

UNIVERSITY OF RHODE ISLAND  
OFFICE OF INTERNATIONAL STUDENTS AND SCHOLARS

H-1B Temporary Workers

Please note that due to the complexity and breadth of information required to complete and file necessary visa-related documents pertinent to the hiring of H-1B Temporary Workers, URI hiring departments will be advised to secure the assistance of an immigration attorney (external to URI) to complete the process and forms. In conjunction with the Office of the Provost, the director of Personnel Services will provide approval signatures on behalf of the University of Rhode Island.

Effective March 8, 2005, all petitioning employers must pay a new anti-fraud fee of \$500, for each new petition filed. The Department of Human Resources cannot pay this fee. This is addition to the filing fee of \$190 and the premium fee of \$1000, should you choose to submit the application through premium processing.

Hiring departments must gain the approval of the U.S. Department of Labor **before** filing an application with the United States Citizens and Immigration Services for an H-1 B Temporary Worker. Hiring departments must satisfy **four conditions** of employment before gaining the approval of the Department of Labor.

**FOUR CONDITIONS**

- H-1B employer must agree to pay an H-1B nonimmigrant the “required wage rate,” which is defined as the higher of two figures: the “actual wage rate” or the “prevailing wage rate.”
- The employment of H-1B nonimmigrants will not adversely affect the working conditions of workers similarly employed in the area of intended employment.
- The employer must attest that at the time of filing, there is not is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment.
- The employer must provide notice of the filing of the Labor Condition Attestation in two ways:
  - Notice to employees at the work site;
  - Notice to the collective bargaining representative.
    - If there is no bargaining unit, a paper notice, posted for ten days in at least two “conspicuous” locations at each site where the H-1B employee will be working;
    - A ten-day electronic posting on the employer’s Web or internet site where vacancy notices are usually posted; or
    - A one-time e-mail to all employees in the same occupational classification.

## IMPORTANT

- Three major stages characterize the H-1B hiring process:
  - **Stage One:**  
Approval of the Prevailing Wage Request form with the Rhode Island Department of Labor and Training, Foreign Labor Certification Unit (Approximately 1 week)
  - **Stage Two:**  
Approval of the labor certification, form ETA 9035 by the U.S. Dept. of Labor (Approximately 1 week)
  - **Stage Three:** (after approval of ETA 9035)  
Approval of the **H-1B** visa application includes:
    - Forms I-129, H Supplemental, and I-129 filing fee
    - Form I-129 W
    - Copy of Labor Condition Statement (LCA)
    - Employer letter in support of the petition
    - Supporting documentation of employee qualifications
    - If applicant is in the US, documentation that confirms that current status is valid
    - Form I-539 and I-539 fee and copies of dependent documents
- There is an annual cap (occupations) and per country cap on **H-1B visas** available. Exempted from this cap are higher education institutions, non-profit and governmental research organizations.
- For tenure-track positions, departments should request approval for a full three-year period.
- Persons who are or have been in J-1 or J-2 status and are still subject to the “two-year home country residency requirement” are not eligible for change of status to H-1B until the two-year requirement is fulfilled or a waiver is obtained. The waiver process can take six months or longer.