

OIPS Recommendations for New and Portability (Transfer In) H-1B Petitions/ Spring & Fall 2024

Dear Colleagues:

As we move forward into the busy recruitment season for 2024, we would like to provide some updates and recommendations regarding the H-1B process. Your ongoing collaboration and assistance will help us all to overcome issues and pave the smooth road to new H-1Bs. Recommendations are based on the previous cases, challenges and current USCIS/DOL processing times. We encourage you to share this information with your Deans, Financial Offices and HR Liaisons.

I. USCIS Processing Time for H-1Bs, Premium Processing Option, Checks

- Current USCIS processing time for H-1B is up to 9 months. To guarantee timely processing time, OIPS recommends that all H-1B petitions be submitted with Premium Processing to accelerate processing. The United States Citizenship and Immigration Services (USCIS) guarantees that within 15 calendar-days it will issue either an approval notice, a notice of intent to deny, a request for evidence (RFE).
- Who pays? Although payment of the premium processing fee (\$2,500) benefits both the employer and the employee, it is permissible to consider the premium processing fee an "employer business expense," and therefore to pay that fee. Some employers allow the employee to pay the fee, but only if the employee insists on expedited processing for purely personal reasons unrelated to employment" [8 CFR 214.2]. Please discuss Premium Processing Fee with your H-1B employee and determine who will pay the \$2,500 fee prior to submitting H-1B initiation documents to OIPS.
- Checks for the H-1B filing fees take 2-3 weeks to be issued and received by OIPS for H-1B petitions. Please order checks when you start the H-1B paperwork for employees.
- If you have H-1B initiation paperwork to submit, please submit it as soon as possible.

II. F-1 Spring 2024 Graduates on OPT

- OPT/ EAD Employment Authorization is now eligible for Premium Processing. Employees who will begin their position on OPT can pay a \$1,500 premium processing in order to expedite the processing of their OPT. Premium Processing for OPT guarantees a decision **in 30 calendar days**. A decision is an approval, a denial, or a request for evidence asking for further information. An RFE will reset the premium processing timeline. We always recommend that employees who will begin working at GMU on OPT, should apply for OPT as soon as they are permitted to do so.
- Final PhD transcripts for new H-1Bs must be received by OIPS and included with H-1B petitions. Without the option of OPT, new hires whose transcripts are not available until June, July or August may have a delayed onboarding process for Fall 2024 semester. It is recommended to have Plan B, such as another faculty member who can teach a course in September- October while OIPS prepares petition, sends it with Premium Processing and gets Approval Notice from USCIS.

III. Prevailing Wage Determinations

- We are allowed to determine Prevailing Wages for most Instructional Faculty and Postdoctoral Research Fellows at OIPS (1-3 days). Please provide the H-1B Initiation Form (a.k.a. page 9) with job description, duties, salary and minimum position requirements for any candidate (not a candidate's educational achievements).

- Prevailing Wage Determinations for ALL Administrative Faculty positions and complex Interdisciplinary Research positions must be done by DOL. Current processing time at DOL is 12-18 months and cannot be expedited.

IV. Critical question at the beginning of the hiring process

- If possible, please ask all tenure-track new hires if they have ever held a J-1 visa. The J-1 visa's 2-year home residency rule must be fulfilled prior to the employee being eligible for H-1B sponsorship. If an employee does not have it and thinks he/she will receive a waiver prior to an August 2024 start date, it is highly likely that it will **NOT** be received in time for the employee to start in August. Such cases should be discussed with OIPS as soon as possible.

V. Positions not eligible for H-1B sponsorship

The H-1B visa category is a temporary work visa for non-US workers in a job position that requires at least a bachelor's degree. The H-1B is used for tenure-track, term faculty and long-term academic researchers. Per GMU policy, the H-1B classification cannot be used for the following types of positions:

- Operational/ classified staff positions not requiring the minimum of a bachelor's degree as a common requirement for that position and occupation. Note: VA State's policy is clear that we can't require a degree for a classified position, unless required by law (like a doctor or nurse)
- Part-time or hourly positions
- Adjunct instructors/professors

VI. H-1B Team Support

- Mandatory H-1B Visa Orientation. We will inform all new H-1B employees about the GMU Green Card sponsorship process focusing on EB-2 Special Handling for Instructional Faculty during H-1B check-in with OIPS. This will help us not to miss the 18-month filing window. Please reach out to us, if you believe that green card initiative should come from the Department.
- We will continue to reach out periodically to international employees about International Travel. International travel and visa wait times have improved in this post pandemic period, but some consulates abroad continue to have extreme delays in visa issuance. We encourage employees to inform us (we inform you) about their travels overseas.
- Remote Work is permissible under rare circumstances and must be carefully evaluated by International Tax Office (with OIPS and Department)
- If a Department Chair, PI or H-1B candidate reaches out to OIPS about H-1B, we will circle back to HR Managers for confirmation.

With Kind Regards and Appreciation,
H-1B/ LPR Team