

## Office of International Affairs

Actual Wage Determination Form

H-1B

## **Actual Wage Determination Form for H-1B Petition**

As part of the application process for an H-1B employee, UTHealth is required to provide documentation that illustrates how the employer determines the actual wage. The actual wage is the wage rate paid by the employer to all individuals with experience and qualification similar to those of the H-1B employee to this specific employment. Documentation must show how the wage is set for an H-1B employee related to the wage paid to other individuals with similar experience and qualifications for this position. This form is designed to assist your department in calculating and documenting the actual wage. This is an internal form and will be included in the Department of Labor (DOL) Public Access file maintained by the Office of International Affairs. Please use a separate sheet if necessary.

H-1B regulations require that UTHealth pay the higher of the actual wage or the prevailing wage as determined by the U.S. Department of Labor (DOL).

**SECTION I:** Enter your division/department name, the title that is being offered to the H-1B employee, H-1B employee's last name and first name, all educational degrees, and total years of post-graduate training (PGY) or related work experience (including related experience gained abroad).

Division/Department Name:	Title:
H-1B Employee's Last Name:	H-1B Employee's First Name:
Degree (list all degrees):	Total years of related work experience:

**SECTION II:** List all employees that are currently working in your department who hold the **same title** as the H-1B employee and provide the information specified. Identify those employees who should not be considered as peers to the H-1B employee by indicating Yes or No in the appropriate box. A peer is defined as someone who has the same title and pay with comparable responsibilities and qualifications to the H-1B employee. If there are no peers, please state so.

For H-1B sponsorship, the annual salary is considered the **base salary** and does not include the standard fringe benefits, augmentation, supplemental pay, incentive pay for extra duties, overtime or relocation.

Last Name, First Name	Immigration Status	Education (List all Degrees)	Total Years of Work	Annual Salary	Is employee listed considered Peer to H-1B Employee?	
	(if known)	, ,	Experience		Yes	No

wage.		
If there are no peers, please identify the w H-1B application start date or date of the	vage being offered to the H-1B employee effective or stipend adjustment.	n the requested (initial or modified)
Actual Wage = \$		
	e as non-peers to the H-1B employee should be liste iding a statement of specific business reason(s) for the state of the	
responsibilities, specialized knowledge or performance, amount of received award guidelines, etc.). Differences between nor	for salary difference include work experience, educe other legitimate business factors (i.e. professional or grant funding, number of publications, research papeers should also be explained e.g. why Dr. X and De years of experience than Dr. Y but is paid less etc. U	distinctions, documented meritorious presentation, grant guidelines e.g. NIP or. Y have the same years of experience
wage form, The Department Chair underst for any of the exclusions, it would be the D supporting documentation to verify these	erjury that the information provided on this form is tands that the exclusions must be defensible in a coupepartment's Chair responsibility to defend the exclusions statements for the U.S. Department of Labor.  will be paid the required wage for the duration of the izenship & Immigration Services.	ort of law, and should we be challenged sions. If required to do so, I can provide
Full Name of Preparer	Signature of Preparer	 Date
Full Name of Department Chair/Director	Signature of Department Chair/Director	 Date
Dean	Signature of Dean	 Date

**SECTION III:** Identify the highest salary of the employee(s) who are considered peers to the H-1B employee. This is the actual wage and is usually the salary that you will pay the H-1B employee. You will be notified by OIA if the prevailing wage is higher than the actual

## INSTRUCTIONS FOR COMPLETING ACTUAL WAGE DETERMINATION FORM

**Section I.** Enter your division/department name, the official UTHealth job title that is being offered to the H-1B employee, H-1B employee's last name and first name, all educational degrees, and total years of training or related work experience (including related experience gained abroad).

**Section II**. Identify and list all employees currently working in your division/department who holds the same title as the one to be accorded to the H-1B employee. Use additional sheets as needed.

- a. Current Immigration Status Indicate the current immigration status (i.e. Permanent Resident "aka Green Card", F1, H1B, J1, etc.) if known.
- b. Education Indicate each employee's degree or educational equivalency. All degrees should be listed and not just those related to the field of work so that all degrees can be considered as a business reason exclusion.
- c. Experience Indicate each employee's years of related work experience accrued since obtaining the degree regardless if the experience was received abroad or the U.S.
- d. Salary Indicate the current salary of each employee listed in the form.
- e. Check "Yes" if the employee listed is considered a peer to the H-1B employee. Check "No" if the employee is not considered a peer to the H-1B employee.
  - <u>Reminder</u>: A peer is defined as someone who has the same title and pay with comparable responsibilities and qualifications to the H-1B employee. If there are no peers, please state so.

**Section III.** Identify the highest salary of the employees who is considered a peer to the H-1B employee. This is the actual wage and is usually the salary that you will pay the H-1B employee. You will be notified by the Office of International Affairs if DOL finds that the prevailing wage is higher than the actual wage. As previously stated, to support the H-1B either the prevailing wage or actual wage, whichever is higher, must be paid to the H-1B employee and all peers.

**Section IV.** Business Exclusions - The Department of Labor suggests that the following factors be considered when evaluating employees with similar experience and qualifications and justifying pay differences among comparable employees:

- Education Is the educational background of other employees in the job in question similar to the H-1B employee's educational background? (degree level, GPA, class rank, academic honors)
- Experience Is the work experience attained by other employees who are performing the same work similar to that of the H-1B employee? (length and type of experience; relevancy)
- Qualifications Are the job qualifications for the specific position in question the same for the H-1B employee and all other employees in the position? (particular skills, training, licensure)

- Job responsibilities- Are the actual day to day job duties and responsibilities that the H-1B employee will perform substantially similar to those of other workers employed in the same position? (basic duties, supervisory/managerial role, decision making ability)
- Specialized knowledge Does the H-1B employee or any of the other employees in the position possess specialized knowledge? (expertise in a specialized field of research, medicine, etc.)
- Other legitimate business factors Have professional distinctions been attained by either the H-1B employee or other employees in the position? (publications in professional journals, recipient of an international prize or award, development of a patent, documented meritorious performance)

Factors that <u>cannot be used</u> to justify paying the H-1B a lower salary than that paid to comparable employees include the following:

- Salary limitations set by a grant
- Limited department or grant funding
- Market conditions
- Past salary freezes
- H-1B employee's willingness to accept a lower salary than the salaries paid to other comparable employees

**Section V**. Obtain departmental signatures as noted. Attach the original actual wage form to the H-1B administrative approval packet and forward the form to the Office of International Affairs.