

Actual Wage Determination Worksheet H-1B Specialty Occupation Employment

****Note that grant availability may not influence the determination of the actual wage.***

Please note that this information will be available for employees to view in ISD so do NOT list Names on this document – rather, use TU ID #s instead.

The purpose of this document is to report in writing the wage rate levels paid to all personnel who have the same job title as the H-1B Applicant. If no other employee in the department holds the same title as the H-1B Applicant, please list employees with similar job duties/responsibilities. This worksheet will be made available to the Department of Labor and the US Citizenship and Immigration Services in inspection folders. More information on wage issues can be found at the end of this packet.

Begin by listing the H-1B applicant. Please note that Post-Doctoral Fellows and Resident Physicians/ Fellows are considered “training” positions and should not be compared to jobs that are offered through Human Resources.

EMPLOYEE TU ID	HIGHEST DEGREE	YEARS OF EXP	SPECIAL SKILLS/KNOWLEDGE/DUTIES	WORKER SUPERVISION DUTIES	HOURS/ WEEK	WORK MONTHS (9 OR 12)	ANNUAL SALARY
				<input type="checkbox"/> Yes <input type="checkbox"/> No			
				<input type="checkbox"/> Yes <input type="checkbox"/> No			
				<input type="checkbox"/> Yes <input type="checkbox"/> No			
				<input type="checkbox"/> Yes <input type="checkbox"/> No			
				<input type="checkbox"/> Yes <input type="checkbox"/> No			
				<input type="checkbox"/> Yes <input type="checkbox"/> No			
				<input type="checkbox"/> Yes <input type="checkbox"/> No			

Use the following section to explain wage-level differences not based on information listed above:

Name of Person Completing this Form	
Signature	
Date	

Actual Wage Memorandum

Federal regulations require that the employer retain documentation specifying the basis it used to establish the actual wage, i.e. how the wage for the H-1B worker relates to the wages paid other individuals with similar experience and qualifications for the specific employment at the place of employment. Please complete this form, then print out and attach appropriate signatures

Today's Date:			
# of People Who Have Same Job Duties/Responsibilities As H-1B Applicant:			
Name of Position H-1B will hold:			
Hiring Dept Name:			
Address of Hiring Dept:			
Salary Range of Employees In This Position:	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> \$ _____ to \$ _____ </div>		

The salaries of individuals holding this position were determined on the basis of a number of factors, including: (check the criteria that apply in this case plus add any other factors that your department used to determine these salaries):

- level of education
- years of experience in the field
- specific job responsibility
- specialized knowledge
- degree of independent responsibility
- nature of the duties involved and
- other applicable criteria _____

(Include criteria that are specifically relevant to the position in question, such as knowledge of and/or experience in specific software programs for computer systems analysts, or knowledge of and/or experience in specific financial modeling tools for financial analysts, etc.)

Salaries of employees are adjusted on an annual periodic basis, based upon performance reviews cost of living adjustments other _____.

Please note that the employer applies the same methodology to all US and H-1B employees in this classification when determining the actual wage, based upon the above referenced criterion.

Name of Person Completing this Form	
Signature	
Date	

It is extremely important that the department not misrepresent any fact or situational development. In the event that Temple University is audited by the US Department of Labor, USCIS or other local, state, or federal agency, the hiring department is responsible for any misinformation it provided, not ISSS. See <http://www.temple.edu/iss/international/LCAViolations.htm> for a list of LCA Violations and DOL Penalties

Wage Rate Memorandum/Benefits Summary

Please complete this form, then print out and attach appropriate signatures

MEMORANDUM

TO: International Student and Scholar Services

This is to confirm that as of _____ (requested start date of H-1B),
_____ (name of H-1B Applicant) will be paid
\$ _____ (salary) per year for his/her service in the position of
_____ (position title).

In addition, there is no differentiation between the employment benefits offered to H-1B professionals and other similarly-situated full-time employees, including, but not limited to, health insurance plans, long term/disability insurance options, pension plans, tuition remission eligibility, domestic partner benefits and FMLA/Leave of Absence Eligibility.

Name of Person Completing this Form	
Signature	
Date	

Required Wage Requirements for H-1B Petitions

20 C.F.R. § 655.731(a)

(a) Establishing the wage requirement. The first LCA requirement shall be satisfied when the employer signs Form ETA 9035 or 9035E attesting that, for the entire period of authorized employment, the required wage rate will be paid to the H-1B nonimmigrant(s); that is, that the wage shall be the greater of the actual wage rate or the prevailing wage. The wage requirement includes the employer's obligation to offer benefits and eligibility for benefits provided as compensation for services to H-1B nonimmigrants on the same basis, and in accordance with the same criteria, as the employer offers to U.S. workers.

20 C.F.R. § 655.731(a)(1)

(1) The actual wage is the wage rate paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question. In determining such wage level, the following factors may be considered: Experience, qualifications, education, job responsibility and function, specialized knowledge, and other legitimate business factors...Where there are other employees with substantially similar experience and qualifications in the specific employment in question--i.e., they have substantially the same duties and responsibilities as the H-1B nonimmigrant--the actual wage shall be the amount paid to these other employees. Where no such other employees exist at the place of employment, the actual wage shall be the wage paid to the H-1B nonimmigrant by the employer.

The Actual Wage

The employer must agree to pay an H-1B nonimmigrant the required wage rate, which is defined as the higher of the actual and prevailing wage rate. The prevailing wage is the rate being paid in the greater Philadelphia area for the same occupation. If employment will take place at more than one site, we must determine the prevailing wage for both locations. **To document the actual wage, the Department must list all other persons currently employed in the department with the same job classification as the potential H-1B employee. If the salaries do not match, the department must provide the reasons for the discrepancies. (Please be specific.)**

If the prospective H-1B employee's salary is not equal to nor higher than the salaries of the comparable employees (if the department cannot justify why another employee earns more than the H-1B), ISSS will be unable to submit an H-1B petition for this employee and he/she may not be employed by TU. The department must use the same criteria for comparison for each Actual Wage Calculation of every H-1B to be hired.

Valid criteria for stating employee is not comparable:

- Employee has more relevant work experience than H-1B employee
- Employee has specialized knowledge relevant to the field
- Employee has more responsibility than H-1B employee
- Employee has better educational credentials than H-1B employee (more prestigious school)
- Employee does not work same number of hours or performs more duties

Not valid:

- Salary compression/inversion (person recently hired earns more than someone who's worked at Temple longer) or TU salary freeze (past or present) resulted in different pay
- Funded by different grant (salary limitations of a particular grant do not count)
- Department had more money when it hired another employee
- Different area of research
- Another employee demanded a higher salary or H-1B is willing to work for less money
- H-1B would be paid less if s/he was in home country
- Another employee is paid more due to abilities or qualifications irrelevant to the position