





## **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.