Global Human Resources

Processing Nonimmigrant Petitions

Wednesday July 21, 2010
Thursday July 22, 2010

Revised (to reflect current fees): March 1, 2011
Agenda

• Introductions
• Foreign National Tax Compliance
• Nonimmigrant Category Definitions
• Timelines
• Procedures
• Questions & Answers
Global Human Resources Staff

**Lori Jones**
- College of Computing
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- College of Architecture
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- Ivan Allen College
- Other departments, including the Provost
Foreign National Tax Compliance

• GLACIER: Nonresident Alien Tax Compliance
  – System used by Payroll, Accounts Payable and Bursar

• [www.ohr.gatech.edu/global/foreignnationaltax](http://www.ohr.gatech.edu/global/foreignnationaltax)

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Nonimmigrant Status Options

- J-1 Exchange Visitors
- B-1/Visa Waiver Business Visitors
- Trade NAFTA (TN)
- O-1, Alien of Extraordinary Ability
- H-1B, Specialty Occupations
J-1 Exchange Visitors

• Only permitted to engage in academic or research activities listed on the DS-2019
• Aliens subject to the 212(e) 2-year foreign residence requirement are not eligible for H-1B visa (unless waiver approved)
• Cannot be used for tenure-track or tenured positions
• Administered by Office of International Education
• 5 year maximum
B-1 & Visa Waiver Business

• In the U.S. for scientific, professional or business conventions/conferences, or independent research
• Not permitted to accept full-time, part-time or temporary teaching or research positions
• Processed as an affiliate, if necessary
• B-1: 6 month maximum, with possible extensions
• Visa Waiver: 90 day maximum, no extensions
TN Professionals under NAFTA

- Applies to Canadian and Mexican citizens who are coming to the U.S. to be temporarily employed in a designated capacity
- Employment must require a professional license or baccalaureate degree
- The profession must be on the NAFTA list
O-1A, Workers of Extraordinary Ability

• Person who “has extraordinary ability in the sciences, arts, education, business or athletics, which has been demonstrated by sustained or international acclaim”

• Employment is limited to the specific employer and employment specified in the O-1 petition

• Initial period of stay of 3 years with 1 year extensions
H-1B, Specialty Occupation

• Employment is limited to the specific employer and employment specified in the H-1B petition
• Academic or research, full-time position
• 6 year maximum, in 3 year increments
H-1B Process

Nonimmigrant Process Authorization Form and Supporting Documents

Prevailing Wage (1 month)

Labor Condition Application (1 week)

I-129 Petition (2 weeks or 2 months)
Documentation for Nonimmigrant Employee Processes

• From Employing Department
  – Nonimmigrant Process Authorization Form
  – Petition Support Letter
  – Fees

• From Employee
  – Foreign National Employee Information Form
  – CV
  – Highest academic degree and transcript
  – Immigration Documents
  – Dependent Form and documents, if applicable
Prevailing Wage

• The average wage of similarly employed workers
  – Similar factors include:
    • Nature of the job
    • Geographic location
    • Job duties

• Re-assessed yearly, new wages published each July

• Processing Time
  – Average: 32 days
  – Range: 0 to 93 days
Labor Condition Application

• Employer must file LCA with Department of Labor
• The LCA attests that:
  – the foreign national will be paid the higher of the actual wage or
the prevailing wage
  – that there is no strike or lock-out
  – working conditions of U.S. workers will not be adversely affected
  – notice has been provided to all employees
• LCA must be certified by DOL and a copy is included with H-1B petition to USCIS
• Certified LCA must be posted for 10 business days
• Processing time
  – 7 days
I-129, Petition for a Nonimmigrant Worker

• Fees
  – Standard Processing Fee: $325.00
  – Anti-Fraud Fee: $500.00
    • For new petitions only
  – Premium Processing Fee: $1,225.00

• Processing Time
  – Standard: 60 days (approximate)
  – Premium: 15 days (guaranteed)
New H-1B Employment

• Change of Status
  – F-1 → H-1B
  – J-1 → H-1B
  • Not subject to home residency rule or has an approved waiver

• Consular Notification
  – Foreign national is in home country
  – U.S. Consulate notified of approval, employee applies for visa stamp, enters the U.S. in H-1B status

• Employer Transfer
  – Foreign national is employed with another employer and holds H-1B status
  – Cannot begin employment at Tech until receipt is received
Amendments

• A change in employment cannot occur until it has been determined by Global HR if an amended petition should be filed with USCIS
  – Annual merit raises do not require an amendment
  – Promotions that raise the title, increase salary and responsibilities will require an amendment
    • Postdoctoral Fellow → Research Scientist I
    • Research Engineer I → Research Engineer III

• If an amended petition is required, the petition must be approved by USCIS before the changes are effective
Extensions

• The extension process should begin 6 months before the expiration of the alien's current H-1B status

• 240 day rule
  – The alien can work, but cannot (legally) drive

• 6 year limit
  – An extension is not possible if the alien has reached the 6 year limit (limited exceptions)
Resignation or Termination

• H-1B withdrawal required when employment is terminated
• Employer liable for reasonable return transportation costs if employer terminates before end of H-1B period
• Complete the Notification of Termination and/or Resignation Form
Other Issues

• Driver’s License Expiration Date
  – GA driver’s license expiration dates correspond with the immigration status expiration date

• Leaves of Absence
  – Must notify Global HR

• Travel outside of the US
  – Remind employees to contact Global HR before traveling whenever possible
Global Human Resources Contact Information

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Q & A

Evaluations

Thank you!