

MAINTAINING LAWFUL H-1B TEMPORARY WORKER STATUS

In order to maintain your lawful status as an H-1B, you must:

- 1) Engage **only** in the activities as approved by the United States Citizenship and Immigration Services (USCIS) on your H-1B petition with NIH. You cannot move to another Institute or Center, laboratory or geographic location without DIS approval.
- 2) Any changes in your employment---job duties, salary, lab, sponsor, geographic location, level of patient contact, new funding source---must be pre-approved by DIS and in some occasions, USCIS. You are required to notify DIS of any such changes **BEFORE** they occur.
- 3) **NO unauthorized employment is permitted. DO NOT** work outside of your Institute or Center (IC) lab.
- 4) Work only as approved on your Form I-797 and maintain a valid, unexpired form at all times.
- 5) Notify USCIS of a change of residential address within **10 days** of your move. Use Form AR-11 (or AR-11SR if subject to Special Registration) to notify USCIS. Please also notify DIS of your change of address.
- 6) Maintain a valid passport and Form I-94 Arrival/Departure Record at all times.
- 7) You must notify DIS when you end your employment---regardless if you will be leaving the U.S. or transferring to another H-1B employer.
- 8) Depart within 10 days from the end of your employment or end date on Form I-797 (whichever occurs first). There is no grace period!
- 9) **Unlawful Presence** occurs when you stay beyond the end date of your Form I-94 Arrival/Departure Record or upon determination by the U.S. Citizenship and Immigration Services (USCIS). There are serious consequences to staying unlawfully in the US. The consequences include a 3-year bar from reentering the US if you have stayed unlawfully in the US for 180 days or more, and a 10-year bar if you remain unlawfully in the US for 360 days or more. Violation of your H-1B status does not necessarily make you unlawfully present, although it does make you ineligible for any immigration benefit. Before this occurs, please consult DIS if you have any questions about maintaining your status.

ADDITIONAL INFORMATION

- 1) The **Form I-797** is the approval notice of your H-1B petition. The form is issued only by the USCIS. DIS obtained the approval notice after filing an H-1B petition with the USCIS.
- 2) Notify DIS at least **2 weeks** before travel outside the U.S. Specifically note if you will be applying for a new entry visa while you are abroad. Please review our handouts or website on recommended travel procedures.
- 3) Notify DIS of any changes in your employment (such as changing Institutes or Centers or laboratories) **BEFORE** such changes occur.
- 4) If you move (your home residence) while in the US, you must notify **USCIS** within **10 days** of the move. You must file **Form AR-11** with the USCIS. If you are a "Special Registration" individual, you must file Form AR-11SR with the USCIS. Please also notify DIS of your change of address; complete our "DIS Change of Address Form" on the Forms page of our web site (http://dis.ors.od.nih.gov/forms/01_forms.html).
- 5) Have the Institute or Center apply for extension of your H-1B employment (if you are eligible and if the Institute or Center is interested in continuing your position with NIH) **at least 4 months prior to the expiration of your current Form I-797**. Keep in mind that the maximum allowable time in H-1B status is 6 years (in limited circumstances, it may be possible to extend beyond the sixth year).
- 6) The H-1B allows immigrant intent. This means that your status is not violated if you apply for LPR (legal permanent residence).
- 7) Notify DIS if you change to another immigration status, file a petition for LPR, and/or adjust your status to lawful permanent resident.
- 8) H-1B's are required to file both state and federal tax returns. New arrivals should attend a DIS sponsored tax workshop.
- 9) At the end of your employment, as indicated on your Form I-797 or your last day at NIH if you terminate earlier, then you must depart the U.S. within 10 days. There is no grace period.
- 10) Transfer to another H-1B employer is possible only if the new employer files a new H-1B petition with USCIS for you to work for the new employer. Under H-1B portability, you may be able to begin work for the new employer before USCIS approves their H-1B petition. You must check with the new employer for their policies. You must also **notify DIS** when switching employers. Please see # 11 below.
- 11) Notify DIS when ending your employment so that DIS can comply with notification and reporting requirements.

- 12) As an H-1B, you must request and receive written permission from DIS for incidental employment related to program activities **prior** to the dates of employment. You must also obtain permission from your IC. NIH has strict rules related to employment outside of NIH.
- 13) After being in H-1B status for 6 years, you must have a break of 1 year **OUTSIDE** the U.S. to be eligible to begin a new H-1B (i.e. get another 6 years).
- 14) Change of Status from H-1B or H-4 is possible only if such application is filed timely.
- 15) H-4 dependents are **NOT** eligible to work in the United States. To work, the dependent must apply for a change to another immigration status that allows employment, such as finding an employer willing to sponsor the dependent for his/her own H-1B