



## STEPS TO APPLY FOR AN H-1B

**Step 1:** H-1B applicant completes Part A

**Step 2:** Hiring department completes Part B and then forwards the H-1B Request Form and full position description to Tonya Baldwin in the Office of International Education (tonya.baldwin@wichita.edu)

**Step 3:** Hiring department also completes a [Visa Export Compliance Review Form](#) and emails it to the Office of Research Compliance (compliance@wichita.edu) along with:

- H-1B Request Form from Step 2
- The full position description

**Step 4:** While the Research Compliance Office is completing the Research Compliance Form, Tonya Baldwin will verify that the H-1B Request Form has been properly completed and will forward the application materials to our immigration attorney for review.

**Step 5:** The Office of Research Compliance will send the completed Visa Export Compliance Review Form to Tonya Baldwin.

**Step 6:** The immigration attorney will initiate contact with the H-1B applicant and hiring department.

## PART A: To be Completed by H-1B Applicant

\_\_\_\_\_  
Last Name

\_\_\_\_\_  
First Name

\_\_\_\_\_  
Middle Name

Current address: \_\_\_\_\_

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP Code

Telephone #: ( \_\_\_\_\_ ) \_\_\_\_\_ WSU campus phone #: \_\_\_\_\_

Campus box #: \_\_\_\_\_ E-mail: \_\_\_\_\_

Country of Birth: \_\_\_\_\_ Countries of Citizenship \_\_\_\_\_

This request form is being completed for:

A **first time application** for H-1B employment authorization at WSU.

\_\_\_\_\_  
Requested Start Date

A **new position** for an existing H1B employee at WSU.

\_\_\_\_\_  
Requested Start Date

An **extension** for an H-1B employment at WSU.

A **new position** for an H-1B employee who is currently working for another employer.

## PART B: To be Completed by Sponsoring Department

Official Job Title of H-1B position: \_\_\_\_\_

Please provide a brief description of job duties below. **IMPORTANT:** Attach a full position description which includes the duties, required education and experience.

Employee's Annual Salary: \$ \_\_\_\_\_

Is there a Formal Salary Range for the position? ☐ Yes ☐ No If yes, what is the salary range?  
From \$ \_\_\_\_\_ To \$ \_\_\_\_\_

Is there more than one person with the same job title and duties? ☐ Yes ☐ No If yes, please answer the following:

A) What is the lowest annual base salary paid to an employee in the job: \$ \_\_\_\_\_  
and the highest base salary paid to an employee in the job: \$ \_\_\_\_\_

B) The Department of Labor may review "actual wages" to verify that the H-1B worker is not paid LESS than the wage level paid to other individuals with similar experience and qualifications. To assure that the H-1B worker is making the required "actual wage," please provide details below:

U.S. workers receive higher salaries because of the following:

\_\_\_\_ More education

\_\_\_\_ More experience

\_\_\_\_ More specialized qualifications or knowledge

\_\_\_\_ More complex job responsibilities

\_\_\_\_ Other: \_\_\_\_\_

C) If required to do so, I am able to provide documentation that any higher paid US workers have different salaries based on education, experience, qualifications, job responsibilities and function, or specialized knowledge. ☐ Yes ☐ No

D) Will the H-1B worker offered the same benefits as the employer offers to US workers?  
☐ Yes ☐ No Comments: \_\_\_\_\_

Will the H-1B applicant be instructing educational courses found in Wichita State University's Schedule of Courses? Yes No

Will the H-1B applicant be working on any research projects, or in a University lab or research/testing facility?                      Yes                      No

If yes, please provide a detailed description of the H-1B applicant employee duties, proposed or actual, and provide the project number assigned by the Office of Research Administration (attach a separate sheet if needed):

Will the H-1B Applicant have access to any technical data / technology (see description in 7(a) below), proprietary, or confidential information derived from a third party, such as corporate sponsors, that cannot be shared? Access includes, but is not limited to: verbal discussions, training, shared drives, websites including supplier networks, laboratories and equipment, and any written documentation such as test plans.                      Yes                      No

By signing below, the Hiring Department understands the following:

- 1) The Hiring Department must pay the prevailing wage or the actual wage for this position determined by the Department of Labor as part of the Labor Certification – even if that wage is higher than what is expected or budgeted for. The actual wage is the wage paid to US workers with similar education and experience performing similar duties.
- 2) WSU now uses an outside attorney for all H-1B processing. Contact information for the attorney will be provided after this form is completed.
- 3) The department must pay the reasonable cost of return transportation if the H-1B worker is terminated before the end of the period of authorized stay.
- 4) The H-1B worker must be paid continuously without any periods of unpaid inactivity on the job ("benching").
- 5) If the H-1B worker is terminated before the H-1B expiration date, the Hiring Department must notify the Office of International Education immediately.
- 6) If the Hiring Department would later like to make substantial changes to this position (e.g. duties, location, salary, etc.), the Hiring Department must notify the Office of Education as well as the attorney that WSU retains for H-1B applications. A new H-1B petition may be required.
- 7) The Hiring Department must notify a WSU Compliance Specialist in the Research Compliance Office before:
  - (a) Any technology or technical data is released to the H-1B worker.

**Technology Definition:** Specific information necessary for the "development", "production", or "use" of a product. The information takes the form of 'technical data' or 'technical assistance'. Also, specific information necessary for any of the following: operation, installation (including on-site installation), maintenance (checking), repair, overhaul or refurbishing.
  - (b) The H-1B worker moves to a new office or lab.

_____ Name of Supervisor of the H-1B Applicant	_____ Hiring Department at WSU
_____ Department Chair, Dean, or Director Authorizing This Petition	
_____ Signature of Department Chair, Dean or Director	_____ Date

## **Bordeau Immigration Law, LLC**

9303 W. 75th Street, Suite 210  
Overland Park, Kansas 66204  
913-432-9994

**It is important that you read complete ALL SECTIONS of the following 4 PAGES and read through the information carefully!**

### **H-1B Employee Name:**

**Alternate/Additional job sites:** Please provide addresses of any and all alternate or additional job sites if employee will be working at an address that is *different from* the main campus address (1845 Fairmount St., Wichita, KS 67260):

**For H-1B Employees with multiple jobsites:** Please provide an itinerary of where/when the H-1B Employee will be performing the duties (i.e., a proposed schedule of the specific months, days, etc. that the employee will be performing the work at each site)

**Are these Alternate/Additional job sites owned by Employer requesting the H-1B?**

☐ Yes ☐ No

**If not, we also need contract/agreement information between the petitioning employer and the employer at the jobsite location for these alternate/additional jobsites.**

**We can request up to 3 years for H-1B work authorization, in most cases\*. If you would like us to request LESS than 3 years, please indicate the time period:**

\*Please note, we generally recommend requesting the full three years, unless a shorter period of employment is expected. Each extension requires new fees, so it is usually more cost effective to file for 3 years; however, if the employer requests 3 years and the employer terminates the H-1B employment, the employer must offer the reasonable cost of transportation home.

### **TIMELINES, FEES & PREMIUM PROCESSING:**

The H-1B process requires case preparation, Department of Labor approval of the Labor Condition Attestation (LCA), a Department of Labor prevailing wage determination (in some cases, if required or requested by the employer), and review and approval by the USCIS. The time it takes to complete these steps is quite variable. It takes time for my office to prepare the case, it takes several days for the Department of Labor to issue the LCA and several weeks to issue a prevailing wage determination. The USCIS may take as little as 2 months to review a filed H-1B through normal processing or longer than 6 months, and that is after my office has prepared the required paperwork, obtained signatures, etc.

The USCIS offers premium processing of H-1B petitions for \$1,410, which will guarantee review in 15 business days after the case is filed. The USCIS is not required to approve the case in 15 days, but they must approve it or issue a Request for Evidence if they have questions about the petition. Premium processing may be requested at the time of filing or a case may be "converted" to premium processing after filing. Generally, the employer is not required to cover the cost of premium processing for an H-1B extension case but may be required to cover the cost if for an important business purpose.

In terms of how quickly a case must be approved, please note the following:

If an employee is NOT PRESENTLY IN H-1B status (i.e. if he or she has F-1 OPT or J-1 work authorization), the H-1B petition must be APPROVED before the current work authorization expires. In some cases, the Department of employer may be required to cover premium processing if the case is not likely to be approved in time. Please call me to discuss this if you have questions.

If an employee or prospective employee is currently in H-1B status and is either (1) changing H-1B employers from his/her current employer to your company, or (2) is presently working for your company and is extending his/her stay, then the case only needs to be received by the USCIS before the current H-1B expires to have automatic work authorization by law for 240 days. In addition, where the prospective employee is changing H-1B employers to your company, we must file the H-1B change of employer petition with the USCIS before the individual can start working for your company. (H-1B's are employer specific--an individual cannot transfer to a new employer until a new petition is received by the USCIS by the new employer).

\_\_\_ No, I do not want to pay for premium processing at this time (note that you can convert to premium processing in the future should you desire; however, there is a legal fee of \$65 in addition to the \$1,410 premium processing fee to upgrade the case at a later date). **PLEASE NOTE: IF PREMIUM PROCESSING IS NEEDED FOR TIME SENSITIVE WORK AUTHORIZATION PURPOSES, THE EMPLOYER MUST COVER THE COST AND WILL BE BILLED.** This is not the case if the premium processing is requested for the convenience of the employee (ex. travel, renewing a driver's license, etc.)

\_\_\_ Yes, I do want premium processing. Please invoice me for an additional \$1,410 filing fee together with the regular H-1B fees the employer is required to pay.

The regular filing fees are as follows: \$460 AND an additional \$500 for new H-1B employees (i.e. new H-1B hires or employees who need H-1B work authorization who are working in F-1 or J-1 or another status). The USCIS has an additional anti-fraud fee of \$1,500 for the first H-1B and the first extension (reduced to \$750 if the employer has fewer than 25 FTE's).

**LEGAL FEES:** Our standard legal fees are presently \$1,200. In addition, there has been an increase in the number of arbitrary Requests for Evidence being sent out on approvable petitions - if we receive such a request, we reserve the right to charge a fee of up to \$1,000 to respond. We also may raise our standard legal fees from time to time, with notice.

\*Please note that there is an additional \$100 fee that will be billed to the Employer if the Employee is currently located outside of the United States. This fee covers the cost of the international courier service used to send the original approval notice the Employee abroad.

Dependent FEES: Our H-4 legal fees are \$250, and the filing fee is \$370. Additionally, H-4's who are dependents of H-1B beneficiaries that have approved I-140's can apply for work authorization (the H-4 EAD). The legal fees for the H-4 EAD are also \$250 and there is a filing fee of \$410. While the employer is required to pay the H-1B fees, the employer is not required to cover the costs of any dependents.

☐ No, I do not want to pay for the costs of any dependents. Please invoice the employee separately.

☐ Yes, I do want to pay for the H-4 dependent cost. Please include those fees in the invoice.

☐ Yes, I do want to pay for the H-4 dependent work authorization cost. Please also include those fees in the invoice.

### **Representation Agreement**

The company wishes to retain the law office of Bordeaux Immigration Law, LLC to provide legal services, specifically to prepare and file the H-1B petition for the above employee.

### **Dual Representation Consent:**

Bordeau Immigration Law, LLC represents both the employer and the foreign national employee, as is customary for immigration practitioners. For H-1B cases, the employer is the petitioner on the case and the foreign national is the beneficiary, and it is in the interest of both parties that the case be filed in accordance with applicable regulations so that the H-1B can be granted. While rare, conflicts of interest can arise. The most common example is where either the employer or the employee decides to terminate the employment relationship. If the employee quits or is terminated prior to the permanent residency approval, the employer must notify the USCIS that the H-1B beneficiary is no longer employed. In the event of a layoff or involuntary termination during the validity period of the H-1B, the employer must offer the H-1B beneficiary the reasonable transportation costs abroad if the H-1B beneficiary wishes to return home. Our office does not provide advice on the actual employment relationship to either the employee or the employer; rather we provide information to both parties on the immigration consequences resulting from a possible change in the employment relationship and the corresponding legal obligations. Other possible conflicts include problems with the prevailing wage obligation. The H-1B case requires the employer to pay the prevailing wage or the actual wage, (whichever is higher), for the occupation as determined by the Department of Labor. Our office submits the current wage offer to the Department of Labor, and requests use of whatever wage survey we have available or can obtain that is the closest match to the wage rate negotiated by the employer and the employee.

By signing this Dual Representation Consent, the employer expressly consents to joint representation **on this H-1B and any future H-1B cases** and agrees that Bordeaux Immigration Law, LLC will provide the employee with information about the immigration consequences that may result from possible changes in the employment relationship as part of the dual representation process. Similarly, Bordeaux Immigration Law, LLC will obtain consent from the employee to provide information to the employer about the immigration consequences that may result from possible changes in the employment relationship.

Signature \_\_\_\_\_

Date \_\_\_\_\_

NOTE: Pursuant to 8 C.F.R. §214.2(h)(9)(i)(B), the H-1B petition may not be submitted to USCIS more than six months prior to the employment state date.

**Please return the following:**

**THIS QUESTIONNAIRE/ RETENTION AGREEMENT  
WSU H-1B REQUEST FORM  
THE POSITION DESCRIPTION IF DIFFERENT FROM LAST H-1B FILING**

to Tonya Baldwin and Judy Bordeau via e-mail: [judy@kevisa.com](mailto:judy@kevisa.com) and [tonya.baldwin@wichita.edu](mailto:tonya.baldwin@wichita.edu) with a copy to [snoulles@kevisa.com](mailto:snoulles@kevisa.com)

**\*\*Please note we CANNOT begin processing the H-1B paperwork until we have this questionnaire and the Position Description from you.**