

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.

Reminder: 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 **cannot be used** 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.