Global Human Resources

Processing Immigrant Petitions

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Agenda

• Introductions
• H-1B to Permanent Resident Process
• EB-1, Outstanding Professor or Researcher
• EB-2, Advanced Degree Holder (Special Handling)
• Adjusting to Permanent Resident
• Questions & Answers
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- College of Engineering
- GTRI

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- College of Architecture
- College of Computing
- College of Management
- College of Sciences
- Ivan Allen College
- Other departments, including the Provost
H-1B to Permanent Resident

Year 1: Begin PR Discussion
Year 3: H-1B Extension
Year 5: Labor Cert or I-140
Year 6: Out of Time
Permanent Resident Process

1. Department Initiates Sponsorship w/ Approval from the Dean
2. Global HR Determination: EB-1 or EB-2?
3. Approval from Appropriate Associate Provost
4. File I-140, Immigrant Petition for Alien Worker
5. I-485, Application to Adjust Status
# Initial Documentation for Immigrant Petition

<table>
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<th>Department</th>
<th>Employee</th>
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<tr>
<td>• Initiate in iStart</td>
<td>• Foreign National Employee Information Form</td>
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<td>• Justification for PR Sponsorship</td>
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EB-1, Outstanding Professor or Researcher
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- Professor or researcher who is recognized internationally as outstanding in the academic field, and who has at least 3 years of teaching or research experience in the field
EB-1: PhD + 3 Years Experience

- Proof of at least 3 years experience in teaching or research after completion of the doctoral degree
  - Letter(s) from the current or former employer(s)
    - Name, address, and title of the writer, and a specific description of the duties performed by the alien
  - Experience in teaching or research while working on a doctoral degree may be possible
EB-1: Tenured or Permanent Position

- Must have offer of a **tenured or tenure-track teaching** or **permanent research position**
  - Original letter of appointment or job offer indicating a tenured or tenure-track position as a teacher or permanent position as a researcher
- Excludes Postdoctoral Fellows
EB-1: Substantiating Evidence

• Must meet 2, we recommend at least 3
  – Major Prizes or Awards
    • Receipt of major prizes or awards for outstanding achievement in the academic field
  – Membership in Professional Associations
    • Membership in associations in the academic field that require outstanding achievements of their members.
  – Published Material About the Alien’s Work
    • Published material in professional publications written by others about the alien’s work in the same or an allied field.
      – Reviews of the beneficiary’s work;
      – Research continuing from (or inspired by) the beneficiary’s work
      – Footnoted acknowledgment of data from the beneficiary’s publications
EB-1: Substantiating Evidence

– Participation as the Judge of the Work of Others
  • Participation on a panel or individually as a judge of the work of others in the same or allied field

– Original Scientific or Scholarly Contributions to the Field
  • Evidence of the alien’s original scientific or scholarly research contributions to the academic field
    – Letters from recognized experts in the beneficiary’s field of endeavor commenting on the beneficiary’s achievements in his/her field
    – Proof of participation in professional conferences and meetings
    – Approved patents

– Authorship of Scholarly Articles or Books
  • Evidence of scholarly books or articles, in scholarly journals with international circulation in the academic field
EB-2, Advanced Degree Holder, Special Handling for College Teachers
EB-2, Advanced Degree Holder, Special Handling for College Teachers

• Available for college teachers only
• Must be filed within 18 months of job offer date
• Limited officer discretion
• Avoid the outstanding hurdle
• Referred to as “Special Handling”
EB-2 “Special Handling” Labor Certification Application

• Employer needs to show **most qualified** candidate was hired

• Competitive recruitment and selection process
  – Employer “must document [that] the alien was selected . . . in a competitive recruitment and selection process through which” he or she “was found to be more qualified than any of the U.S. workers who applied.”
Labor Certification Application/PERM

• Standard Labor Certification requires that no American job applicant meet the minimum requirements for the job
• Process is difficult and laborious
EB-2: Teaching Position

- Job must be **permanent** and **full-time**
- Job duties must include some "actual classroom teaching"
- Not required to be tenure-track
EB-2: Competitive Recruitment Requirements

• Advertisement in **electronic journal** may now substitute for print ad
  • National professional journal
  • Journal must not require payment of membership or subscription to access job openings
  • Ad must run for 30 calendar days
  • Need evidence of 1st and last day on site and text of ad

• **May still opt to run an ad in The Chronicle**

• **Notice of Filing**
  – Must be posted for ten consecutive business days
  – Must occur more than 30 but less than 180 days prior to filing application
EB-2: Competitive Recruitment Requirements

• Advertisement Components
  – Job Title
  – Duties
    • Including teaching, even if the job title is professor
  – Requirements
  – Appropriate contact information
  – Location
    • Full address
EB-2: Selection Date

• VERY IMPORTANT

• Application must be filed online within 18 months of the selection date
  — Keep in mind posting requirement!

• Selection date may be the date of the offer letter
EB-2: Required Documentation

• **Prevailing Wage**
  – Must pay at least the prevailing wage
  – The wage need not be included in the advertisement or internal posting
  – This step is done post-selection of candidate

• **Recruitment Report**
  – Statement signed by official with hiring authority outlining recruitment undertaken
  – Must include:
    • Total number of applicants
    • Lawful job-related reasons why candidate selected is more qualified than each U.S. worker who applied
EB-2: Required Documentation

• **Search Committee Report**
  – Report of committee making recommendation or selection of alien

• **Statement Regarding Alien’s Qualifications**
  – Written statement attesting to the alien’s educational, professional qualifications and academic achievements

• **Original Tear Sheet**
  – Full page of journal in which print ad appeared, or need evidence of 1st and last day on site and text of ad for electronic journal
EB-2: Required Documentation

• Offer letter to alien
  – Date of letter starts 18-month clock
  – Must indicate tenure-track or permanent position

• Evidence of any other advertisements

• Applicant résumés

• Documentation needs to be retained for a period of 5 years
  – DOL may request documentation during an audit
EB-2: Documentation from Department

• Recruitment documentation
• Affirmative action documentation
• Written report of search committee
• Final recruitment report
• Statement regarding alien’s qualifications
• Offer (and acceptance) letter
• Alien’s credentials and evidence of experience, if applicable
EB-2: Global HR Processes

- Request prevailing wage determination
- Prepare notice to be posted at location of employment as well as in any in-house media normally used to recruit for similar positions
- File application online before 18-month deadline
- Retain audit review file for 5 years from application filing date
EB-2: Approval of Labor Certification Application

• Application is valid for a 6-month period
  – Employer must file I-140 Immigrant petition during that 6-month period

• I-140 Petition:
  – Original and signed approved labor certification
  – Letter of support from department
  – Alien’s credentials
  – Proof of ability to pay
Form I-140, Immigrant Petition for Alien Worker

• Fees
  – Standard Processing Fee: $580.00
  – Premium Processing Fee: $1,225.00

• Source of Funds
  – State Funds

• Processing Time
  – Standard: 4 months (average)
  – Premium: 15 days (guaranteed)
Form I-485, Application to Adjust Status

• Fees
  – $1,070.00
  – Includes the adjustment of status petition, travel document, work authorization and biometrics

• Source of Funds
  – Cannot be state funds

• Processing Time
  – 4 months (average)
Form I-485, Application to Adjust Status

- Immigrant visas must be available to file a permanent residence application
  - Availability depends on type of petition and alien’s country of birth
- EB-1
  - Current for all applicants
- EB-2
  - Individuals born in China and in India have longer wait times
  - Priority date for India and China (August visa bulletin) is March 1, 2006
  - Priority date is date labor certification (or I-140) is filed
Other Ways to Adjust to Permanent Resident

• Advanced degree holders and aliens of exceptional ability
• Diversity Immigrant Lottery
• Marriage to US Citizen or Permanent Resident
• National Interest Waiver