

*Fall HR Conference Session:*

**Immigration/Visa Processing**  
for  
**International Faculty and  
Professional Staff**

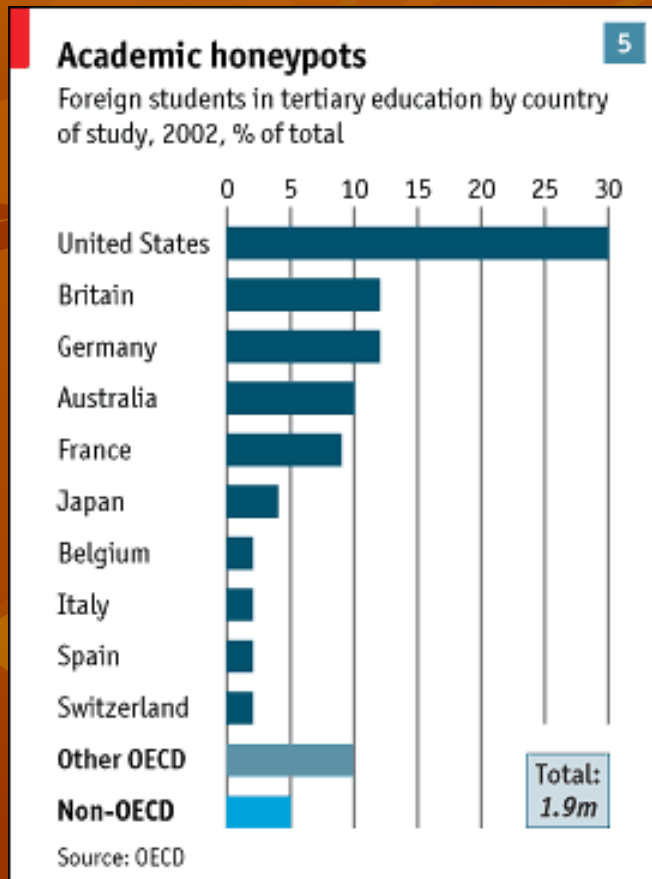
Julie Rabaey, Assistant Director  
International Student Office  
Minnesota State University, Mankato  
(Also processes H-1Bs, TNs for OHR at MSU)

# How “hot” is this topic for you?

- I do visa processing (J, TN, H-1B) for international faculty and/or professional staff for my institution.
- I usually work with an immigration attorney if there is an international faculty hire.
- I don't directly do any visa processing for international faculty and/or professional staff, but my work is impacted (e.g., I-9 verification, retirement, tax residency determination, degree verification).
- I am not involved with any international faculty and/or professional staff issues in my daily work.



# Reality – International Students may become International Faculty and Professional Staff



From magazine The Economist article (9/8/05) and survey on Higher Education entitled: “*Wandering scholars: For students, higher education is becoming a borderless world*”

[http://www.economist.com/displayStory.cfm?Story\\_id=4340017](http://www.economist.com/displayStory.cfm?Story_id=4340017)

# Outline/Session Overview

- Basics of Non-immigrant Visa Types for employment of international faculty and professional staff
- Processing Steps for H-1B Temporary Worker Visas
- Long-term Retention of International Faculty (including "green card"/PR options)
- Policy and Practice Issues

# Who are prospective international employees?

- Non-immigrant vs. Immigrant

*Non-Immigrant = Temporary intent*

*Immigrant = Permanent Resident, has PR, is a “green card” holder, has an I-551 stamp in home country passport, has an “alien registration” card, etc.*

- Questions during interview?

*Be consistent with all applicants – all must be asked “eligibility” type question: “Are you eligible to work in the U.S.?”*

*MnSCU FAQ: <http://www.ogc.mnscu.edu/immigration.html>*

- Goal

*Individual self-identifies, department recognizes, contacts appropriate resource to proceed with non-immigrant visa processing*

- Visa Resource

*Communicate to Deans/Chairs/Departments; Inform on website; Handouts*

*OHR at MSU: <http://www.mnsu.edu/humanres/international.html>*



# **Basics of Non-immigrant Visa Types**

# Alphabet Soup Resources

- USCIS: <http://www.uscis.gov/graphics/services/visas.htm>
- MnSCU: <http://www.ogc.mnscu.edu/immigration.html>
- Minnesota State Mankato: <http://www.mnsu.edu/iso/faculty/>
- University of Minnesota (handbook visas 19-23):  
<http://www.iss.umn.edu/H1BEmployment/default.html>

# Common Non-Immigrant Visa Types for University Employment

- F-1 Student with Curricular Practical Training
- F-1 Student with Optional Practical Training
- J-1 Student with Academic Training
- J-1 Professor, Researcher or Short-Term Scholar
- J-2 (Dependent of a J-1)
- H-1B (Temporary Worker in a Specialty Occupation)
- TN (Treaty/Trade NAFTA)

# H-1B1

## Temporary Worker performing services in a specialty occupation

- BA/BS or higher in a specific field
- Matching of position/person – no comparison to U.S. workers
- Maximum six years (three yr or less increments)
- Return transportation clause if early termination
- Specific to employer/terms of petition



# Processing Steps for H-1B

## (Temporary Worker Visas)

Step One: Obtain a prevailing wage (if no bargaining representative)

- Research prior to filing the prevailing wage request with the MN Department of Employment and Economic Security:  
<http://www.flcdatacenter.com/>
- Submit prevailing wage request form: [http://www.deed.state.mn.us/flc/pre\\_wag2.htm](http://www.deed.state.mn.us/flc/pre_wag2.htm)
- Ensure salary is at or above prevailing wage
- Add prevailing wage/source to Labor Condition Application (Step 2)

*Tips: Match job posting/description, explain supervision of employees (student vs. staff)*

# Example of a Prevailing Wage Determination

04/19/2006 14:36 FAX 801 281 1122 MN DEPT. OF EMPLOYMENT 002/002  
 FROM : GUSTAVUS ADOLPHUS COLLEGE FAX NO. 15879337900 Apr. 18 2006 09:35AM P1

Department of Employment and Economic Development  
 Foreign Labor Certification  
 651-296-6140  
 FAX: 651-297-7722

State of Minnesota  
**PREVAILING WAGE REQUEST**

Check One  
 H-1B  
 H-2B  
 PERM

1. Employer/Business Name (Full Legal Name) Gustavus Adolphus College	2. Employer/Business Address (City, State) 800 West College Avenue Saint Peter, MN 56082	3. Job Site (City, State) Saint Peter, MN	4. Job Site County Nicollet
5. Nature of Employer's Business Education	6. Job Title of Available Position Assistant Professor of Spanish	7. Number and Type of Workers Position will Supervise (If none, write "None") None	
8. Title of Position (Immediate Supervisor) Chair, Department of Modern Languages, Literatures, and Cultures	9. Wage Subject to a Collective Bargaining Agreement? <input type="checkbox"/> YES (Attach evidence of contract period and negotiated wage rate.) <input checked="" type="checkbox"/> NO	10. <input checked="" type="checkbox"/> Institution of Higher Education or Related or Affiliated Non-profit Entity <input type="checkbox"/> Non-profit Research Organization (Attach IRS Tax Exemption Evidence)	
11. <b>JOB DESCRIPTION:</b> Fully describe the work to be performed (major duties and tasks). List specific tools, equipment, technologies, etc., required to do the job; indicate how much supervision the position receives and how much independence in judgment/tasks-making the position allows. Teaching undergraduate Spanish courses in the Department of Modern Languages, Literatures, and Cultures. Must have excellent language skills in Spanish and English, and be able to teach Spanish at all levels.			
12. College Degree Required? <input checked="" type="checkbox"/> YES (Specify type of degree and major line of study) Ph.D. preferred; ABD considered <input type="checkbox"/> NO	13. Formal Training Required? <input type="checkbox"/> YES (Specify Technical, Vocational or Apprenticeship Program, length of program, and field of study) <input checked="" type="checkbox"/> NO	14. License or Certification Required? <input type="checkbox"/> YES (List specific license and/or certification) <input checked="" type="checkbox"/> NO	15. Other Requirements Needed for Job? <input type="checkbox"/> YES (Specify special skills or professional) <input checked="" type="checkbox"/> NO
16. Latest Annual of Experience Needed to Perform Job (years, enter "0") Number of Months: 0	Date of Request 04/17/2006	Name of Requester/Title International Student Services Coord	Name of Requester's Organization Gustavus Adolphus College
Requester's Business Address 800 West College Avenue, Saint Peter, MN 56082	Phone Number 507-933-7493	Fax Number 507-933-7900	

**PREVAILING WAGE DETERMINATION**  
 (Base Workforce Agency Use Only)

O*NET Occupational Code 25-1124	O*NET Occupational Title Foreign Language and Literature Teacher, Postsecondary	Skill Level 1	Survey Year 2006
Prevailing Wage \$ 36,694 per year	<input type="checkbox"/> OES All Industries <input checked="" type="checkbox"/> OES Education ACWIA		
Issue Date APR 19 2006	Expiration Date of Determination APR 18 2007	Prevailing Wage Analyst Frances Re...	

NOTE: If the information provided will be used to complete the Application for Permanent Employment Certification, Form ETA 9089, the employer is required to retain this document for a period of five (5) years from the date of filing.

Rev. 06/05

FROM : GUSTAVUS ADOLPHUS COLLEGE FAX NO. 15879337900

# Example of Notice to Bargaining Representatives



August 31, 2005

TO: Steve Bohnenblust  
Inter Faculty Organization

FROM: Lori Lamb  
Director of Human Resources

RE: Filing Petitions for a Non-Immigrant Worker (H-1B)  
~~XXXXXXXXXXXXXXXXXXXX~~

This is to notify you that Labor Condition Applications have been filed to the Regional Department of Labor. Please see attached LCA form ETA 9305.

Thank you.

ls 

Attachment


# H-1B Processing Steps (Continued)

## Step Two: File a Labor Condition Application ETA 9035

<http://workforcesecurity.doleta.gov/foreign/h-1b.asp>

- Post in two conspicuous locations on site for 10 days  
*(if position represented by a union, notify bargaining representative)*
  
- Maintain public access file for each H-1B filed: *DOL reg. 20 CFR 655.760*
  - (1) Copy of LCA (Form ETA 9035) [certified from DOL]
  - (2) Documentation stating wage rate to be paid to H-1B employee
  - (3) Clear explanation of system used to set the "actual wage"
  - (4) Documentation employer used for the "prevailing wage"
  - (5) Documentation establishing how employer complied with the LCA notice requirement [i.e., documentation of posting]
  
- Submit copy of approved LCA with USCIS (I-129) petition (Step 3)

# Example of electronic filing of LCA


**Labor Condition Application for H-1B & H-1B1 Nonimmigrants**
U.S. Department of Labor  
Employment and Training Administration
Form ETA 9035E  
OMB Approval: 1205-0310  
Expiration Date: 30 NOV 2008

**E. Subsection A Information For Additional or Subsequent Work Location**

1. City \_\_\_\_\_ State \_\_\_\_\_

2. Prevailing Wage \_\_\_\_\_

3. Wage is Per:  Year  Week  Month  Hour  2 Weeks

4. Wage Source:  SBESA  Collective Bargaining Agreement  Other

5. Year Source Published \_\_\_\_\_

6. Other Wage Source \_\_\_\_\_

**F. Employer Labor Condition Statements**

Please Note: In order for your application to be processed, you MUST read section E of the Labor Condition Application cover pages under the heading "Employer Labor Condition Statements" and agree to all four labor condition statements summarized below:

(1) Wages: Pay nonimmigrants at least the local prevailing wage or the employer's actual wage, whichever is higher, and pay for non-productive time. Offer nonimmigrants benefits on the same basis as U.S. workers.

(2) Working Conditions: Provide working conditions for nonimmigrants which will not adversely affect the working conditions of workers similarly employed.

(3) Strike, Lockout, or Work Stoppage: No strike or lockout in the occupational classification at the place of employment.

(4) Notice: Notice to union or to workers at the place of employment. A copy of this form to H-1B or H-1B1 workers.

I have read and agree to Employer Labor Condition Statements 1, 2, 3, and 4 as set forth in Section E of the Labor Condition Application Cover Pages.  Yes  No

**F-1. Additional Employer Labor Condition Statements - H-1B Employers Only**

Please Note: In order for an application regarding H-1B nonimmigrants to be processed, you MUST read Section F-1 - Subsections 1 and 2 of the Labor Condition Application cover pages under the heading "Additional Employer Labor Condition Statements" and choose one of the 3 alternatives (A, B, or C) listed below in Subsection 1. If you mark Alternative B, you MUST read Section F-1 - Subsection 2 of the cover pages under the heading "Additional Employer Labor Condition Statements" and indicate your agreement to all 3 additional statements summarized below in Subsection 2.

1. Subsection 1  
Choose ONE of the following 3 alternatives:

A.  Employer is not H-1B dependent and is not a willful violator.

B.  Employer is H-1B dependent and/or a willful violator.

C.  Employer is H-1B dependent and/or a willful violator BUT will use this application ONLY to support H-1B petitions for exempt nonimmigrants.

2. Subsection 2  
If Alternative B in Subsection 1 is marked, the following Additional Labor Condition Statements are applicable:

A. Displacement: Non-displacement of the U.S. workers in employer's work force;


B. Secondary Displacement: Non-displacement of U.S. workers in another employer's work force; and

C. Recruitment and Hiring: Recruitment of U.S. workers and hiring of U.S. worker applicant(s) who are equally or better qualified than the H-1B nonimmigrant(s).

I have read and agree to Additional Labor Condition Statements 2 A, B, and C.  Yes  No

**FORM CERTIFIED**

ETA Case Number 1-06132-2503407 Form ETA 9035E - Page 3 of 4


**Labor Condition Application for H-1B & H-1B1 Nonimmigrants**
U.S. Department of Labor  
Employment and Training Administration
Form ETA 9035E  
OMB Approval: 1205-0310  
Expiration Date: 30 NOV 2008

**A. Program Designation**  
You must choose one:  H-1B  H-1B1 Chile  H-1B1 Singapore  E-3 Australian

**B. Employer's Information**

1. Return Fax Number \_\_\_\_\_

2. Employer's Full Legal Name  
MINNESOTA STATE UNIVERSITY, MANKATO

3. Employer's Address (Number and Street)  
DEPARTMENT OF HUMAN RESOURCES  
336 WIGLEY ADMINISTRATION CENTER

4. Employer's City \_\_\_\_\_ State \_\_\_\_\_ Zip/Postal Code \_\_\_\_\_  
MANKATO MN 56001

5. Employer's Address EIN Number \_\_\_\_\_ 6. Employer's Phone Number \_\_\_\_\_ Extension \_\_\_\_\_  
41-1687554 (507) 389-2015

**C. Rate of Pay**

1. Wage Rate (or Rate From) (Required):  
\$63,803.00

2. Rate Up To (Optional):  
\$0.00

3. Rate is Per:  Year  Week  Month  Hour  2 Weeks

4. Is this position part-time?  
 Yes  No

Please Note: Part-time hours worked by nonimmigrant(s) will be in the range of hours stated on the INS Form(s) I-129.

**D. Period Of Employment and Occupation Information**

1. Begin Date \_\_\_\_\_ 3. Occupational Code \_\_\_\_\_ 4. Number of H-1B or H-1B1 Nonimmigrants \_\_\_\_\_  
08/21/2006 090 091

2. End Date \_\_\_\_\_  
08/20/2009

5. Job Title  
ASSISTANT PROFESSOR

**E. Information relating to Work Location for the H-1B or H-1B1 Nonimmigrants**

1. City \_\_\_\_\_ State \_\_\_\_\_  
MANKATO MN

2. Prevailing Wage \_\_\_\_\_

3. Wage is Per:  Year  Week  Month  Hour  2 Weeks

4. Wage Source:  SBESA  Collective Bargaining Agreement  Other

5. Year Source Published \_\_\_\_\_

6. Other Wage Source \_\_\_\_\_

**FORM CERTIFIED**

ETA Case Number 1-06132-2503407 Form ETA 9035E - Page 2 of 4



# H-1B Processing Steps (Continued)

## Step Three: File USCIS forms, immigration and position documentation and fees

- I-129 form; H Classification Supplement to Form I-129; H-1B Data Collection and Filing Fee Exemption Supplement (*to be exempt from additional \$1,500/750 training fee*); \$190 Filing Fee and \$500 Fraud Prevention and Detection Fee  
<http://www.uscis.gov/graphics/formsfee/forms/i-129.htm>
- I-907 Premium Processing \$1,000 (if needed within 15 days)  
<http://www.uscis.gov/graphics/formsfee/forms/i-907.htm>

*Tips: Employer should pay fees, Part 1 Employer info where petition will be sent, collect info on individual and position:*

<http://www.mnsu.edu/humanres/forms/internationaldocuments.pdf>

# H-1B1 I-129 Form – example of an individual already on H-1B (portability)

Department of Homeland Security U.S. Citizenship and Immigration Services		OMB No. 1615-0009 <b>I-129, Petition for a Nonimmigrant Worker</b>	
<b>START HERE - Please type or print in black ink.</b>		<b>For USCIS Use Only.</b>	
<b>Part 1. Information about the employer filing this petition. If the employer is an individual, complete Number 1. Organizations should complete Number 2.</b>		Returned _____ Receipt _____	
1. Family Name (Last Name) _____ Given Name (First Name) _____		Date _____	<input type="checkbox"/> Petitioner Interviewed on _____ <input type="checkbox"/> Beneficiary Interviewed on _____  Class: _____ # of Workers: _____ Priority Number: _____ Validity Dates: _____ From: _____ To: _____  <input type="checkbox"/> Classification Approved <input type="checkbox"/> Consulate/POE/PFI Notified At _____ <input type="checkbox"/> Extension Granted <input type="checkbox"/> COS/Extension Granted  <b>Partial Approval (explain)</b>  _____  <b>Action Block</b>  _____  <b>To Be Completed by</b> <input type="checkbox"/> Attorney or Representative, if any. Fill in box if G-28 is attached to represent the applicant.  ATTY State License # _____
Full Middle Name _____ Telephone No. w/Area Code _____		Date _____	
2. Company or Organization _____ Telephone No. w/Area Code _____		Resubmitted _____	
Minnesota State University, Mankato (507) 389-2015		Date _____	
Mailing Address: (Street Number and Name) _____ Suite # _____		Date _____	
336 Wigley Administration Center _____		Reloc Sent _____	
C/O: (In Care Of) _____		Date _____	
Loretta M. Lamb _____		Date _____	
City _____ State/Province _____		Reloc Rec'd _____	
Mankato MN		Date _____	
Country _____ Zip/Postal Code _____ E-Mail Address (If Any) _____		Date _____	
USA 56001 loretta.lamb@mnstate.edu		Date _____	
Federal Employer Identification # _____ U.S. Social Security # _____ Individual Tax # _____			
41-1687554 N/A N/A			
<b>Part 2. Information about this petition. (See instructions for fee information.)</b>			
1. Requested Nonimmigrant Classification. (Write classification symbol): <b>H-1B1</b>			
2. Basis for Classification (Check one):			
a. <input checked="" type="checkbox"/> New employment (including new employer filing H-1B extension).			
b. <input type="checkbox"/> Continuation of previously approved employment without change with the same employer.			
c. <input type="checkbox"/> Change in previously approved employment.			
d. <input type="checkbox"/> New concurrent employment.			
e. <input type="checkbox"/> Change of employer.			
f. <input type="checkbox"/> Amended petition.			
3. If you checked Box 2b, 2c, 2d, 2e, or 2f, give the petition receipt number.			
SRC-04-153-9368XXX			
4. Prior Petition. If the beneficiary is in the U.S. as a nonimmigrant and is applying to change and/or extend his or her status, give the prior petition or application receipt #:			
SRC-04-153-83500			
5. Requested Action (Check one):			
a. <input type="checkbox"/> Notify the office in Part 4 so the person(s) can obtain a visa or be admitted. (NOTE: a petition is not required for an E-1, E-2 or R visa).			
b. <input type="checkbox"/> Change the person(s)' status and extend their stay since the person(s) are all now in the U.S. in another status (see instructions for limitations). This is available only where you check "New Employment" in Item 2, above.			
c. <input checked="" type="checkbox"/> Extend the stay of the person(s) since they now hold this status.			
d. <input type="checkbox"/> Amend the status of the person(s) since they now hold this status.			
e. <input type="checkbox"/> Extend the status of a nonimmigrant classification based on a Free Trade Agreement. (See Free Trade Supplement for TN and H1B1 to Form I-129).			
f. <input type="checkbox"/> Change status to a nonimmigrant classification based on a Free Trade Agreement. (See Free Trade Supplement for TN and H1B1 to Form I-129).			
6. Total number of workers in petition (See instructions relating to when more than one worker can be included): <b>1</b>			
Form I-129 (Rev. 03/17/05)N (Prior paper editions may be used until 04/30/05. Certain E-filers may use prior electronic editions until 09/30/05)			

# H-1B1 I-129 Form – example of an individual already on H-1B (portability)

**Part 3. Information about the person(s) you are filing for.** Complete the blocks below. Use the continuation sheet to name each person included in this petition.

1. If an Entertainment Group, Give the Group Name

N/A

Family Name (Last Name) Given Name (First Name) Full Middle Name  
 XXXXXXXX KWANG XX IL

All Other Names Used (include maiden name and names from all previous marriages)

Date of Birth (mm/dd/yyyy) U.S. Social Security # (if any) A # (if any)  
 07/19/1987 630484222 N/A

Country of Birth Province of Birth Country of Citizenship  
 REPUBLIC OF KOREA (not known) REPUBLIC OF KOREA

2. If in the United States, Complete the Following:

Date of Last Arrival (mm/dd/yyyy) I-94 # (Arrival/Departure Document) Current Nonimmigrant Status  
 06/09/1998 34089063 XS H1B1

Date Status Expires (mm/dd/yyyy) Passport Number Date Passport Issued (mm/dd/yyyy) Date Passport Expires (mm/dd/yyyy)  
 05/31/2007 H1B9926YE 05/31/2005 05/31/2010

Current U.S. Address  
 6784 N 72nd St, Apt C, Moshannon, PA 17854

**Part 4. Processing Information.**

1. If the person named in Part 3 is outside the United States or a requested extension of stay or change of status cannot be granted, give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (Check one):  Consulate  Pre-flight inspection  Port of Entry

Office Address (City) U.S. State or Foreign Country  
 N/A

Person's Foreign Address

2. Does each person in this petition have a valid passport?  
 Not required to have passport  No - explain on separate paper  Yes

3. Are you filing any other petitions with this one?  No  Yes - How many? \_\_\_\_\_

4. Are applications for replacement/initial I-94s being filed with this petition?  No  Yes - How many? \_\_\_\_\_

5. Are applications by dependents being filed with this petition?  No  Yes - How many? **1**

6. Is any person in this petition in removal proceedings?  No  Yes - explain on separate paper

Form I-129 (Rev. 03/17/05)N (Prior paper editions may be used until 04/30/05. Certain E-filers may use prior electronic editions until 09/30/05) Page 2

# H-1B1 I-129 Form – continued

## example of H-1B extension

**Part 4. Processing Information.** (Continued)

7. Have you ever filed an immigrant petition for any person in this petition?  No  Yes - explain on separate paper

8. If you indicated you were filing a new petition in Part 2, within the past seven years has any person in this petition:

a. Ever been given the classification you are now requesting?  No  Yes - explain on separate paper *See previous H-1B approvals*

b. Ever been denied the classification you are now requesting?  No  Yes - explain on separate paper

9. Have you ever previously filed a petition for this person?  No  Yes - explain on separate paper

10. If you are filing for an entertainment group, has any person in this petition not been with the group for at least one year? *N/A*  No  Yes - explain on separate paper

**Part 5. Basic information about the proposed employment and employer.** Attach the supplement relating to the classification you are requesting.

1. Job Title: **Assistant Professor**

2. Nontechnical Job Description: **University level teaching**

3. LCA Case Number: **I-06132-2503407**

4. NAICS Code: **811310**

5. Address where the person(s) will work if different from address in Part 1. (Street number and name, city/town, state, zip code)  
**Department of Economics, 150 Morris Hall, Mankato, MN 56001**

6. Is this a full-time position?  
 No - Hours per week:   Yes - Wages per week or per year: **\$63,803/yr**

7. Other Compensation (Explain): **Standard fringe benefits**

8. Dates of intended employment (mm/dd/yyyy):  
From: **08/21/2006** To: **08/20/2009**

9. Type of Petitioner - Check one:  
 U.S. citizen or permanent resident  Organization  Other - explain on separate paper

10. Type of Business: **Educational institution**

11. Year Established: **1868**

12. Current Number of Employees: **1,500**

13. Gross Annual Income: **N/A**

14. Net Annual Income: **N/A**

# H-1B1 I-129 Supplement Form – example of an individual already on H-1B with H-4 dependent

Department of Homeland Security  
U.S. Citizenship and Immigration Services

OMB No. 1615-0009  
**H Classification Supplement to Form I-129**

1. Name of person or organization filing petition:  
**Minnesota State University, Mankato**

2. Name of person or total number of workers or trainees you are filing for:  
**2 H-1B; 2 H-4**

3. List the alien's and any dependent family member's prior periods of stay in H classification in the United States for the last six years. Be sure to list only those periods in which the alien and/or family members were actually in the United States in an H classification. NOTE: Submit photocopies of Forms I-94, I-797 and/or other USCIS issued documents noting those periods of stay in the H classification. If more space is needed, attach an additional sheet(s). (If applying for H-2A/H-2B classification skip this item.)

Subject's Name	Period of Stay (mm/dd/yyyy)	Subject's Name	Period of Stay (mm/dd/yyyy)
Xxxxxx Ochoa XXX	From: 06/01/2004 To: 05/31/2007	Xxxxxx Escobedo	From: 06/01/2004 To: 05/31/2007
Xxxxxx Ochoa XXX	From: 09/18/2003 To: 05/31/2004	Xxxxxx Escobedo	From: 09/18/2003 To: 05/31/2004

4. Classification sought (Check one):

H-1B1 Specialty occupation

H-1B1 Trade agreement with Chile or Singapore

H-1B2 Exceptional services relating to a cooperative research and development project administered by the U.S. Department of Defense (DOD)

H-1B3 Fashion model of national or international acclaim

H-1C Registered nurse

H-2A Agricultural worker

H-2B Non-agricultural worker

H-3 Trainee

H-3 Special education exchange visitor program

**Section 1. Complete this section if filing for H-1B classification.**

1. Describe the proposed duties  
**See attached Notice of Vacancy**

2. Alien's present occupation and summary of prior work experience  
**See attached CV/Resume**

**Statement for H-1B specialty occupations only:**  
By filing this petition, I agree to the terms of the labor condition application for the duration of the alien's authorized period of stay for H-1B employment.

Petitioner's Signature: *Loretta M. Lamb* Print or Type Name: **Loretta M. Lamb** Date (mm/dd/yyyy): **05/24/2006**

**Statement for H-1B specialty occupations and U.S. Department of Defense projects:**  
As an authorized official of the employer, I certify that the employer will be liable for the reasonable costs of return transportation of the alien abroad if the alien is dismissed from employment by the employer before the end of the period of authorized stay.

Signature of Authorized Official of Employer: *Loretta M. Lamb* Print or Type Name: **Loretta M. Lamb** Date (mm/dd/yyyy): **05/24/2006**

**Statement for H-1B U.S. Department of Defense projects only:**  
I certify that the alien will be working on a cooperative research and development project or a co-production project under a reciprocal government-to-government agreement administered by the U.S. Department of Defense.

DOD Project Manager's Signature: \_\_\_\_\_ Print or Type Name: \_\_\_\_\_ Date (mm/dd/yyyy): \_\_\_\_\_

Form I-129 Supplement H (Rev. 03/17/05) (Prior paper editions may be used until 04/30/05. Certain E-filers may use prior electronic editions until 09/30/05.) Page 7

# H-1B I-129 - Filing Fee Exemption Supplement

OMB No. 1615-0009

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**H-1B Data Collection and Filing Fee Exemption Supplement**

Petitioner's Name: Minnesota State University, Mankato

**Part A. General Information.**

1. Employer Information - (check all items that apply)

a. Is the petitioner a dependent employer?  No  Yes

b. Has the petitioner ever been found to be a willful violator?  No  Yes

c. Is the beneficiary an exempt H-1B nonimmigrant?  No  Yes

1. If yes, is it because the beneficiary's annual rate of pay is equal to at least \$60,000?  No  Yes

2. Or is it because the beneficiary has a master's or higher degree in a specialty related to the employment?  No  Yes

2. Beneficiary's Last Name: XXXXXXXXXX First Name: XXXXXXXXXX Middle Name: II

Attention To or In Care Of: XXXXXXXXXX Current Residential Address - Street: XXXXXXXXXX Apt. #: C

City: XXXXXXXXXX State: XXXXXXXXXX Zip/Postal Code: XXXXXXXXXX

U.S. Social Security # (If Any): XXXXXXXXXX I-94 # (Arrival/Departure Document): XXXXXXXXXX Previous Receipt # (If Any): XXXXXXXXXX

3. Beneficiary's Highest Level of Education. Please check one box below.

NO DIPLOMA  Associate's degree (for example: AA, AS)

HIGH SCHOOL GRADUATE - high school DIPLOMA or the equivalent (example: GED)  Bachelor's degree (for example: BA, AB, BS)

Some college credit, but less than one year  Master's degree (for example: MA, MS, MEng, MEd, MSW, MBA)

One or more years of college, no degree  Professional degree (for example: MD, DDS, DVM, LLB, JD)

Doctorate degree (for example: PhD, EdD)

4. Major/Primary Field of Study: Economics

5. Has the beneficiary of this petition earned a master's or higher degree from a U.S. institution of higher education as defined in 20 U.S.C. section 1001(a)?

No  Yes (If "Yes" provide the following information):

Name of the U.S. institution of higher education: XXXXXXXXXX University Date Degree Awarded: August 2003 Type of U.S. Degree: PhD

Address of the U.S. institution of higher education: XXXXXXXXXX

6. Rate of Pay Per Year: \$63,803 7. LCA Code: 090 8. NAICS Code: 611310

**Part B. Fee Exemption and/or Determination**

In order for USCIS to determine if you must pay the additional \$1,500 or \$750 fee, please answer all of the following questions:

1.  Yes  No Are you an institution of higher education as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?

2.  Yes  No Are you a nonprofit organization or entity related to or affiliated with an institution of higher education, as such institutions of higher education are defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?

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Certain E-filers may use prior electronic editions until 09/30/05.

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3.  Yes  No Are you a nonprofit research organization or a governmental research organization, as defined in 8 CFR 214.2(b)(19)(ii)(C)?

4.  Yes  No Is this the second or subsequent request for an extension of stay that you have filed for this alien?

5.  Yes  No Is this an amended petition that does not contain any request for extensions of stay?

6.  Yes  No Are you filing this petition in order to correct a USCIS error?

7.  Yes  No Is the petitioner a primary or secondary education institution?

8.  Yes  No Is the petitioner a non-profit entity that engages in an established curriculum-related clinical training of students registered at such an institution?

If you answered "Yes" to any of the questions above, you are ONLY required to submit the fee for your H-1B Form I-129 petition, which is \$185. If you answered "No" to all questions, please answer Question 9.

9.  Yes  No Do you currently employ a total of no more than 25 full-time equivalent employees in the United States, including any affiliate or subsidiary of your company?

If you answered "Yes" to Question 9 above, then you are required to pay an additional fee of \$750. If you answered "No", then you are required to pay an additional fee of \$1,500.

NOTE: On or after March 8, 2005, a U.S. employer seeking initial approval of H-1B or L nonimmigrant status for a beneficiary, or seeking approval to employ an H-1B or L nonimmigrant currently working for another U.S. employer, must submit an additional \$500 fee. This additional \$500 Fraud Prevention and Detection fee was mandated by the provisions of the H-1B Visa Reform Act of 2004. There is no exemption from this fee.

**Part C. Numerical Limitation Exemption Information.**

1.  Yes  No Are you an institution of higher education as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?

2.  Yes  No Are you a nonprofit organization or entity related to or affiliated with an institution of higher education, as such institutions of higher education are defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?

3.  Yes  No Are you a nonprofit research organization or a governmental research organization, as defined in 8 CFR 214.2(b)(19)(ii)(C)?

4.  Yes  No Is the beneficiary of this petition a J-1 nonimmigrant alien who received a waiver of the 2-year foreign residency requirement described in section 214 (j)(1)(B) or (C) of the Act?

5.  Yes  No Has the beneficiary of this petition been previously granted status as an H-1B nonimmigrant in the past 6 years and not left the United States for more than one year after attaining such status?

6.  Yes  No If the petition is to request a change of employer, did the beneficiary previously work as an H-1B for an institution of higher education, an entity related to or affiliated with an institution of higher education, or a nonprofit research organization or governmental research institution defined in questions 1, 2 and 3 of Part C of this form?

7.  Yes  No Has the beneficiary of this petition earned a master's or higher degree from a U.S. institution of higher education, as defined in the Higher Education Act of 1965, section 101(a), 20 U.S.C. section 1001(a)?

I certify under penalty of perjury, under the laws of the United States of America, that this attachment and the evidence submitted with it is true and correct. If filing this on behalf of an organization or entity, I certify that I am empowered to do so by that organization or entity. I authorize the release of any information from my records, or from the petitioning organization or entity's records, that the U.S. Citizenship and Immigration Services may need to determine eligibility for the exemption being sought.

**Certification.**

Signature: Loretta M. Lamb Print Name: Loretta M. Lamb

Title: Director of Human Resources Date (mm/dd/yyyy): 5/24/2006

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**Long-term Retention of  
International Faculty  
(including "green card"/PR options)**

# Retaining International Faculty

- Maintenance / extensions of H-1B status
  - Amend H-1B for significant change in position (dept, title, percentage, etc.)
  - Monitor end date for I-9 verification; Allowed to remain on payroll - 240 day rule with receipt [*8 CFR 274a.12(b)(20)*]; beyond six year maximum for those with pending PR cases
  - Transfer (portability) with receipt [*INA sec 214(m) (as amended by sec. 105 of the American Competitiveness in the 21<sup>st</sup> Century act of 2000 (AC21))*].
- H-1B travel / visa issuance
- Dependents (spouse, unmarried children under 21)
- Immigration Attorney Referral (PR policy)

# PR options

## Most common ways to obtain permanent resident status:

- Family –based petitions: A U.S. citizen or permanent resident must petition for the individual, documenting an immediate family relationship limited to spouse, child, parent, sister or brother.
- Refugee or asylee status: An individual must document fear of persecution based on membership in a certain class.
- Certain special situations: U.S. Government can determine that a particular category of people should be granted U.S. permanent residence (e.g., investors of \$500,000+, Soviet scientist program, diversity visa “green card” lottery, Chinese Student Protection Act). Some are on going programs; others are available one time only.
- Employment-based petitions: U.S. employer must document the need for a person’s occupational skills, or the individual must prove he or she has achieved international recognition in his or her field.

# Long-term Retention / Employer-Based PR petitions

- **DOL Resource:** Labor Certification: “Special Handling” Section “E. Job Offers for College or University Teachers” filed within 18 months of offer; requires national PRINT advertisement, comparison to US workers to show “most qualified” (need search documentation) <http://workforcesecurity.doleta.gov/unemploy/> ;  
*Concern over change in policy to ban alien payment of attorney fees for labor certifications in DOL proposed regulations in 20 CFR Parts 656 [Published 71 Fed. Reg. 7656 (February 13, 2006)]*
- **USCIS Resources:** EB-1 “Outstanding Professor/Researcher (no labor certification needed) OR EB-2 “Advanced Degree Professional” with approved labor certification - \$195 for I-140 filing (employer pays); \$1,000 for I-485 filing (usually individual pays) [additional forms/fees for Advanced Parole and Employment Authorization/EAD, medical exams, each family member/dependent fee for each I-485]  
<http://www.uscis.gov/graphics/services/residency/index.htm>

# Policy/Practice Issues

- Attorney Help – Expensive, still needs review/edits
- Hiring Outside Help – Individual who is not an employee nor an attorney could encounter problems with practicing law without a license (working on cases vs. training)
- Designating Internal Help
  - Steep learning curve - (visa options like OPT, TN, J-1 as alternatives; processing as change of status within U.S. or out of country; J-1 home residence requirement issues)
  - Initial training - (NAFSA: Association of International Educators - [www.nafsa.org](http://www.nafsa.org), IMMPRO - [www.immpro.com](http://www.immpro.com))
  - Continued education/training - (NAFSA: Association of International Educators [www.nafsa.org](http://www.nafsa.org), Minnesota International Educators - MIE <http://www.stthomas.edu/oiss/mie/default.html>);
  - Time/funding commitment