OPERATING POLICY AND PROCEDURE

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

DATE: December 19, 2019

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 Assistant Vice President 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 nonimmigrant employees of the university.

2. Sponsorship for Employment

Sponsorship is an employer-driven process. A department will only consider sponsoring positions if the positions are eligible for such sponsorship and it is clearly demonstrated to be in the best interest of the department to do so. Each department will determine at its sole discretion whether or not to sponsor a foreign national.

a. Eligible TTU positions for H-1B sponsorship include:
   - Tenure/Tenure-track faculty
   - Professor of Practice
   - Visiting professor
   - Instructor
   - Research Associate
   - Senior Research Associate
   - Research Professor
   - Research Scientist
   - Research Aide
   - Postdoctoral Research Associate
   - Visiting Research

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3. Procedures

a. Texas Tech departments and employing units should initiate a request to the Office of
International Affairs (OIA) to authorize the OIA to act on behalf of the university in
pursuing H-1B status. A department request form is then forwarded to the dean or other
appropriate administrator for approval. The form should then be filed with the OIA. More
information is available on the OIA website.

b. The OIA will complete Export Control screening for the foreign national.

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

d. The OIA will request "actual wage" determinations from the employing
department.

e. The OIA will prepare and submit the Labor Condition Application (ETA 9035) to the
DOL. OIA will 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.

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

g. The employing department is responsible for paying the required wage to the H-1B
employee at all times during the LCA validity period.

h. The employing department must notify the OIA when an H-1B employee leaves
employment, and will be 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.
i. The employing department is responsible for payment of required immigration form application fees. The fee that is paid to the US government agency to expedite an application can be paid by either the employing 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.