

APPENDIX A

FAYETTEVILLE STATE UNIVERSITY Procedures and Checklist for Filing H-1B Applications

The initial request for an H-1B visa must come from the interested department - not the foreign national. The foreign national's department chair is responsible for Step 1 as outlined below. The General Counsel's Office is responsible for Steps 2, 3 and 4.

STEP 1: Prepare the application - The General Counsel's Office will not begin the application process until all application materials are submitted. All required forms must be submitted as one application packet.

___ **H-1B Visa Request form (Appendix A.1)**
Complete with all appropriate signatures.

___ **Prevailing Wage Determination (Appendix A.2)**
The department should complete the Prevailing Wage form based on the minimum requirements for the position not the credentials/experience of the foreign national. The General Counsel's Office will secure a prevailing wage determination for the position. The prevailing wage indicates the average salary for our geographic area for the occupation in which the foreign national will be employed. The law permits a minimum salary of 95% of the prevailing wage to be paid to the foreign national. If the salary offered is not within 95% of the prevailing wage, the hiring department must either agree to pay the Prevailing Wage or FSU will be unable to proceed with filing the H-1B petition.

___ **Actual Wage Determination (Appendix A.3)**
The department should complete the *Actual Wage Determination* form based on the other employees in the department with similar experience and qualifications as the H-1B beneficiary. The actual wage is the rate paid to all individuals in the department with similar experience and qualifications as the H-1B employee. **FSU must pay H-1B employees at least the prevailing wage or the actual wage, whichever is higher.**

___ **Two copies of the following documents**
The department should work with the foreign national to prepare all documents on the following *Checklist*:

- ___ Copies of foreign national's resume
- ___ Employment history in the U.S. within the past six years (See attached.)
- ___ Copy of highest diploma (with translation and evaluation if not from a U.S. university)
- ___ Copies of past/current visa documents.
For F1 Visa holders: All *Form I-20s* issued; copy of *Employment Authorization Document (EAD)* if in F-1 Practical Training.
For H-1B Visa Holders: Copy of current I-797 approval notice if H-1B request is for renewal/extension/new employer.
- ___ Copies (**front and back**) of Form I-94 (arrival/departure card)

___ Copies of visa and passport

___ The General Counsel's Office will be responsible for paying the \$325.00 filing fee for H-1B beneficiary and the \$500 for *Fraud Prevention and Detection Fee*. FSU departments are responsible for paying premium processing fees, if the department selects this option. If choosing the premium processing option, departments should provide a check to the General Counsel's Office in the amount of \$1,225.00. **payable to USCIS**.

___ **If dependent family members are already in the U.S. please also submit three (3) copies of the following:**

___ Form I-539, prepared and signed by the spouse, for a change of status or extension of H-4 status to coincide with the petition dates covered in the I-129. I-539 forms are available from the General Counsel's Office.

___ Copies of dependents' I-94 cards

___ Copies of dependents' visas and passport pages

___ Filing fee by check or money order (\$290.00) payable to USCIS

The \$290 filing fee includes payment for all dependents already in the U.S.

The foreign national is responsible for paying the filing fees.

Notes:

Department chairs should submit original applications and extension/amendment applications to the General Counsel's Office 3-5 months before the hire date or the expiration date on the H-1B approval notice.

Department chairs should notify the General Counsel's Office when an H-1B holder is scheduled to leave the university. If the department terminates employment for any reason before the designated end date on the H-1B approval notice, the department is responsible for the return cost of transportation for the foreign national to return home.

STEP 2: Labor Condition Application

The General Counsel's Office will file a *Labor Condition Application* (LCA) with the U.S. Department of Labor based upon receiving information on the prevailing wage and actual wage determinations. The department or designated official will be asked to sign this document. This step is required to monitor and prevent the employment of H-1B employees when the employment would potentially have an adverse impact on the wages and working conditions of U.S. workers.

___ LCA job posting: When the LCA is filed, the hiring department will be asked to post information about the position for ten (10) working days on bulletin boards located in conspicuous locations at the place of employment and write on the notice the dates and locations where they were posted.

STEP 3: Application submitted to USCIS

Once the Department of Labor returns the certified LCA, the General Counsel's Office will file a petition with the USCIS to classify the foreign national as an H-1B temporary worker. The certified LCA is part of the H-1B petition filed with USCIS. Copies of all the application/documents will be kept on file in the General Counsel's Office for public inspection by USCIS and/or Department of Labor investigations.

STEP 4: Approval of H-1B Visa Application by USCIS

After USCIS approves the visa application, the University will be sent an approval notice (form I-797). If the foreign national is already in the U.S., the General Counsel's Office will provide a copy of Form I-797 to the department chair. If the foreign national is outside the U.S., the General Counsel's Office will provide the visa packet necessary for the foreign national to apply for a visa at the U.S. Consulate abroad.

APPENDIX A.1

H-1B VISA REQUEST FORM

The following information is to be completed by the hiring department. Please keep a copy for departmental records.

I. FOREIGN NATIONAL APPLICANT INFORMATION

Last Name of Foreign National	First Name	Middle Name

US Social Security Number (if none, leave blank)
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Date of Birth (mm/dd/yy)	Country of Citizenship
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Country of Legal Permanent Residence

Foreign Address

Current Address	Phone Number
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Departmental Contact Name	Telephone #
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II. VISA STATUS INFORMATION

Current Visa Status (mm/dd/yy)	Date of Arrival (mm/dd/yy)	Current Stay Expires
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Has the foreign national ever been in J-1 status? Yes_____ No_____

If applicant is on a J-1 visa and subject to 212(e), did s/he receive a non-objection letter from the Department of State or waiver of 212(e)? Yes_____ No_____

Has the foreign national ever been in H-1B status? Yes_____ No_____

If yes, please indicate dates and submit copies of all prior I-797 approval notices.

III. POSITION INFORMATION

Title: _____

FSU Position Number (if applicable): _____

Proposed/Actual Salary: _____

Source of Funding: _____ If a grant, then funding end date: _____

Proposed/Actual Date of Hire (mm/dd/yy): _____

Does this position include FSU sponsored health insurance and benefits? Yes _____ No _____

IV. EMPLOYEE TYPE

- EPA
- SPA
- Tenured
- Tenure-Track
- Fixed-term (non-tenure track)

This request is for:

- New appointment
- Extension of stay
- Amendment to appointment
- Transfer (already in US)
- Replace lost documents
- Other _____

Please provide a description of the position and associated duties and responsibilities

V. CERTIFYING SIGNATURE

By signing this document you agree to the following:

1. The department will not employ the foreign national until the General Counsel’s Office has sent written notification to the department chair indicating the eligibility of the foreign national to be employed at FSU.
2. The foreign national will be supervised by the department chair whose name appears below.
3. The teaching and/or research is consistent with the objectives and limits of the Department of Labor (H-1B visa) and US Immigration regulations.
4. The department will consult with the General Counsel’s Office regarding significant changes to the FSU appointment (including position title and description, salary, FTE, and dates).
5. The department will notify the General Counsel’s Office of termination and/or departure of the international employee.

Signature of Department Chair

Date

Please return form to the General Counsel’s Office. Thank you.

PREVAILING WAGE FORM

1. Name of Employer (Full name of organization): Fayetteville State University				2. Telephone (Area code and Number): (910) 672 -1145	
3. Address Where Alien will work:					
4. Nature of Employer's Business: Education/Research		5. Job Title:		6. Total Hrs. Per Week:	7. Rate of Pay: \$ _____ per year
8. Describe fully the job to be performed (Duties): _____ _____ _____ _____					
9. Special Requirements: _____ _____					
10: State in detail the minimum education, training, and experience for a worker to perform satisfactorily the job duties in item 8.					
Education (enter no. of years)	Grade School	High School	College	College degree (specify major)	
Training	Yrs.	Mos.		11: Supervisor? Y/N: _____ How Many? _____	
Experience	Yrs.	Mos.	Type of training		

APPENDIX A.3

ACTUAL WAGE DETERMINATION (REQUIRED FOR H-1B PETITION)

Before an employer can submit an H-1B petition on behalf of a foreign national, U.S. federal law requires that the employer document that the employee will be paid the “actual wage” for his/her position. The actual wage is defined as the range paid to all individuals in the department with similar experience and qualifications as the prospective H-1B worker for the position. The prospective H-1B employee 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 non-immigrant by FSU.

Name of Prospective H-1B Employee: _____

Education (degrees held by prospective employee): _____

Number of years of relevant post-degree experience of prospective employee: _____

Position Title: _____ Salary: _____ FTE: _____

Brief description of job duties: _____

In order to document the actual wage, please list all individuals in the department with the same position title (both non-immigrants and US citizens). The department chair must sign this form. Return to the General Counsel’s Office with other document.

When citing salary differential, the following criteria **may** be used to show why another employee is being paid at a higher wage than the prospective H-1B employee:

- Employee has more relevant work experience than the prospective H-1B employee
- Employee has more responsibility
- Employee has higher/more relevant educational credentials
- Employee does not work the same number of hours

The following criteria **may not** be used to indicate why another employee is being paid at a higher wage than the prospective H-1B employee:

- Employee is funded by a different grant than the prospective H-1B employee
- Employee has a different area of research
- Employee demanded more salary
- FSU salary freeze (past or present) resulted in different pay
- Insufficient, uncertain, or change of funding

LIST OF EMPLOYEES IN THE DEPARTMENT WITH SAME JOB TITLE

Employee's Name	Current Salary*
1 _____	_____
2 _____	_____
3 _____	_____
4 _____	_____
5 _____	_____
6 _____	_____
7 _____	_____
8 _____	_____
9 _____	_____
11 _____	_____
12 _____	_____
13 _____	_____
14 _____	_____
15 _____	_____

Please attach additional sheet, if necessary. *If salary is higher, please attach a separate sheet explaining why.

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

Signature of Department Chair

Date