

## STANDARD ADMINISTRATIVE PROCEDURE

### **33.99.09.M0.01 Employment of Foreign Nationals**

*Approved May 19, 1997*

*Revised June 27, 2008*

*Revised November 21, 2013*

*Revised February 3, 2020*

*Next Scheduled Review: February 3, 2025*

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#### **SAP Statement**

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In accordance with System Regulation 33.99.09, this procedure applies to the employment of international faculty, researchers and staff at Texas A&M University, but does not apply to the employment of international students.

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#### **Official Procedure/Responsibilities/Process**

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##### 1. ADMINISTRATION

- 1.1 The Immigration Services for Faculty and Scholars office (ISFS) at Texas A&M University is the designated office responsible for facilitating the employment of international faculty, researchers and staff. This responsibility extends but is not limited to reviewing supporting immigration documentation, providing administrative recommendations to employing departments, preparing, executing and filing the required immigration employment petitions (nonimmigrant and immigrant), after a contingent offer of employment has been made by the hiring department or unit.
- 1.2 The Director of ISFS is authorized to:
  - 1.2.1 Execute immigration outside counsel representation forms on behalf of Texas A&M University on immigration matters.
  - 1.2.2 Review, approve and route for secondary review and payment approval to the System Office of General Counsel outside counsel invoices submitted as a result of any immigration services provided by outside counsel on behalf of Texas A&M University.
  - 1.2.3 Prepare, sign and file, or assign the preparation, signing and filing to ISFS professional staff, the immigrant and the nonimmigrant petitions, required

by the United States Citizenship and Immigration Service (USCIS) and other federal agencies respectively, for the temporary or permanent employment of international faculty, researchers, and staff at Texas A&M University.

## 2. EMPLOYMENT OF FOREIGN NATIONALS AT TEXAS A&M UNIVERSITY

2.1 Employment of foreign nationals at Texas A&M University is governed by the provisions contained in §2 of System Regulation 33.99.09.

## 3. AUTHORITY TO APPROVE OFFERS OF EMPLOYMENT

3.1 At Texas A&M University the authority to approve the proposed employment of a foreign national rests within the following officials:

3.1.1 Appointments of foreign nationals to positions with all ranks of faculty are approved as established in Rule 12.99.99.M1.

3.1.2 Vice Presidents, deans, and directors of services are authorized to approve offers of employment to foreign nationals in positions that are not specifically designated for approval by the President or the Provost and Executive Vice President.

3.2 All obligations and responsibilities emanating from a proposal to employ a foreign national are governed by §3 of System Regulation 33.99.09.

## 4. RESPONSIBILITY OF EMPLOYING DEPARTMENT OR UNIT

4.1 The head of a hiring department or similar administrative unit, is responsible for:

4.1.1 Contacting ISFS, under the provisions stated in §5 of System Regulation 33.99.09.

4.1.2 Ensuring that extension or changes in immigration status are properly documented in a timely manner in accordance with §10 of System Regulation 33.99.09.

4.2 When the employment of a foreign national is terminated, due to voluntary or involuntary termination, the head of a hiring department or similar administrative unit is required to immediately notify ISFS of the date of termination and must complete a Departure Notification Form. Such form may be downloaded from the ISFS website at <http://isfs.tamu.edu>.

## 5. PETITIONS FOR NONIMMIGRANT EMPLOYMENT

5.1 Sponsorship of nonimmigrant employment is an employer driven process.

5.2 After a contingent offer of employment is made, the head of the hiring department or

similar administrative unit proposing to sponsor a foreign national for nonimmigrant status must notify ISFS if the employee requires assistance in obtaining work authorization. ISFS will work with the hiring department to determine the appropriate nonimmigrant status and request the required documentation.

- 5.3 Notification must be submitted to ISFS by the head of a hiring department or similar administrative unit preferably six (6) months in advance of the start date of the service for which the foreign national has been hired but no later than four (4) months in advance of such start date of service.
- 5.4 Upon review of all the required documentation ISFS will prepare, execute and file the required nonimmigrant forms if appropriate.
- 5.5 Foreign national employees cannot commence employment at Texas A&M University until:
  - 5.5.1 An approved nonimmigrant status notice (I-797A) is issued by the United States Citizenship and Immigration Service (USCIS) and the approval has been actually received by ISFS, if abroad, or the foreign national has a valid visa based on an approved status filed by and received by ISFS, and the foreign national has been inspected and admitted to the United States by Customs and Border Protection;
  - 5.5.2 J-1 Exchange Visitor employees have checked in with ISFS and their status has been validated by ISFS in the federal Student Exchange Visitor Information System (SEVIS).
- 5.6 J-1 Exchange Visitors requesting an extension of their J-1 program at Texas A&M University may continue their employment at Texas A&M University provided (i) the head of the hiring department or similar administrative unit provides a justification letter for the extension and approval from the Export Control office, (ii) the extension is requested at least 30 days prior to the conclusion of the Exchange Visitor's program, (iii) the exchange visitor provides ISFS with a justification for their extended U.S. stay and supporting documents, and (iv) ISFS has not received notification from the Department of State recommending to USCIS that a waiver be granted to the J-1 Exchange Visitor.

## 6. PETITIONS FOR PERMANENT RESIDENCY

- 6.1 The requirements for sponsorship for permanent residency are governed by §7 of System Regulation 33.99.09. Sponsorship is an employer driven process. Therefore, it is the responsibility of the hiring department to initiate the request if the position is eligible for such sponsorship and it is clearly demonstrated to be in the best interest of the employing department.
- 6.2 All written justifications for permanent residence sponsorship must be approved by the normal reporting chain up to and including the appropriate dean or similar

administrative unit. Written justifications submitted for approval should be attached to the Department's Sponsorship for Permanent Residence Request Form which may be downloaded from the ISFS website at <http://isfs.tamu.edu>. ISFS will review the written justification and will recommend approval if the justification complies with the requirements of §7.3 of System Regulation 33.99.09 or §7.5 of System Regulation 33.99.09, in case of a staff position. Upon approval, the written justification and Department's Sponsorship for Permanent Residence Request Form must be sent to ISFS.

- 6.3 Upon receipt and review of the documentation indicated in subparagraph 6.2 of this procedure, ISFS in accordance with §7.3.5 of System Regulation 33.99.09 will issue an administrative recommendation to the head of the hiring department or similar administrative unit regarding the immigrant process to be pursued.
- 6.4 In cases in which the immigrant process recommended by ISFS requires contacting and engaging the services of outside counsel, the head of the hiring department or similar administrative unit must contact the ISFS Director to arrange for outside counsel services.
- 6.5 The preparation, filing, and payment of fees and costs for adjustment of status (I-485) and related applications are solely the responsibility of the foreign national employee and not the employer. Accordingly, ISFS cannot provide to the foreign national, hiring department or similar administrative unit any type of administrative recommendation or support in the adjustment of status (I-485) stage of the permanent residence process since this is not Texas A&M University's responsibility.
- 6.6 Senior lecturer positions or equivalent may be considered for sponsorship only in exceptional cases which are expected to be rare and will require additional justification beyond that required in §7.3.2 of System Regulation 33.99.09.

## 7. INTERPRETATION OF THIS PROCEDURE

- 7.1 This procedure is intended to supplement System Regulation 33.99.09 which governs the employment of foreign nationals.

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### **Related Statutes, Policies, or Requirements**

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[System Regulation 33.99.09, Employment of Foreign Nationals](#)

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### **Contact Office**

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Contact [Immigration Services for Faculty and Scholars](#) for procedure clarification and interpretation.