



TEXAS TECH UNIVERSITY™

Operating Policy and Procedure

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

DATE: August 4, 2020

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 for 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

- Tenure-track Librarian
 - Tenure-track Archivist
 - Staff IT positions
 - 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. Departments may request sponsorship for non-tenure teaching, research, and staff positions after the foreign national has been employed full-time at TTU for 1 year. If the foreign national does not have valid work authorization to immediately begin employment or the foreign national cannot acquire continued work authorization, then the department may request sponsorship earlier.
- c. Foreign National 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, the OIA should be contacted six months before the EAD card expires.

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.