The H-1B Application Process

The H-1B application process has slowed significantly due to changes in how the United States Citizenship and Immigration Services (USCIS) adjudicates each application. Per H-1B regulations, the H-1B processing can start at the earliest six months prior to the requested start date. The entire process generally takes four months at least, using Premium Processing.

H-1B temporary worker status is designated for individuals coming temporarily to the U.S. to work in a specialty occupation. A specialty occupation is defined as one that requires "theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree, or its equivalent, as a minimum requirement." The H-1B is considered an "employer specific" status. This means that the scholar may only be paid by the specific H-1B sponsor, and only according to the terms in each H-1B application. Scholars in H-1B status cannot accept funds from another employer or source other than the employer listed in the H-1B application.

Processing Time

The H-1B process is more complex than other immigration statuses, and the processing time is long and sometimes unpredictable. The hiring department at Yale must initiate the H-1B application process on behalf of the scholar they wish to sponsor, and then provide (in coordination with the scholar) the required documentation to OISS. There are two separate government agencies involved in H-1B visa sponsorship: the U.S. Department of Labor (DOL) and the United States Citizenship and Immigration Services (USCIS). The total processing time essentially involves three stages: Yale preparation (OISS adviser, host department and international scholar), the DOL step, and USCIS review. Normal processing can take as long as 10 months due to delays in any one of the three stages. While this process should begin 8 months in advance of the appointment or extension, please note that, per regulation, the OISS adviser cannot begin the DOL step any sooner than six months prior to the requested H-1B start date. Even with this advanced planning, it may be necessary for the department to pay premium processing ($2500.00) due to processing delays or scholar travel.
Other Considerations

**Prevailing Wage** [3]

The department is required to pay a salary (fellows paid a stipend may not qualify for H-1B sponsorship) to the international scholar and that salary must meet the “prevailing wage” as determined by the DOL. Because of these strict DOL requirements (as well as policy from the Office of Postdoctoral Affairs), **part-time research positions normally do not qualify** for Yale H-1B sponsorship.

**Positions**

H-1B status is typically used at Yale for faculty and academic positions, such as: assistant professor, lecturer, postdoctoral associate, senior managerial and professional (M&P) positions (minimum grade of 25).

**Length of Time**

H-1B status is initially granted for a maximum period of **three years** and **can be extended to a total of six years** [4] (regardless of the number of employers). Because the application process is lengthy and complex, requesting a full-three year H-1B status (providing the intention is to retain the scholar for that long) is recommended and advantageous.

**H-1B Processing**

All H-1B requests must be processed through OISS. Outside attorneys are not authorized to petition for H-1B status for any Yale employee without written consent from the OISS.