



## Office of Human Resources

# PROCEDURE FOR VISA SPONSORSHIP

## Visa Sponsorship

### REASON FOR PROCEDURE:

Utica University welcomes a large number of foreign nationals from around the world to study, research, and work at the institution. The University assists newly hired full-time faculty in acquiring or maintaining lawful presence in the United States and eligibility to work at Utica University. Foreign nationals may lawfully enter the United States pursuant to a non-immigrant or immigrant visa issued at a U.S. Consulate or document issued by the U.S. Citizenship and Immigration Services (USCIS).

Utica University officially supports H1B visas for academic positions only.

### PROCEDURE:

It is the policy of Utica University, as the employer, to sponsor an application for a non-immigrant visa on behalf of qualified candidates who are foreign nationals after it makes an offer of full-time employment. Before the date of first employment, the University determines the most appropriate visa category. Typically, an H-1B visa application is prepared. The sponsorship process begins, however, by filing a Labor Condition Application ("LCA") with the Department of Labor ("DOL").

The form that is filed with the DOL to obtain a certified LCA is called Form ETA 9035E Labor Condition Application. The Assistant Vice President of Human Resources (or other authorized University official in his/her absence) signs this form and presents it to the DOL, attesting that the wage shall be the greater of the actual wage rate or the prevailing wage for the position. The University is also required to "post" a notice regarding the filing of the LCA for ten (10) consecutive business days, and to maintain a "public access" file for possible government inspection.

The University must obtain an approved LCA in order to file an H-1B visa application on behalf of a faculty member. The approval of an LCA is a prerequisite for filing the H-1B visa petition to the USCIS Regional Service Center. The University must receive approval of the H-1B petition from the USCIS before employment can begin. While the University handles all documents in a timely and expeditious manner, it cannot predict governmental response times. Obtaining approval for an H-1B petition generally takes up to six months. Premium processing options are always considered when the mutual interests of the University and beneficiary can be best served. After the University receives the

initial approval of the an H-1B petition for a period of up to three years, H-1B status can be renewed by the University on behalf of the faculty member for up to an additional three years.

### **Fee Schedule:**

The typical costs for obtaining an H-1B non-immigrant visa is approximately \$3,000, and this cost plus fees is paid in full by the University for Faculty and staff.

- Initial H-1B:  
Legal Fee: \$2,000, I-129 filing fee: \$460, and Anti-Fraud fee: \$500
  
- H-1B Extension:  
Legal Fee: \$2,000 and I-129 filing fee: \$460

Expenses for an immigrant visa petition range between \$8,000 and \$15,000 and the cost is shared by both the faculty member and the University. Outside counsel is used to assist with this process on behalf of the University, and they will prepare a retainer agreement that sets forth the costs associated with the faculty member portion of the process.

- PERM Green Card Process
  - 1) \$2,700 legal fee plus advertising costs (labor certification process) - will be paid in full by the University
  - 2) \$1,500 legal fee and \$700 USCIS filing fee (I-140 Immigrant Visa Petition) will be paid in full by the faculty member (Premium processing is optional and bears an additional \$300 legal fee and \$2,500 USCIS filing fee)
  - 3) \$1,500 legal fee plus \$1,225 USCIS filing fee (I-485, Application to Adjust Status) for principal applicant - will be paid in full by the faculty member
  - 4) \$1,000 legal fee plus \$1,225 USCIS filing fee per each dependent applicant (or \$1,000 legal fee plus \$750 USCIS filing fee if dependent is a child under age 14) - will be paid in full by the faculty member

The University, as petitioner, shares in these expenses on behalf of the faculty member who stipulates a commitment to continue working for Utica University once the petition is approved. Unless otherwise agreed in writing, the University will not be responsible for (1) obtaining visas for additional family members; (2) any unusual situations which require the University to pay fees or legal expenses beyond the normal range.

The University selects and retains the services of outside counsel as needed to assist in the processing of non-immigrant and immigrant visa applications. In the event the faculty member retains private counsel at personal expense, she/he will be expected to work closely with University counsel to produce necessary and appropriate documents in order to obtain an employment-based visa. Private counsel cannot file papers on behalf of Utica University without University counsel's approval. The University is not responsible for monitoring the services or managing any process undertaken by privately retained counsel. The University also reserves the right not to sign documents that do not conform to University procedures and standards.

### **INTERNAL PROCEDURE FOR INITIATING AND EXECUTING SPONSORSHIP:**

- A. Once offer of full time employment is made, the search chair must communicate with the Office of Human Resources immediately that there is a need for visa sponsorship.
  
- B. The PAF (Personnel Action Form) for the hire must also note that the offer includes University sponsorship of visa and be circulated for signatures.
  
- C. The Office of Human Resources will prepare appointment letter and proceed with necessary filing steps, working closely with outside counsel and incoming faculty member.

- D. Outside counsel will prepare and send to the faculty member a retainer agreement that sets forth the costs associated with the faculty member portion of the process.
- E. The Office of Human Resources will initiate renewal of H1B visa prior to expiration for the second term. During the first year of the second term, the permanent resident process will be initiated.

#### **DEFINITIONS:**

A comparison of the most commonly used non-immigrant visa categories is provided below:

##### **NON-IMMIGRANT VISAS (TEMPORARY RESIDENCE)**

Non-immigrant visas are categorized by the U.S. Citizenship and Immigration Service (USCIS) as follows:

F-1 Student (curricular and optional practical training)

H-1B Specialty Occupation (professional worker)

J-1 Exchange visitor

TN NAFTA Treaty Worker (e.g., Canadian and Mexican citizens)

H-4 Spouse/dependent of H-1B visa holder (note that an H-4 visa holder may not be employed)

With a non-immigrant visa, a foreign national is issued a Form I-94 (Arrival/Departure Record) which reflects the foreign national's visa status and is the necessary document to demonstrate eligibility for employment at Utica University for a specified period of time. Please note that the Office of International Education processes the F-1 and J-1 non-immigrant visas types and may be contacted at 792-3340 for further information.

##### **IMMIGRANT VISAS (PERMANENT RESIDENCE)**

An immigrant visa is commonly known as a "green card." The holder of this visa is a lawful permanent resident ("LPR"), authorized to live and work in the United States indefinitely, and remains so provided the resident is not absent from the United States for more than one year. After five years as an LPR, the resident can apply for United States citizenship (three years if the LPR acquired the immigrant status through a marriage to a U.S. citizen).

More information may be found at <http://www.uscis.gov>.

#### **RESOURCES/QUESTIONS:**

For questions regarding this procedure, employees may contact the Office of Human Resources at (315) 792-3276 or via e-mail at [hr@utica.edu](mailto:hr@utica.edu).