A Technology Control Plan (TCP) is a compliance document developed between the Principal Investigator and the Export Control Administrator. The TCP states the type of export-controlled information associated with a research project, and the measures and safeguards to be taken by the PI to ensure access to the export-controlled information is managed.

A TCP is required when:

A research project involves the receipt of export-controlled information from an outside party, such as via a nondisclosure agreement or sponsored research agreement. Such a research project is not considered fundamental research, and the research results may contain export-controlled information. A project that is unpublished, restricted, proprietary, or classified is not fundamental research. ([back to question](#))