H1 Visas

The H-1B temporary worker visa is designated for individuals coming temporarily to the United States to perform services 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 hiring department must provide documentation to prove that the job requires a person with special qualifications and that the foreign scholar meets those qualifications. Further, the department is required to pay a salary to the foreign scholar. The individual’s paycheck must come from a DFCI grant. The United States Citizenship & Immigration Services (USCIS) makes the final decision on whether the individual qualifies for the H1 classification. The H1 visa is employer specific, which means that a USCIS approved petition authorizes the non-immigrant to work only in the position specified in the petition. Further, an individual who has an H1 approval from another employer is not automatically eligible to work at DFCI. An H1 worker may work for more than one employer, but each employer must file a separate H1 visa petition.

Six-Year Length Of Stay Allowed

H1 visa holders are eligible for a total maximum stay of six years. The initial H1 visa may cover a period up to three years. Since this six-year limit is strictly enforced, it is important to plan accordingly. The six-year limit includes time spent on the H1 at another institution. It may be possible to begin another six-year period as an H1 after the individual has spent at least one year outside the United States.

H-4 Dependents

Spouses and unmarried children under 21 of an H1 holder are eligible for H-4 status. H-4 visa holders are not permitted to work. If an H-4 dependent qualifies for specialty occupation in his or her own right, a change of status to H-1B is necessary before employment can begin. H-4 dependents may study in the United States, full- or part-time, for the duration of H-1B’s period of stay.

The H1 procedure is as follows:

Before applying to the USCIS for H1 status, the Institute must have an approved Form ETA 9035 (Labor Condition Application for H1 Nonimmigrants) from the Department of Labor (DOL). To secure this approval notice, the Institute must first obtain the Prevailing Wage from the Division of Employment and Training (DET) for the position it is petitioning. To do this, the following information should be forwarded to Human Resources:

1) Name of Job Title
2) Full Description of the job to be performed
3) Education Required
4) Field of Study
5) Amount of Training (if any)
6) Amount of Experience (if any)
7) Other special requirements

Human Resources files the ETA Form with the DOL, posts the ETA form in two conspicuous places in the Institute, and gathers other necessary documentation as required by the Department of Labor. Once the Form ETA is certified, the Institute can petition the USCIS for H1 status. The following forms are required:

1) Form I-129H (Petition to Classify Non-Immigrant as a Temporary Worker or Trainee) Human Resources completes this form.

2) A check or money order payable to U.S. Citizenship & Immigration Services for $320.00 (extensions to existing H1’s only). All others (including new, transfer and change in status), a check payable to U.S. Citizenship & Immigration Services for $320 and a check payable to the Department of Homeland Security for $500.

3) A support letter from the supervisor explaining his/her temporary need for the services to be performed.

The letter should describe the project the applicant will be involved in, the education and experience required to do the job, and how the education/experience of the applicant relates to the job. In addition, by law, included in the letter must be a statement that the Department will provide transportation to the applicants home country should the applicant be dismissed prior to the expiration date of the visa. (The letter should be addressed To Whom It May Concern; United States Citizenship & Immigration Services - 75 Lower Welden Street, St. Albans, VT 05479-0001).

4) A copy of the original diploma or degree certificate showing higher education. (translated if not in English)

5) A copy of the passport (NOT THE ORIGINAL).

6) A copy of the I-94 card (n/a for staff who are not yet in the U.S.)

7) An updated resume (CV)

8)  

- For students currently holding an F1 visa: A copy of the I-20 student ID and work authorization card
- For J1 visa holders, copies of all DS2019 forms (with waiver from USIA if applicable)
- For H1 holders, copies of all H1 approval notices received to date
- All others: current work authorization (i.e., J2 with work authorization, TN, H4, etc)
- (n/a/ for staff who are not yet in the U.S.)
9) If accompanied by eligible dependents, Form I-539 as instructed, with an additional fee (see www.uscis.gov)

These forms are sent together by Human Resources, to the USCIS in Vermont. Normal processing time is approximately three to four months, from the initial filing with the Department of Labor to the response from the USCIS.