

## **Foreign National Employment Policy**

### **Overview**

Texas Wesleyan University's ("the University") Foreign National Employment Policy applies to regular, full-time long-term faculty and staff employees. International scholars who are not University employees or contractors are not covered by this policy and should contact the University's International Programs with their immigration questions.

### **H-1B Sponsorship (Temporary Worker)**

The H-1B Temporary Worker Visa allows foreign nationals to work in the United States in specialty occupations for a period of up to six years. Each application can be made for a period up to 3 years, and must be filed by the employer (i.e., the University). The individual cannot gain an H-1B visa on his or her own. The University must obtain process (i.e., prevailing wage and labor condition application) certification from the [U.S. Department of Labor \(DOL\)](#) and employment authorization approval from the [United States Citizenship and Immigration Service \(USCIS\)](#).

### **Eligibility**

The University will consider extending an offer of full-time employment to a candidate who is not a U.S. citizen or Legal Permanent Resident only for critical and hard to fill specialty positions. See *USCIS requirements for specialty positions at* [www.uscis.gov](http://www.uscis.gov).

Whether the University decides to participate in the application process under the H-1B program for any foreign national candidate for employment is at the sole discretion of the University.

The hiring department has the burden to meet financial and federal requirements to sponsor and apply for H-1B status on behalf of a foreign national employee.

The University will not submit an initial application for H-1B for less than a one-year term.

An H-1B sponsored employee cannot work for, receive monetary payment/compensation, or expense reimbursement from any employer, agency or organization outside of the University upon receipt approval of the H-petition (Form I-797) from USCIS.

### **Procedures**

The University has established the following procedures applicable to all hiring and temporary employment sponsorship of foreign nationals:

1. The hiring department requesting to hire a foreign national who is currently ineligible to work in the US must submit justification to and obtain approval from the divisional Vice President and Vice President for Finance and Administration.
  - a. The justification must include the detailed need for the critical specialty position, job description, and sufficient departmental budget allocation for the H-1B process funding.

**Special Note:** A prevailing wage analysis through the DOL on the critical fill specialty position must be reviewed and approved prior to an offer or extension of employment. Human Resources will coordinate the request for prevailing wages analysis with the hiring department.
  - b. All expenditures associated with foreign national employment sponsorship must be approved prior to an offer or extension of employment.
2. The Vice President for Finance and Administration will advise Human Resources of the decision and provide written authorization to proceed with the hiring process.
3. If approved, Human Resources will coordinate the H-1B eligibility process during pre-employment with the hiring department and the foreign national to ensure that the appropriate work authorization is obtained.
4. Prior to hire, the foreign national candidate will be required to sign an employment retention agreement with the University. A copy of the draft employment retention agreement may be obtained from the Human Resources Department.
5. Human Resources will coordinate the H-1B process during employment between the hiring department and foreign national employee.

### **Termination of Employment**

If a foreign national employee's employment ends involuntarily, with or without cause, prior to the end of the approved H-1B work authorization, the USCIS requires the University to provide reasonable cost of return transportation to the last place of foreign residence. If the H-1B employee does not intend to return to his or her home country or last place of residence, the University is not required to provide means of reasonable transportation. The University holds no liability if the H-1B employee voluntarily terminates his or her employment prior to the expiration of the validity of the approved petition.

## **Green Card Sponsorship (Permanent Resident)**

The Green Card Sponsorship allows a foreign national to become a permanent resident based on a non-temporary job offer through a multi-step process. A prospective or current foreign national employee who is inside or outside the United States may qualify for sponsorship under one or more of the employment-based immigrant visa categories. The University must obtain process certification in accordance with [DOL](#) guidelines and petition authorization through the [USCIS](#).

### **Eligibility**

The University may only sponsor permanent residence for foreign national employees based on exceptional University need. Whether the University decides to participate in the Green Card Sponsorship program for any foreign national employee is at the sole discretion of the University.

The sponsoring department has the burden to meet financial and federal requirements for permanent residency status on behalf of a foreign national employee.

### **Procedures**

The University has established the following procedures applicable to employment sponsorship of foreign nationals for permanent residency:

1. The department requesting to sponsor a foreign national for permanent residency in the US must submit justification to and obtain approval from the divisional Vice President and Vice President for Finance and Administration.
  - a. The permanent residency employment justification must include the detailed need for the permanent critical specialty position, job description, and sufficient departmental budget allocation for the green card process funding.
  - b. All expenditures associated with foreign national employment sponsorship must be approved prior to an offer or extension of employment.
2. The Vice President for Finance and Administration will advise Human Resources of the decision and provide written authorization to proceed with the green card sponsorship process.
3. Human Resources will advise the foreign national employee of the University's final decision for green card sponsorship.

4. If approved, Human Resources will coordinate the green card sponsorship process with the hiring department and the foreign national to ensure that the appropriate documents are submitted for petition.

### **Green Card Fees**

The University is permitted to participate in cost sharing for the I-140 and I-485 petitions. The foreign national employee will be required to pay half of the associated fees for the green card I-140 and I-485 petitions and sign an employment retention agreement with the University. A copy of the draft employment retention agreement may be obtained from the Human Resources Department.