



TEXAS TECH UNIVERSITY

Operating Policy and Procedure

**OP 70.36: Employment of Persons in Temporary Worker (H-1B) Immigration Status**

**DATE:** March 1, 2024

**PURPOSE:** This Operating Policy/Procedure (OP) sets forth the procedures for the employment of persons in temporary worker (H-1B) immigration status in compliance with the [Immigration Act of 1990 \(IMMACT\)](#), the [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 \(MTINA\)](#), and their implementing federal regulations.

**REVIEW:** This OP will be reviewed in January of each year by the Vice Provost for International Affairs and the Associate Vice President for Human Resources with substantive revisions forwarded to the Vice Provost for Faculty Success and the Chief of Staff to the President.

**POLICY/PROCEDURE**

**1. Employer Applications for H-1B Non-immigrants**

Texas Tech University (TTU) will maintain a system for review and approval of employer applications to be filed with the U.S. Department of Labor (DOL) and the U.S. Citizenship and Immigration Services (USCIS) concerning H-1B nonimmigrant employees of the university.

**2. Sponsorship for Employment**

Sponsorship is an employer-driven process. An office/department will consider sponsoring positions only if the positions are eligible for such sponsorship, and it is clearly demonstrated to be in the best interest of the office/department to do so. Each office/department will determine at its sole discretion whether to sponsor an international employee.

a. Eligible TTU positions for H-1B sponsorship include:

- Tenured/Tenure-track faculty, including librarians and archivists;
- Professors of Practice, all ranks;
- Visiting Professor;
- Lecturer and Senior Lecturer;
- Research Associate;
- Senior Research Associate;
- Research Professor, all ranks;
- Research Scientist;
- Research Aide;
- Postdoctoral Research Associate;
- Visiting Research;

- Staff IT positions; and
  - Other staff positions may be considered for sponsorship only in very exceptional cases. Such cases, however, are expected to be rare and will require additional justification and approval.
- b. An office/department may request sponsorship for non-tenure-acquiring teaching, research, and staff positions after the international employee has been employed full-time at TTU a minimum of one (1) year unless exigent circumstances exist. If the international employee does not have valid work authorization to immediately begin employment or the international employee cannot acquire continued work authorization, then the office/department may request sponsorship earlier.
- c. International employees with Employment Authorization Document (EAD) card do not require TTU sponsorship but may require sponsorship to allow for continued employment after the EAD card expires. In such cases, an office/department seeking to employ an international employee must contact TTU International Affairs (TTU IA) six months before the EAD card expires.

### 3. Procedures

- a. Texas Tech departments and employing units must initiate a request to TTU IA to authorize TTU IA to act on behalf of the university in pursuing H-1B status. A department request form must be forwarded to the dean or other appropriate administrator for approval. The form must then be filed with TTU IA. More information is available on the [TTU IA website](#).
- b. H-1B process for faculty will be handled by IA; please refer to Attachment A for IA processing fees for faculty cases.
- c. H-1B process for staff and non-tenure-acquiring faculty must be outsourced to an external attorney recommended by Texas Tech at the expense of the office/department. IA will work with the outside counsel to complete any needed internal documentation and postings for labor certification. The hiring office/department will be responsible for all attorney fees.
- d. TTU IA must complete Export Control screening for the foreign national.
- e. TTU IA must obtain a prevailing wage determination from an appropriate source.
- f. TTU IA must request “actual wage” determinations from the employing department.
- g. TTU IA must prepare and submit the *Labor Condition Application* (ETA 9035) to the DOL. TTU IA must maintain required public documentation of labor condition applications and supporting wage surveys. Notification of the filing of a *Labor Condition Application (LCA)* will be posted in the employing department and Human Resources.
- h. TTU IA must prepare and submit form I-129, *Petition for a Nonimmigrant Worker*, to the USCIS.
- i. The employing office/department is responsible for paying the required wage to the H-1B employee at all times during the LCA validity period.

- j. The employing department must notify TTU IA when an H-1B employee leaves employment and is responsible for return transportation abroad for the H-1B employee if dismissed from employment by the employer before the end of the period of authorized employment.
- k. The employing office/department is responsible for payment of required immigration form application fees. The fee that is paid to the U.S. government agency to expedite an application can be paid by either the employing office/department or the nonimmigrant worker, dependent upon the circumstances of the individual case and the preference of the department.

#### **4. Notice**

These policies and procedures do not relieve the H-1B employees of their responsibilities in maintaining their immigration status, nor do they limit the employee's right to be represented by competent legal counsel.

#### **5. Authoritative Reference**

[20 Code of Federal Regulation 655 Subpart H & I](#)

#### **6. Right to Change Policy**

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.

[Attachment A: Immigration Services Fees](#)