

NOTES FROM RESEARCH ADMINISTRATORS – POST AWARD MEETING, MARCH 5, 2014

INTRODUCTION

Welcome! We're glad everyone made it today – let's hope this weather is the last of it!

RSSP UPDATE

Research and Economic Development has Twitter account! @YOUofAResearch

TOPIC

Presenters: Shelly Gahagans, Human Resources, and Audra Johnston, International Students

- UA Non-Residential Immigration/Employment Processes Update

PRESENTATION NOTES

We don't expect you to remember all of these things, but ask questions when in doubt. Even when you think you know, ask first as it alleviates problems later on.

Who is a foreign national? They are not United States citizen, permanent resident of the U.S. (green card holder). They are non-resident alien, non-immigrant, nonresident alien. Non-resident alien and nonresident alien are two different categories.

How to identify a foreign national: you cannot go by name, look, or accent. Folks from all over the world can be citizens or permanent residents of the U.S. Indicators you can go by: They tell you they just arrived in the U.S., they mark the 2nd or 4th box on their I-9, they do not have a social security card, they have a social security card with the work restriction clause, they show you a passport from another country.

A Social Security Card for a foreign national will always have a restrictive clause on the top which says: "Valid for Work Only with DHS Authorization". Older cards may say "INS" instead of "DHS". If someone has a green card but still has a Social Security card with the restrictive clause, they need to talk to Shelly for help to go to the Social Security office in order to get a new card without restrictions.

Hiring Scenarios:

International Student Employment. International students may work in the U.S., depending on the employment eligibility status. F-1 student visas – are allowed to work 20 hours a week while classes are in session and 40 hours a week when classes are out for at least a week (Spring Break,

Christmas, summer). J-1 visas – includes not only students but professors and others. J-1 visas require additional documentation to determine if they can get work authorization. Work authorization can only be given by the student's sponsor.

F-1 On-Campus Employment. The student is responsible for tracking their hours. HR does audit this. There are consequences for exceeding limits. There are also unit pay restrictions. By the time violations are found in an audit, it is too late to undo the damage. The student may have to go back home and reapply for a visa. One infraction has major consequences; Homeland Security is very serious about unauthorized employment.

Please always go through Shelly for hiring international students. This serves as a check to make sure that the student is not working more hours than are allowed.

International students cannot be paid through unit pay during the regular semester. Unit pay is okay during the summer because students are allowed to work full-time if they are eligible.

International students and scholars. International students are enrolled in classes; international scholars are here as employees, researchers, etc., but not enrolled in classes. International scholars usually have visas of type J-1, H-1B, TN, O-1, and PR.

J-1 Employment. J-1 Exchange Visitors at the UA can be short term scholars (up to 6 months), research scholars (3 weeks to 5 years), professors, specialists (here up to one year for the purpose of observing, consulting, or presenting special skills), and student interns (individuals working on a degree program in their own country who come to the U.S. to get practical experience in order to complete their degree at their home institution).

H-1B Employment. J-1 is for academic and cultural exchange and is geared towards citizen diplomacy. H-1B's purpose is temporary employment. The holder must be in a specialty occupation. There are wage requirements; both the prevailing wage and actual wage must be met. The department must promise that if the employee is dismissed for any reason before the end of the planned employment, that the department will pay for the individual to return to their home country. For H-1B employment, there are petition fees paid by the department and the processing timeline must be taken into account. It takes 4-6 weeks for International Scholars to prepare the application and then it takes up to several months by Homeland Security. For an additional \$1,225, Homeland Security will expedite the petition within 15 days.

Permanent Residence. To sponsor someone for a green card, they must be in a permanent position. A Labor Certification is required. At the moment, Homeland Security is taking about 2 years to process. It is the best interest of the department and a teaching faculty hire to start the permanent residence process as soon as the individual is hired; if the it starts within 18 months of hire, there is a shorter timeline.

For any foreign national dealing with technology, data, or equipment, please also be aware there may be export control concerns. See Rosemary Ruff immediately.

What do departments do to hire a foreign national? Send Human Resources names and e-mail addresses for all prospective NRA employees. Non-Uark e-mails are preferred so that they can still be contacted after the employment ends. The potential employee will complete a form in GLACIER;

this program creates the W4 for the employee and provides additional information that HR needs. Once HR sets up the SUNE, departments will be sent the employee ID. Department will set up the PACT or Hourly Rate. The departments will provide F-1 and J-1 students with a letter of employment to apply for the Social Security Card. The template is on ISS website (http://iss.uark.edu/SSN_Verification_empl.pdf). The letter must be printed on department letterhead. Do not send a student directly to the Social Security Office; the student needs additional instructions and documentation. In Fall and Spring, ISS invites Social Security representatives to campus to make the process easier. The physical Social Security card is not needed before they can start working; but the permanent number is needed before the individual returns home. It is not possible to apply for the Social Security number at the time they apply for their visa.

Some things not to do:

1. Do not send them to the Social Security office.
2. Do not have the employee call HR – have the department admin e-mail the Nonresident Coordinator.
3. Do not have employee come to HR without an appointment.
4. Do NOT do the Payroll paperwork (I-9 and W-4 HAVE to be filled out a certain way).

Other payments to Foreign Nationals. Honorariums are taxed at 30%. Prizes/awards are taxed at 30%. With Scholarships, tuition and fees are not taxed but the amount above tuition and fees is taxed at 14%. Other payments for other kinds of work done by ANY person or company is generally taxable at 30%. Travel request for reimbursement will more than likely not be taxed but not always.

Who is eligible for payment under honorarium? If here on a B-2 (“tourist”) or visa waiver status there is a 9-5-6 rule. Activities on campus cannot last over 9 days, they may not have done a similar honorarium arrangement at other campuses more than 5 times in the past 6 months. If here as an H-1B employee anywhere, the work authorization is specific to one job and payment cannot be accepted for other work. If here as a J-1 exchange visitor, the answer is maybe – if there is permission from program sponsor and other steps are followed. If here in another status, always check first!!! Talk with HR and ISS first as they can identify the best type of visa to apply for and the best way to pay foreign nationals. Think ahead and plan ahead as soon as someone knows they want to invite or hire a foreign national.

What about “volunteering”? Proceed with caution! Must be bona fide volunteer position; this cannot be used to circumvent labor laws. May not volunteer to “hold” position while OPT (optional practical training), H-1B, etc. is in process. Documentation is important.

Scenarios were discussed.

Question and answers.

In a perfect world, how far ahead should the department let Audra know? For a H-1B visa, 6 months ahead of start date; for a visitor who will be paid an honorarium, at least a month.

If we have graduate students and post-docs, can we do travel reimbursements without going through a whole lot of hullaballo? It depends. And it has to be actual expenses, not a per diem.

Contact information

Human Resources: Shelly Gahagans sgahagan@uark.edu

International Students or Scholars: ISS 575-5003 or iss@uark.edu

Student questions/issues: Jeremiah Wax

Scholar questions/issues: Audra Johnston or Michael Freeman