URI OISS H-1B HELPFUL FACTS

Labor Condition Application

Employers wishing to sponsor H-1B workers must agree to the terms of the Labor Condition Application (LCA) by signing the bottom of the form itself. **Specifically,** employers are required to maintain documentation supporting the statements that:

- H-1B non-immigrants will be paid at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage, whichever is higher.
- The employment of H-1B non-immigrants will not adversely affect the working conditions of workers similarly employed in the area of intended employment.
- On the date the application is signed, there is not a strike or lockout in the course of a labor dispute at the place of employment. The Labor Condition Application cannot be submitted until the strike has been settled.
- A copy of this LCA must be provided to each H-1B worker pursuant to this application and as of the date of signing this application, notice of this filing will be either provided to the bargaining representative if there is one or that this notice will be posted for 10 consecutive days in 2 conspicuous locations where the H-1B workers will be employed.
- The employer will pay reasonable costs for the return trip to the alien’s home country if his/her employment is terminated before the end of his term of employment.

Definition of the "Prevailing Wage"

The prevailing wage means a wage documented by real market data. The unchallengeable standard for prevailing wage is survey data reported by the State Employment Security Agency. Wage surveys from professional associations and other sources may also be used as guidelines. The salary offered must be at least 95% of the Prevailing Wage determination to qualify for the H-1B visa category.

Social Security and Medicare

H-1B aliens are subject to Social Security (FICA), Medicare taxes. They are entitled to claim U.S. Resident Status for Tax Purposes. They are subject to Federal and State income tax unless exempt by a tax treaty. Family dependents holding H-4 visa status are not eligible for paid employment.

Visa Portability

In the case where you are filing for a transfer of H-1B visa from one employer to another, you may take advantage of the "visa portability" allowance which means that if you are in legal H-1B visa status for one employer and you wish to change employers (jobs), the new employer may file a new H-1 visa petition and you may work legally for the new company once the new employer has received Form I-797 from INS acknowledging that your application has been received.
Documents to be Provided or Endorsed by the Employer

1. Letter on company letterhead supporting the H-1B visa application of the beneficiary. The emphasis of the letter generally should be to describe the particular skills/knowledge or professional training that the applicant possesses that were factors in your choice to hire him/her. If the applicant is in an entry-level position and has a Bachelor's degree, the letter should state and confirm that the job offered requires at least a Bachelor's degree in a relevant academic field (and that the applicant has the required degree). For information in where to send the letter, visit

http://www.uscis.gov/i-129-addresses

2. Official Appointment letter on Company letterhead, addressed to the beneficiary (H-1B alien worker), stating the position title, description of his/her duties and responsibilities, salary information and benefits offered, as well as the effective dates of employment. It is recommended that the appointment letter indicate a period of 3 years (maximum time limit on an original H-1B petition; positions may be extended for an additional 3 years in a subsequent application).

3. Signature of employer on the Labor Condition Application. This form is needed to verify agreement to the terms of the Labor Condition Application

4. Signature on Form I-129 (signatures in three places indicated on the form).

5. If the employer is NON-PROFIT, the signing representative must sign the I-129W form and attach the company's proof of Tax-Exempt status. A letter from the Internal Revenue Service stating this fact is recommended.

6. Check made payable to USCIS in the amount of $500 (Anti-Fraud Fee) is required of all employers whether they are non-profit or for-Profit. This fee must be on employer's business check.

7. Photocopies of letters of recommendation for the H-1B alien worker that you may have received as part of his/her job application.