Understanding H-1B Status

Yale H-1B visa sponsorship is reserved for full-time salaried employees with long-term or permanent academic appointments. H-1B sponsorship is typically associated with faculty and academic positions such as, Assistant Professor, Instructor and Associate Research Scientist. J-1 visa is best and commonly used for postdoctoral associate appointments. Please consult with your OISS adviser [1] to determine whether or not H-1B is the best visa for the scholar/employee and/or the presented appointment/position.

Eligibility

Regulations define the H-1B visa as a paid temporary worker status for individuals working in a specialty occupation (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”). H-1B sponsorship also requires that employers pay a “prevailing wage” [2] or the actual wage, whichever is higher.

Processing Time

Review H-1B processing time [3] via regular processing vs. via premium processing in details.

Conditions

The H-1B is considered employer/appointment specific, which means the scholar may only be paid by the H-1B sponsor (e.g. Yale) and only according to the terms in each H-1B application. H-1B visa holders cannot receive honorarium from other employers.

Maximum Duration

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

Hiring Unit's Responsibility

The department is required to keep records related to the prevailing and actual wage for at least five years after the employee departs. These evidential documents are subject to the federal government audits. See the “Record-Keeping and Compliance [4]” section. Any change in the terms of employment, including early departure, must be communicated to OISS prior to the change. Failure to so notify OISS in advance of the change may result in paying back wages by the hiring department. If the employment is involuntarily terminated, the department may be responsible to pay the return airfare home to the employee.

Legal Representation

The decision to use the H-1B is up to the university based on the OISS assessment and recommendation and the request for sponsorship must always be initiated by the department [5] All H-1B sponsorship is processed through OISS. Outside attorneys are not authorized to petition for H-1B status for any Yale employee without written consent from the OISS.