Overview

The H-1B visa status is a temporary, nonimmigrant, employer-specific category for professionals in specialty occupations at Georgia Tech. The H-1B employment authorization category applies to foreign workers of “distinguished merit and ability” who are brought to the United States temporarily to perform services in a “specialty occupation” which requires theoretical and practical application of a body of highly specialized knowledge.

All H-1B petitions for Georgia Tech employment must be processed by Global HR, and the employing department must initiate all H-1B requests.

Criteria

Georgia Tech sponsorship for H-1B status is available for the following employment categories:

- Postdoctoral Fellows
- Regular Research Faculty
- Regular, Non-Tenure Track Teaching Faculty
- Tenured or Tenure Track Teaching Faculty

The job must meet one of the following criteria to qualify as a specialty occupation:

- Bachelor’s or higher degree or its equivalent is normally the minimum entry requirement for the position
- The degree requirement for the position is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree
- The employer normally requires a degree or its equivalent for the position
- The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor’s or higher degree.
H1-B Petition Process

The H1-B process should be initiated by the department as early as possible to avoid delays in employment start dates or gaps in employment authorization.

1. The first step in the process is requesting the Prevailing Wage from the Department of Labor. The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific occupation in the area of intended employment. If the prevailing wage is higher than the salary offered, the department will be notified.

2. The second step is certification of the Labor Condition Application (LCA), also from the Department of Labor. The LCA cannot be submitted until the Department of Labor has determined the prevailing wage and we have confirmed that the salary offered to the H-1B employee meets or exceeds the prevailing wage. After the LCA is submitted, it is certified in 7 days. By submitting the LCA, we are agreeing to abide by the following Labor Condition Statements:

   - Wages: The employer will pay the higher of the actual or prevailing wage rate, pay for nonproductive time, and offer benefits on the same basis as offered to U.S. workers
   - Working Conditions: The employer will provide working conditions (including hours, shifts, vacations, seniority-based benefits) which will not adversely affect similarly employed U.S. workers
   - Strike, Lockout or Work Stoppage: There is no strike or lockout in the same occupational classification on the LCA
     - ETA will be notified if a strike/lockout occurs
     - No H-1B will be placed at a site with a strike/lockout

Processing Times
- Department of Labor
- USCIS California Service

USCIS Processing Fees

<table>
<thead>
<tr>
<th>Form</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Form I-129, Petition for a Nonimmigrant Worker</td>
<td>$460</td>
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<tr>
<td>Anti-Fraud and Detection Fee (required for all initial H-1B petitions filed by Georgia Tech)</td>
<td>$500</td>
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<tr>
<td>Form I-907, Request for Premium Processing (optional, guarantees adjudication or request for additional evidence in 15 days)</td>
<td>$1,440</td>
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3. After the LCA has been certified and Global HR has received all of the necessary documentation from the department and employee, we will mail Form I-129 and the supporting documentation to USCIS.

Maintaining Status/Employer Compliance

Changes in Employment
All changes in employment for an H-1B employee must be reported to Global HR before the change occurs. The employing department should complete the Notification of Changes in Employment e-form in iStart. If further action is necessary (i.e. an H-1B amendment), the department will be notified.

Extension of Status
E-3 status may be granted for an initial two-year period, with indefinite two-year increment extensions possible.

Other Information

Dependents
Spouses and unmarried children (under the age of 21) are permitted to have H-4 status for the duration of the primary status holder. Individuals in H-4 status are not permitted to engage in employment. Individuals may engage in full- or part-time study.

Length of Stay
The maximum initial period of stay for an H-1B is three (3) years, with extensions from one to three-year increments thereafter.

The maximum period of time allowed for an H-1B is six (6) years. This means that time with a prior H-1B employer counts toward the six-year total. A break in H-1B status for a minimum of twelve (12) months will create a new six-year period of eligibility. Generally, extensions are not possible beyond the sixth year.
Site Visits

USCIS occasionally sends site inspectors to Georgia Tech to meet with departments and individuals in H-1B status to verify whether the foreign national is employed as was represented in the petition to USCIS. These site visits are often random and may occur prior to or after approval of a given petition. The inspector will likely ask for information of the person’s employment, including an overview of duties, as well as proof of employment (often in the form of paystubs or W-2 forms). If you have any questions about site visits, please contact Global Human Resources.