



As part of the application process for an H-1B employee, UTHealth Houston 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.

**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).

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

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.

[illegible]

**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 wage.

If there are no peers, please identify the wage being offered to the H-1B employee effective on the requested (initial or modified) H-1B application start date or date of the stipend adjustment.

**Actual Wage** = \$ \_\_\_\_\_

**SECTION IV:** Employee(s) identified above as non-peers to the H-1B employee should be listed separately below by name and state the reason(s) for salary difference by providing a statement of specific business reason(s) for their exclusion.

Some factors to take into consideration for salary difference include work experience, education, job responsibilities, supervisory responsibilities, specialized knowledge or other legitimate business factors (e.g. professional distinctions, documented meritorious performance, received award or grant funding, number of publications, or research presentation).

Differences between non-peers should also be explained (e.g. why Dr. X and Dr. Y have the same years of experience, but paid differently or Why Dr. X has more years of experience than Dr. Y, but is paid less etc.) **Use additional pages as needed.**

**SECTION V:** I declare under penalty of perjury that the information provided on this form is true and correct. By signing the actual wage form, The Department Chair understands that the exclusions must be defensible in a court of law, and should we be challenged for any of the exclusions, it would be the Department’s Chair responsibility to defend the exclusions. If required to do so, I can provide supporting documentation to verify these statements for the U.S. Department of Labor.

Further, I certify that the H-1B employee will be paid the required wage for the duration of the H-1B status as of the effective date of the approved authorization by the U.S. Citizenship & Immigration Services.

_____ 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

## **INSTRUCTIONS FOR COMPLETING ACTUAL WAGE DETERMINATION FORM**

**Section I.** Enter your division/department name, the official UTHealth Houston 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, lab, 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.