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**H-1B REQUEST
FORM**

**FOR USE BY GMU DEPARTMENTS WHO WISH TO EMPLOY
INTERNATIONAL PROFESSIONALS IN PERMANENT POSITIONS**

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September 2020

*PLEASE SUBMIT ALL FORMS AND DOCUMENTS TO THE
OFFICE OF INTERNATIONAL PROGRAMS AND SERVICES*

GENERAL INFORMATION

WHO QUALIFIES FOR H-1B: H-1B status may be used to employ nonimmigrant professionals in a permanent or semi permanent position. H-1B status may be held for a maximum of six years. Although J-1 status is most often used to bring temporary international researchers and scholars to George Mason University, H-1B status is sometimes more appropriate. The position must require:

- 1) Theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation.
- 2) A **Baccalaureate or higher degree** in a specific academic discipline as the minimum requirement for entry into the particular position.
- 3) A Non-Temporary Position (If your employee left the position, you would hire another person to fill it).

Changes of Status to H-1B: For individuals already in the U.S. in another immigration status, the USCIS must approve a change of status. In order to change status within the U.S., a nonimmigrant must be maintaining their current status. Important note regarding J-1/J-2 immigration status: If the nonimmigrant is in J status and is subject to the two-year home residency requirement (or ever was in the past), he/she cannot change to H-1B status until this requirement is either fulfilled or waived. If waived by the Department of State, an official waiver letter must accompany the petition when the case is sent to USCIS.

Maximum Period Allowed: One may hold H-1B status for a **maximum period of 6 years**. Since the Labor Condition Application must be renewed every three years, H-1B petitions are submitted for three years (or less), and may be renewed until the maximum period of 6 years has been reached. 7th year extensions are permitted under certain conditions.

Part-time H-1Bs: **Part-time H-1Bs are discouraged.** The Department of Labor requires a strict record-keeping of all part-time hours worked, and this makes these H-1Bs much harder to keep up with in terms of compliance. Please consult with OIPS to discuss exceptions to this policy.

Concurrent H-1Bs: Concurrent H-1Bs are possible, allowing a worker to be employed by GMU and another employer at the same time. **Both employers must file an I-129 petition with USCIS.**

Extensions of H-1B status: H-1B extension procedures are basically the same as the initial H-1B. This packet must be completed by the department and the employee, and submitted to OIPS with all requested attachments. Please note: employee must include updated CV and last three pay stubs with documentation.

H-1B extensions fall under a "240-day rule" - please note that this applies to H1Bs only. "An H1B alien for whom the employer has filed a timely application for an extension of H1B stay can continue employment for the same employer while the request for extension of stay is pending with USCIS, for a period of up to 240 days beyond the expiration of the prior period of authorized stay." 8 C.F.R. 274a12(b)(20)

Changes to Employee Position: If the employee’s position changes, an **Amended H-1B Petition** may be required. Changes that may require an Amended H-1B petition include but are not limited to: changes to employee duties, change in salary, change of employee work site, and promotion of employee. If you have questions regarding the filing of an Amended H-1B petition, please contact OIPS at 993-5120.

Return Transportation of Alien: If the employee is dismissed before the end of the authorized period of H-1B employment, **the hiring department** will be responsible for paying the reasonable costs of return transportation to the employee's home country. This USCIS regulation was implemented to ensure that the foreign national would not be stranded in the U.S. without being able to return to his/her home country. Because of this regulation, H-1B status should be requested only for that length of time for which funding is available.

GMU Liability: Submission of an H-1B petition by GMU on behalf of a prospective employee does not guarantee that the petition will be approved. The approval of such petitions rests with U.S. government agencies--not with GMU. Be assured, however, that every effort will be made by the Office of International Programs and Services to secure the necessary personnel for departmental needs, and to process the paperwork in as timely a manner as possible. **Not all positions will qualify for H-1B status.**

Portability Provision: This provision allows a current H-1B worker who is filing a new H-1B petition for employment with GMU to begin working here as soon as we have confirmation that USCIS received the petition and an I-797 Receipt Notice has been issued, rather than waiting for the petition to be approved. **There should not be a gap in the end date of the previous H-1B approval and the beginning of the GMU H-1B request date or the employee will be required by U.S. Dept. of Homeland Security to leave the U.S. and obtain the new H-1B visa through Consular Processing at a U.S. Embassy outside the United States.**

Fees: All checks should be made out to “U.S. Department of Homeland Security”

Fees	Amount	Applicability	Responsibility
I-129 Petition Filing Fee	\$460	For all H-1B filings	Department
Anti-Fraud Fee	\$500	For Initial H-1B filings and transfers (portability)	Department
Premium Processing Fee (Optional)	\$2,500	For getting decision (denial, approval or RFE) from USCIS within 15 days	Employee or Department
I-539 for H4 dependents	\$370	When the beneficiary’s dependents changes status or need Extensions	Employee
I-539A for H4 dependents	\$85	Biometric Fees	Employee

All Check Requests should use the following address:

USCIS California Service Center
Attn: CAP EXEMPT H-1B Processing Unit
24000 Avila Road, Room 2312
Laguna Niguel, CA 92677

INITIATING THE H-1B PROCESS

Call the Office of International Programs and Services (OIPS) at 993-5120 to discuss the case and to ask any questions you may have.

Upon receipt of the completed H-1B Packet and all attachments, the following steps must be taken by OIPS prior to filing the case with US Citizenship and Immigration Services (USCIS).

- The prevailing and actual wages for the position must be determined. OIPS sends a description of the position and salary to the Department of Labor, requesting a “prevailing wage determination.” The reply will state the prevailing wage for this type of position in the area of intended employment, and will indicate whether the offered salary meets the prevailing wage or not. **CURRENT TIME FRAME for Prevailing Wage: more than 12 weeks.**

- The University must attest that the higher of the two wages will be paid to the employee, that the employee is not being employed because U.S. workers are out on strike or lockout; that the employment of the foreign national will not adversely affect the working conditions of other workers, that proper notification was given of the university’s intent to hire an H-1B nonimmigrant, and that an Export License is/is not required before the alien is allowed to work in the position. This is done by **filing a Labor Condition Application (LCA) with the Department of Labor**. OIPS does this electronically. **TIME FRAME: 2 Weeks.**

- The H-1B petition and all accompanying documentation, including required fees, will be sent by OIPS to USCIS after the above processes are completed. **TIME FRAME: 7 to 11 MONTHS**

- **Options if Time is Short:** (Note: A minimum of 10-12 weeks is needed)
 - 1) **Premium Processing**-pay \$2,500 and get it done in 15 days **after** Issuance of the Prevailing Wage Determination (5-8 weeks), completion of the LCA (2 weeks) and sending it to USCIS.

 - 2) **Portability**-If the employee has a current H-1B and is transferring to GMU, the I-9 can be completed and the employee may begin working as soon as the Receipt Notice from USCIS arrives.

H-1B CHECKLIST for Sponsoring Departments

All of the following forms and documents must be submitted to the Office of International Programs and Services. Please be sure to submit the required number of copies.

- _____ H-1B Department Request Form p. 9
- _____ GMU Contract with Employee to Include Position Number
- _____ H-1B Department Certification Form p. 10
- _____ Wage Determination Work Sheet p. 11
- _____ H and O Visa Export Compliance Questionnaire p. 12
- _____ H-1B Deemed Export Questionnaire Signature Form p. 14
- _____ Letter from the Department to USCIS in Support of H-1B application template is attached to this packet (p. 15). You may download and modify it for the Position.
- _____ Please include a FedEx Airbill with department FedEx account number
A DHL or UPS Slip and Envelope are also acceptable if your Department has only DHL or UPS Mailing accounts.
- _____ Required fees: All checks payable to “Dept. of Homeland Security”
Petition fee - \$460 (Department pays)
Fraud Prevention Fee- \$500 (First time GMU employees, Dept. Pays)
Premium Processing fee- \$2,500 (Employer or Employee Pay)

Check requests should be sent to Accounts Payable. Each fee should be a separate check. These checks are stapled to the Petition before it is sent to the California Service Center.

Address to put on the Request: USCIS California Service Center
Attn: H-1B Cap Exempt Unit
24000 Avila Road, Rm 2312
Laguna Niguel, CA 92677

Note: The Department of Labor Prevailing Wage Application and Labor Condition Takes Approximately 8-10 Weeks. *The Department Request Form and the Contract should be submitted immediately*, the other documents can be sent to OIPS, Attn: H-1B, MS 4C3 during the 8-10 week timeframe.

H-1B CHECKLIST for Employee:

FROM THE PROSPECTIVE H-1B EMPLOYEE:

____ H-1B Prospective Employee Information Form (Pages 7-8)

____ Copies of highest degree to include transcript and diploma.
Transcripts are 2 originals and two copies, Diploma may be copies.

____ Copy of certified translation of all degrees/diplomas/transcripts
(if not in English) USCIS will only accept officials WES Evaluation Agency

____ Copy of Resume or Curriculum Vitae

____ Copy of awards, certificates, licenses, etc. (if applicable to job)

____ Copies of 6 most recent pay stubs for those currently employed in
the U.S.

____ Copy of Immigration documents:

- Passport Picture Page (color)

And if currently in the United States on a non-immigrant visa:

- Visa Stamp (color)

I-94 Card (can be retrieved at this link <https://www.cbp.gov/travel/international-visitors/i-94-instructions>)

- I-20s or DS-2019s
- OPT or other EAD Card
- H-1B or Other Visa I-797
- Any I-130 or I-140 Approval Notices

____ Completed form I-539 for any family members already in the U.S. changing status to H4 or extending H4 status, plus copies of their current and previous immigration documents. Go to: <https://www.uscis.gov/i-539>

____ I-539 fee (if required for dependents) - \$370

____ I-539A fee (Biometric fee- if required) - \$85

Subject's Name Last name, First Name	Period of Stay From <i>mm/dd/yy</i> to <i>mm/dd/yy</i>	Status H1/H4	Name of Employer

5. Have you ever been denied H-1B status previously? Yes No **If yes,** please provide details on back of this form.

6. Are you currently in exclusion or deportation proceedings? Yes No

7. Have you ever held J-1 status? Yes No

Dates you held J-1 status: _____ to _____ **If yes,** were you subject to the 2-year foreign residency requirement? Yes No

8. Did you receive a waiver? Yes No **If yes,** please enclose 2 copies of the waiver letter

Section III – Complete the following if you are in the U.S.

Date of Last Arrival (mm/dd/yyyy): _____ I-94# retrieved from this link <https://i94.cbp.dhs.gov/I94/request.html>

Current nonimmigrant status: (e.g., F-1, J-1, H-1B): _____ Expiration date of current status (mm/dd/yyyy): _____

Current U.S. Address: _____

If your dependent family members are changing to H-4 status or extending H-4 status, give the following information:

Last Name, First Name	Current Status	Expiration date	Relationship to you

Do you and all family members have a valid passport? Yes No

Note: Dependents must complete Form I-539 and I-539A, Application to Extend/Change Nonimmigrant Status.

Section IV - If you earned a Master's or higher degree from a U.S. institution of higher education, provide the following information

Name and address of the U.S. institution:

Date Degree Awarded (mm/dd/yyyy): _____ Type of U.S. degree: _____

DEPARTMENT REQUEST FORM

must be completed in full

PLEASE TYPE OR PRINT NEATLY. This information, as presented, will be used on immigration forms.

Name of Prospective H-1B Employee:

(Last) (First) (Middle)

Job Title for H-1B Position: _____

GMU Department: _____

Name and title of employee's immediate supervisor:

Number of people employee will directly supervise (Other than student employees):

Non-technical Description of Job/Duties:

Work Address:

Salary: _____

--Full time employees list salary/year, Part time employees list salary/hr.

Org # for Employee Pay: _____

Grant Funded (circle one): Yes No

Benefit Package for Employee: _____

H-1B Start Date: _____ (mm/dd/yyyy)

H-1B End Date: _____ (mm/dd/yyyy)

Minimum Qualifications needed for anyone to perform this job: Please list degree, field, and minimum years of experience needed **for this position**. **DO NOT list the specific qualifications of the individual you wish to hire**

(Sample: PhD
in Computer Science, 2 yrs Experience) ****H-1B Temporary Work Visas Requires the
Job Description to Require a B.A. or B.S Degree at a minimum.*****

H-1B DEPARTMENT CERTIFICATION FORM

Before the Office of International Programs and Services can submit the LCA for certification from the U.S. Department of Labor and USCIS adjudication, you must certify the following statements and complete the required information.

I certify that:

- The salary being paid to the above named employee is at least the actual wage being paid to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment (regional average), whichever is higher.
- The fringe benefits offered to this employee are equivalent to that offered to other U.S. workers in the same classification.
- Employing this person will not adversely affect the working conditions of U.S. workers similarly employed.
- There is no strike, lockout, or work stoppage due to labor dispute in this occupation.
- The notice of this filing will be posted in two conspicuous locations within the department for at least 10 consecutive days after receiving it from the Office of International Programs and Services.
- We agree to comply fully with the terms of the Labor Condition Application stated above for the duration of the alien's employment in H-1B status at GMU.
- We fully understand that any willful violation connected with providing inaccurate information in the LCA may incur severe penalties that have a long-range impact at GMU to include fines and legal prosecution.
- As required by the US Citizenship and Immigration Services, we agree to pay the reasonable cost of return transportation to the alien's home country if s/he is dismissed before the end of the authorized period of H-1B employment.
- We have contacted the Office of Sponsored Programs and signed the Deemed Export Attestation and will comply with all Licensure Requirements for research activities. (see pp.12-14)

Audits by U.S. Department of Homeland Security or the U.S. Department of Labor are a common practice for both agencies. As an H-1B visa sponsor you are required to cooperate with all audits from the U.S. Department of Homeland Security or U.S. Department of Labor. Audits are primarily done in person at random times; sometimes an Immigration Officer will attempt to contact you by telephone or e-mail. It is your responsibility to make every attempt to contact or speak with an Immigration Officer for an audit request. Failure to cooperate or failure to make contact with an Immigration Officer that contacts you regarding an audit can result in revocation of an H-1B visa for your employee. If you are indeed contacted by an Immigration Officer, please contact the Office of International Programs and Services immediately at 703-993-2790.

Certified by:

Direct Supervisor:

(Name) (Signature) (Date)

Department Chair:

(Name) (Signature) (Date)

Department Contact: (Office Manager or Secretary) _____

Ext.: _____ **Email:** _____

WAGE DETERMINATION WORK SHEET

This worksheet must be completed by the hiring department. This will be kept in OIPS as part of the required Department of Labor Public Inspection File.

1. Title of position offered to alien: _____
2. Number of other employees in department with this title: _____
3. Total number of other so-titled employees who have similar duties and responsibilities and who have similar education, qualifications and experience for the specific employment: _____

4. Salary of prospective employee: \$_____ per _____

5. Please describe in detail the system used by your department to determine the salary paid to the individual for whom you are requesting H-1B status. Factors to take into consideration may include length, type and breadth of experience, level of skills and specialized knowledge, level/subject area of advanced degrees, job responsibility and function.

If your department follows a particular written GMU or state salary schedule or guideline in establishing employee wage rates, please also attach a copy of that schedule.

If your department or institute uses a separate salary schedule, such as NIH Salary Scale, please attach the schedule.

6. Year That Wage Scale was Published _____

(Signature)

Title and Department

Date

H-1B Non-Immigrant Visa Export Compliance Questionnaire

Visa Applicant: _____ Visa Type: H-1B

Department/Unit: _____ Responsible Faculty:

(name, title, phone number, email)

Position Number: _____

Grant Number (if paid from a grant) _____

Please answer the following questions to the best of your ability:

Will the visa holder participate in Sponsored Research? Y/N

Name of External Sponsoring
Agency _____

GMU Grant Number or Proposal
Number _____

Characterize the Research to be performed (Basic, Applied, Product Development,
Testing, etc) and describe the specific purpose and technology area of the research:

Will the research involve military, defense, intelligence, space or encryption? If so,
please describe:

Will the visa holder be provided with or have access to any information, materials, or
software that is export controlled or sponsor or 3rd party proprietary or confidential? If
so, please provide the
description _____

Will the visa holder be provided with any government furnished equipment, information,
or software? If so, please provide the description.

Signature of Responsible
Faculty _____

Signature of the Dean or the Department
Chair _____

SAMPLE LETTER IN SUPPORT OF H-1B PETITION
(Please Print Out on Department Letterhead and Sign in Blue Ink)

U.S. Citizenship and Immigration Services
California Service Center
Attn: H-1B Cap Exempt Processing Unit
24000 Avila Road, Room 2312
Laguna Niguel, CA 92677

RE: Dr./Ms./Mr. Doe's H-1B Petition

To Whom It May Concern:

This letter is submitted in support of the H-1B petition of George Mason University for Dr./Ms./Mr. Doe, who has been hired to serve as a faculty member in the Department of Y on a temporary basis. The intended period of H-1B employment is from September 1, 2019 to August 31, 2022.

George Mason University is an innovative and rapidly growing public university located just outside of Washington, DC. The School of Z's Department of Y offers a B.S. degree in Y, as well as the M.S. degree in Y. Our department is particularly interested in developing expertise in XX and YY and has made great progress in these areas in recent years.

Dr. Doe is being offered a full-time position at the level of Assistant Professor. Her responsibilities will include teaching of both undergraduate and graduate courses, as well as conducting research in XX. Because of Dr. Doe's broad background in research and teaching in the area of XX, we believe she will make outstanding contributions to the Department of Y, enhancing George Mason University's reputation as a leader in this area.

Dr. Doe received her Ph.D. from the Institute of Technology in _____. She was employed as a post-doctoral fellow at _____ University for the past three years where she worked closely with leading scientists in the fields of XX and YY. Dr. Doe also taught undergraduate students YY courses and received outstanding evaluations. She has written numerous articles in professional journals and has been cited by other scholars in the field. Dr. Doe has presented her research work at two major conferences in the United States and has been invited to speak at several Canadian and European universities.

We intend to employ Dr. Doe for an initial period of three years in the position offered. She will be compensated at \$_____ per year. This department will bear responsibility for reasonable costs of return transportation abroad of the alien should she be dismissed from employment before the expiration of the H-1B petition. Thank you for your assistance and cooperation in processing this request.

Sincerely,
(Signatures of Hiring Official—Supervisor and Department Chair or Dean)