



SYRACUSE UNIVERSITY

LILLIAN AND EMANUEL SLUTZKER CENTER FOR INTERNATIONAL SERVICES

310 Walnut Place | Syracuse, New York 13244-2380

TEL: 315-443-2457 | FAX: 315-443-3091

EMAIL: LESCIS@SYR.EDU

WEB: [HTTP://INTERNATIONAL.SYR.EDU](http://INTERNATIONAL.SYR.EDU)

SU H-1B Instructions & Application Packet

H-1B Overview

H-1B Specialty Workers are authorized to work in specialized fields for a maximum period of six years. An employer may apply for a period of up to three years at a time. H-1B workers must hold a full-time appointment at Syracuse University and be paid a salary that equals at least the US Department of Labor-determined prevailing wage. To sponsor an H-1B worker, Syracuse University, through the Slutzker Center, must file a petition, with fees, to the Department of Labor and the U.S. Citizenship and Immigration Service (USCIS) indicating that the university will appoint and pay the individual the prevailing wage.

Eligibility

In general, to be eligible for an H-1B visa, the position must be full-time and require a minimum of a bachelor's degree, and the individual must meet that requirement and possess any necessary licensure. Syracuse University does not sponsor part-time employees for H-1B petitions. Some individuals, even if they meet the degree and licensure requirements, may not be eligible for H-1B status based on their immigration history. Those who have already used the six-year limit on H-1B status, for example, are ineligible for an additional period of H-1B status until they have resided and been physically present outside of the U.S. for at least one year. Similarly, those who are subject to the two-year home residency requirement based on their current or prior J-1/J-2 Exchange Visitor status are ineligible for H-1B status until they have either fulfilled the requirement or obtained a waiver through the Department of State and USCIS. A person for whom a department wishes to sponsor an H-1B should contact the Slutzker Center to discuss his or her eligibility for an H-1B visa.

Prevailing Wage

In order to sponsor an employee for an H-1B visa, the University must pay at least the *prevailing wage* or the *actual wage* (the rate paid to similarly situated employees), whichever is higher. The US Department of Labor calculates the prevailing wage as the average salary or wage for similarly employed workers in the area of intended employment. If this prevailing wage exceeds the amount the department wishes to pay the employee, then the University cannot proceed with the H-1B petition. In this case, departments should consult with the Slutzker Center about other options for visa sponsorship.

Processing Times – Plan up to 6 Months in Advance

Because USCIS H-1B processing times vary from 3 – 6 months, the Slutzker Center can only provide an *estimate* of the timing for a particular petition. We recommend that departments initiate an application as early as 6 months before the desired H-1B start date, which is the earliest that USCIS will accept an H-1B petition. Expedited processing, or “premium processing,” is available for a \$1225 fee; this guarantees a decision by USCIS within 15 days. The Slutzker Center requires at least one month to process and submit an H-1B petition from the time the department and individual submits all required documents.

Fees

Required Fees. Departments are required to pay certain required USCIS processing fee(s) for their employee's H-1B petition, including the \$325 application fee. In addition, departments must pay a \$500 anti-fraud fee for initial H-1B petitions and for cases in which SU is filing a change of employer petition (“portability”) for someone who already holds H-1B status with another employer. Extension petitions do not require the anti-fraud fee. The employee may not pay these fees.

Optional Fees. If the department and/or individual requests premium processing, either the department or the individual may pay the additional \$1225 fee. If the employee wishes to apply for immediate family members to change to H-4 dependent status within the U.S., he or she must pay the \$290 I-539 change-of-status fee.

Change of H-1B Employers

If a hiring department wishes to sponsor an individual who is already in the U.S. in H-1B status through another employer, Syracuse University must file a petition for change of employer with USCIS. In order for the individual to remain in the U.S. in H-1B status and start working at Syracuse University, USCIS must receive the new petition, with \$325 filing fee and \$500 anti-fraud fee, before the individual's last day working for the previous employer. As long as USCIS receives the petition before that date, the individual may work at Syracuse University on the basis of the I-797 Receipt Notice from USCIS for up to 240 days while the petition is pending. The documentation required from the department for the change of employer petition is the same as that of a new petition.

H-1B Sponsorship of Part-Time Employees

Per Syracuse University's Non-Immigrant of Foreign National Employment Policy (http://supolicies.syr.edu/emp_ben/emp_pol.htm), the University will support an H-1B petition for part-time employment only where the position is at an hourly rate of pay that meets Department of Labor standards and where the employee will be reporting hours weekly through the University's payroll system. Department of Labor requirements and restrictions make it impossible for an individual to receive H-1B visa status for any salaried, exempt, part-time position (e.g., adjunct professor).

Changes in Terms of Employment or Termination

Departments *must* consult with the Sutzker Center prior to changing an H-1B's terms of employment (including changes to job duties or department) to determine whether an amended petition is required.

Please inform the Sutzker Center immediately if an H-1B worker's employment is terminated so that the Sutzker Center can notify the Department of Labor and USCIS, effectively withdrawing the H-1B. Because H-1B status is an employment-based status, that status immediately ends upon termination. If the department terminates employment, the department must pay the reasonable cost of return transportation to the H-1B employee's last place of foreign residence. **The department will continue to be liable for paying the individual's full salary and benefits if the H-1B is not withdrawn.**

Extensions

The process for requesting an extension of H-1B status is the same as for the initial period of H-1B employment. The extension petition must be filed prior to the current approved H-1B status end date to avoid interruptions in employment. The employee may continue to work for a period of 240 days while an extension petition is pending, as long as it is timely filed before the current end date. (*Please note:* An extension of H-1B status allows the employee to continue working in the U.S.; however, it does not extend his or her H-1B entry visa, which is required for re-entry into the U.S. after traveling abroad. If the H-1B employee wishes to travel outside the U.S. after the expiration date of his or her current entry visa, he or shee must apply for a new entry visa at a U.S. consulate.)

H-1B Visas, Travel Information, and Possible Visa Delays

H-1B employees should contact the Sutzker Center for information on travel requirements. H-1B visa requirements can vary by consular location, therefore, please refer to the particular United States consulate/embassy that you will visit. A list of embassy websites is available at <http://www.usembassy.gov/>. Employees and departments should be aware that security checks, which are part of visa processing, may delay an employee's return to the U.S.

DEPARTMENT PROCEDURES

1. Request H-1B processing (please complete [Appendix A](#)): To initiate the H-1B process, the department should complete the Appendix A section of this packet, providing details on the job position as well as a summary of the actual wages paid to other employees who hold the same position, and a copy of the appointment letter (if already prepared). With this information, the Slutzker Center will determine the prevailing wage as established by the Department of Labor.

Once the Slutzker Center determines the prevailing wage, we will consult with the department if it appears the offered salary does not meet the Department of Labor's wage requirement. The department must pay at least the prevailing wage or the actual wage (the rate paid to similarly situated employees), whichever is higher. If this minimum salary exceeds the amount the department wishes to pay the H-1B applicant, please consult with the Slutzker Center about other options. The department might choose to increase the salary or explore other visa options for the applicant.

After the Slutzker Center determines that the department is offering the prevailing wage, proceed to step 2.

2. Post LCA Notice (please see [Appendix B](#)): The Department of Labor and H-1B petition procedures require employers to inform its workforce of its intention to hire an H-1B worker. To comply with this rule, please complete and post two copies of the Labor Condition Application (LCA) Notice in **TWO** conspicuous locations in your department. These must be posted for at least 10 consecutive business days. Appendix B includes a notice template and posting instructions. Please fill in the required information, print on Department letterhead, and post in your Department.

Important!: Once you have posted the notices, please email **Jennifer Gavilondo** immediately at jgavilon@syr.edu. The posting date is necessary for the H1B process to move forward.

Upon completion of the necessary posting, please indicate the posting dates, the responsible individual, and sign the Notice at the bottom. Please return the completed Notice to Jennifer Gavilondo at the Slutzker Center for International Services, 310 Walnut Place.

3. Complete the Deemed Export Form (please complete [Appendix C](#)). In support of your request for H-1B sponsorship, the Slutzker Center for International Services is now required to certify on the USCIS I-129 petition whether or not a license for export controlled technology or technical data is necessary for the professor/researcher being sponsored. To facilitate this requirement, all host departments are required to complete an attestation as to whether or not the H-1B worker will require a license for export controlled technology or technical data.

4. Complete the letter of H-1B support (please see [Appendix D template](#)). Please note that the maximum length of time for which an H-1B can be requested at one time is three years.

5. Process Check Request for USCIS Fees: The Slutzker Center will fax a check request to the department for the required petition fees. Once you receive this fax, please contact Pre-Audit to request the necessary checks and send them to the attention of Jennifer Gavilondo at the Slutzker Center.

6. Send documents to the Slutzker Center: The letter of support and Actual Wage Statement may be sent as soon as they are complete. The posting notice should be sent upon completion of the 10 day posting period. Please send all documents to Jennifer Gavilondo at the Slutzker Center for International Services, 310 Walnut Place.

PROSPECTIVE H-1B EMPLOYEE PROCEDURES

1. LawLogix Access and Submit Supporting Documentation: Once the department initiates the H-1B sponsorship process by submitting the Appendix A forms and Appointment Letter, the Slutzker Center will contact the H-1B beneficiary to obtain the biographical information, immigration documents, proof of qualifications (diploma, CV, licenses), and family information (if applicable) required for the H-1B petition.

The Slutzker Center for International Services uses the LawLogix service <https://ww4.welcomeclient.com/> to securely collect personal biographical data, immigration and employment history information, and scans of supporting documents from all prospective H-1B employees. Once the hosting department initiates the H-1B sponsorship process, the Slutzker Center will contact the prospective H-1B employee with login information and access to the LawLogix website.

2. H-4 Dependent Sponsorship. If a prospective H-1B employee has dependent family members (spouse or children) whom the H-1B employee would like to sponsor for H-4 visa status, the H-1B employee will need to consult with the Slutzker Center about processing the H-4 visa support. For sponsorship of dependents who are already in the US to either extend or obtain H-4 status, the prospective H-1B employee will need to submit documents for concurrent filing with the H-1B petition. For dependents who are currently outside of the US and will enter the US in H-4 status at a later date, the Slutzker Center can advise on how they may obtain H-4 status abroad.

SLUTZKER CENTER PROCESSING

After the department notifies that the LCA notice has been posted, the Slutzker Center will complete and submit a Labor Condition Application for H-1B Non-Immigrants (Form ETA 9035) to the U.S. Department of Labor.

Once the Slutzker Center receives the required materials from the department and applicant, we will complete the necessary forms and send the petition to the USCIS for processing.

Upon receiving the Approval Notice (I-797) from the USCIS, the Slutzker Center will notify the employee and ask him or her to come to report to the Center to complete an I-9 work eligibility form. If the individual is abroad awaiting the approval notice in order to apply for an H-1B entry visa at a U.S. consulate, the Slutzker Center will contact the department to discuss mailing options.

PART 2: ACTUAL WAGE DETERMINATION – TO BE COMPLETED BY DEPARTMENT

The Actual Wage Determination must be filled out by the department and the attestation in Part 3 of Appendix A must be signed by both the Department Chair and the Faculty Advisor/Supervisor. Immigration regulations require that the employer document “a full, clear explanation of the system that the employer used to set the ‘actual wage’ the employer has paid or will pay workers in the occupation for which the H-1B nonimmigrant is sought, including any periodic increases which the system may provide...” (20 CFR Part 655 and 29 CFR Part 507) This information must be retained in the employee’s personnel file and in a public access file (which is kept at the SCIS office).

In order to meet federal regulations, you must provide the following information and confirmation. All questions must be answered. Please attach additional sheets if necessary.

1. Is anyone in the department presently filling a position comparable to the proposed H-1B (Note: If there is no comparable position to the proposed H-1B, the position may have to be compared to others on a school-wide basis)? Yes **or** No

2. What is the pay rate or pay range for other workers in the same position in the department who have the same level of education, experience, and skills as the alien employee (cannot be higher than the salary offered to H-1B applicant)?

3. If there is variation in the salaries of workers in the same job as that of the foreign national/employee, specify and explain the factors that account for this variation (i.e. additional duties such as supervisory duties, differences in the number of publications produced, significant award, etc...):

4. Explain the system or factors used to determine the wage offered to the foreign national/employee:

5. Explain the system used to evaluate the foreign national/employee’s performance and to provide for periodic pay increases:

PART 3: LEGALLY BINDING EMPLOYER ATTESTATIONS

By signing below, I attest that the above information is true to the best of my knowledge. I can provide additional details pertaining to statements made regarding the actual wage for the occupation discussed if needed. I authorize the Slutzker Center for International Services to seek approval from the US Department of Labor and US Citizenship and Immigration Services for an H-1B temporary visa on behalf of the above named individual.

Furthermore, I attest that Syracuse University will comply with the following statements as required by the Immigration Act of 1990 and conforming regulations issued by the US Department of Homeland Security and Department of Labor.
(From US Immigration Service [8 CFR 214.2 (h)] & US Department of Labor [20 CFR Parts 655 and 656])

- 1) That the H-1B worker will be paid the actual or prevailing wage, **whichever is higher** (the actual wage is determined by the actual wage statement above; prevailing wage is set by Department of Labor);
- 2) That the H-1B worker will also be paid for non-productive time unless contract is for a specified time period common to the industry such as 9 month academic appointments;
- 3) That the H-1B worker will be offered benefits on the same basis as similarly employed US workers;
- 4) That the employment of H-1B workers will not adversely affect the working conditions of workers similarly employed in the area of intended employment;
- 5) That on the date this form is signed and submitted, there is no strike, lockout or work stoppage in the course of a labor dispute in the occupation in which the H-1B worker will be employed at the place of employment;
- 6) That notice of the H-1B application will be provided to workers employed in the occupation in which the H-1B will be employed as signified by posting the Labor Condition Application in two conspicuous places (the Labor Certification Application along with posting and removal instructions are contained within Appendix C of this packet);
- 7) That the reasonable cost of return transportation to the H-1B's home country will be covered by the employer in the event employment is terminated prior to the ending date on the H-1B petition submitted to US Citizenship and Immigration Services. (See dates entered in part 1)

Required Signatures:

Faculty Advisor/Supervisor: _____ Date: _____

Name and Title of Faculty Advisor/Supervisor: _____

Department Chair: _____ Date: _____

Name and Title of Department Chair: _____

LEGAL NOTES AND COMPLIANCE

Any misrepresentation of facts or employer's failure to comply may result in the following (affecting all of Syracuse University not just the department):

- Assessment of back pay for the foreign national and/or other employees in the occupational classification
- Maximum of \$1000 fine for each violation
- A suspension of Syracuse University's labor condition applications and a prohibition of filing and approval of labor condition applications or applications for permanent alien employment certification for one year
- A prohibition of the filing of immigrant or nonimmigrant visa petitions with USCIS for at least one year
- Federal criminal penalties for knowing and willful submission of false statements to the Federal Government of \$10,000 and/or imprisonment of up to 5 years

After completion of parts 1, 2 & 3, please return Appendix A, the appointment letter, and UPS, FedEx, or DHL account number to Jennifer Gavilondo, Slutzker Center for International Services.

APPENDIX B: LCA FILING NOTICE

Instructions for Posting of LCA filing Notice

Department of Labor regulations and H-1B visa petition procedures require that this notice be posted in ***TWO*** conspicuous locations at the place of employment for 10 consecutive business days. Using the LCA Notice template, please fill in the relevant information, print on Department letterhead and post in your Department.

Upon posting, please email Jennifer Gavilondo at jgavilon@syr.edu and provide her with the date of posting. The posting date is necessary for the H1B process to move forward.

Upon completion of the necessary posting, please indicate the posting dates, the responsible individual and sign the Notice at the bottom. Please return the completed Notice to Jennifer Gavilondo at the Slutzker Center for International Services, 310 Walnut Place.

Thank you for your cooperation.

NOTICE OF FILING LCA

Date

The Department of _____ posts this position in connection with the filing of a Labor Condition Application (LCA) with the Department of Labor for a Petition for H-1B nonimmigrant employment for one H-1B nonimmigrant for the position of :

The wage/wage range offered for this position is: \$ _____per year

The period of employment for this position is: _____through

The location of employment is:

The LCA for this position is available for public inspection at the Slutzker Center for International Services, 310 Walnut Place, Syracuse, NY 13244

Complaints alleging misrepresentation of material facts in the LCA and/or failure to comply with the terms of the LCA may be filed with any office of the Wage and Hour Division of the United States Department of Labor. Local Office information:

Syracuse Area Office
US Dept. of Labor
ESA Wage & Hour Division
100 South Clinton Street
FOB Room 1373
Syracuse, NY 13260

Posted at _____ from _____ to _____

Name of responsible individual: _____

Signature: _____ Date: _____



SYRACUSE UNIVERSITY

LILLIAN AND EMANUEL SLUTZKER CENTER FOR INTERNATIONAL SERVICES
310 Walnut Place | Syracuse, New York 13244-2380
TEL: 315-443-2457 | FAX: 315-443-3091
EMAIL: LESCIS@SYR.EDU
WEB: [HTTP://INTERNATIONAL.SYR.EDU](http://INTERNATIONAL.SYR.EDU)

APPENDIX C: SU H-1B EXPORT CONTROL FORM

OVERVIEW OF EXPORT CONTROL REQUIREMENT FOR H-1B

In support of your request for H-1B sponsorship, the Slutzker Center for International Services is now required to certify on the USCIS I-129 petition whether or not a license for export controlled technology or technical data is necessary for the professor/researcher being sponsored. To facilitate this requirement, we ask your assistance in completing the questionnaire below. If any of the screening questions are answered "Yes", the Vice President for Research or a designee would confer with the sponsored-individual and appropriate supervisor or administrator to determine whether a license under EAR or ITAR would be required. The license acquisition process would be initiated in parallel to the H-1B sponsorship.

Any future changes or extensions of the sponsored H-1B worker's employment must also be reviewed for compliance. For details about Export Control please see: http://osp.syr.edu/About_Sponsored_Programs/Resources/preaward-manual.html.

SECTION 1: PROSPECTIVE H-1B SCHOLAR AND DEPARTMENT DETAILS

H-1B Scholar's Name: _____
PI/Supervisor's Name: _____
School/Division: _____ Department: _____

SECTION 2: EXPORT CONTROL QUESTIONS

- | | |
|--|--|
| 1. Is the nature of the H-1B Scholar's work confidential/proprietary (i.e. the results of the work/research projects are not intended for teaching, publication, or to be otherwise shared broadly with the interested public and within the scientific community)? | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 2. In the course of his/her employment, do you anticipate that the H-1B Scholar will be provided access to:
a. any SU-owned technical data or technology that is considered proprietary or confidential to Syracuse University?
b. any third party-owned technical data or technology that is considered proprietary or confidential to the third party owner? This includes U.S. government furnished technical data with dissemination controls or other restrictive markings, as well as ITAR-controlled software, and information restricted under an NDA.
c. equipment specifically designed or developed for military or space applications? (see U.S. Munitions List under 22 CFR § 121). | <input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> YES <input type="checkbox"/> NO |

If all answers to the above questions are "NO" please sign and submit to the Slutzker Center with other H-1B application materials.

If the answer to any of the above questions is "YES" please sign and send this form for a secondary review to Dr. Gina Lee-Glauser, Vice President for Research, leegloug@syr.edu, 207 Bowne Hall.

REQUIRED SIGNATURES

We attest that the information being provided at this time is true. If at this time no export license is required and, during the course of his/her employment at SU, there are any changes to the H-1B Scholar's work that would require a license, we will contact the Vice President for Research and the Slutzker Center for International Services.

PI/Supervisor: _____ Date: _____

Chair/Director or Dean: _____ Date: _____

- A license for Export Control **is not** required for this scholar.
 A license for Export Control **is** required for this scholar, and that process has been initiated.

VP for Research: _____ Date: _____

ATTN: Jennifer Gavilondo | Slutzker Center for International Services | Syracuse University | 310 Walnut Place | Syracuse, NY 13244-2380 | USA
Phone: 315-443-2457 | Fax: 315-443-3091 | E-mail: jgavilon@syr.edu | <http://international.syr.edu> | www.syr.edu

