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

DATE: August 19, 2015

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 July of each year by the vice provost for international affairs and the managing director of Human Resources with substantive revisions forwarded to the senior vice provost and the chief of staff to the president.

POLICY/PROCEDURE

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

   Texas Tech University 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 non-immigrant employees of the university.

2. Procedures

   a. Texas Tech departments and employing units initiate a Request for Employment or Visit of a Foreign National form (see attachment) to authorize the Office of International Affairs (OIA) to act on behalf of the university in pursuing H-1B status. Forward the form to the dean or other appropriate administrator for approval. The form should then be filed with the Office of International Affairs.

   b. The Texas Tech department or employing unit will complete the Export Control Certification form (available from OIA) and forward it to OIA.

   c. The OIA will obtain a prevailing wage determination from an appropriate source.

   d. The Office of International Affairs will request "actual wage" determinations from the employing department.

   e. The Office of International Affairs will prepare and submit the Labor Condition Application (ETA 9035) to the DOL. International Affairs will maintain required public documentation of labor condition applications and supporting wage surveys. Notification of the filing of a Labor Condition Application will be posted in the employing department and Human Resources.

   f. The Office of International Affairs will prepare and submit form I-129, Petition for a
Nonimmigrant Worker, to the USCIS.

g. The employing department must notify the Office of International Affairs when an H-1B employee leaves employment, and will be responsible for return transportation for the H-1B worker under certain circumstances.

h. The employing department is responsible for payment of required immigration fees.

3. 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.

4. 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: Request for Employment or Visit of a Foreign National