Hosting/Hiring International Visitors at UAF

Things to consider
Mile markers

• We are going to discuss
  – Sponsoring and hiring international visitors
    • Immigration status options - what visa will they need to come
    • Allowable payments
    • Export Control

• We are NOT going to discuss
  – The “nuts and bolts” paperwork involved
  – How to apply for the visa
  – Professional entertainers
I want to hire a post-doc....

Why can’t I ........

Why do I have to .......
I want to have Joe come and research….

Why can’t I ........

Why do I have to ........
Immigration categories

• Common categories used for visiting researchers
  – B-1/WB (aka visa waiver for Business): Business Visitor
  – J-1: U.S. Department of State Exchange Visitor Program
  – H-1B: Specialty Occupation
  – TN: Trade NAFTA limited to Canadian and Mexican citizens
  – E-3: Special category limited to Australian citizens

• I want to hire....
  – J-1???
  – H-1B
  – F-1 OPT

• How do I know when to use which??????
Questions, questions, questions…

• What exactly are they going to do?
  – Collaborative research?
  – Independent research?
  – Contracted services?
  – Meetings?
  – Conference/seminar attendance
• How long will they be here (temporary - really? Or long term employment?)
More questions....

• Are we (UAF) paying them anything?
  – Salary (hiring)?
  – Travel expenses?
  – Honorarium?
  – Contractual obligations?

• Are we (UAF) providing them anything?
  – Office space?
  – Housing?
  – Other resources?
In order to select the proper immigration status, the questions must be answered first.....

Immigration status and allowable activities and payments are integrally related.

IRS requirements for payments.
B-1 - Business Visitor (aka Visa Waiver-Business)

• Allowable activities
  – Consultation with business associates/business meetings
  – Attend/participate in scientific, educational, professional or business conventions, conferences, seminars
  – Observe business operations and activities
  – Independent research

• NOT allowed:
  – Contractual obligations
  – Collaborative research
B-1 - Business Visitor, continued

• Allowable payments
  – Travel expenses or reimbursement
  – Honorarium and related incidental expenses if
    • Participating in activities lasting not longer than 9 days
    • No more than 5 institutions within
    • Previous 6 months

• Not allowed:
  – Employment/salary
  – Contractual payments

NOTE: Does NOT apply to B-2 Tourist Visitor/WT. Make sure your visitors enter in B-1/WB NOT B-2/WT. Travel expenses are NOT reimbursable.
J-1 Exchange Visitors

- **Subcategories**
  - Professor
  - Scholar (Research - up to 5 years; Short-term - up to 6 months)
  - Student Intern (up to 12 months)
  - Students (Degree and non-Degree)
J-1 Exchange Visitors, continued

• Allowable activities
  – Collaborative research
  – Teaching
  – Contractual activities
  – Students (J-1 Non-Degree) may be employed subject to student employment rules
  – Special rules for J-1 Student Interns

• NOT allowed:
  – Tenure-track assignments
  – “Trial” employment
  – Clinical patient care, to include veterinary clinicals - differentiate between patients and research subjects
J-1 Exchange Visitors, continued

• Department of State program
  – Purpose: Promote mutual understanding between the people of the U.S. and other countries by means of educational and cultural exchange.
  – May be paid or unpaid but must document available funding to support program activity(ies)
  – Requirements:
    • Orientation
    • Health insurance coverage - UA health plans do NOT meet DOS requirements
    • Cultural component
  – Bars to repeat participation:
    • 2-year home stay - direct government funding from U.S. or home gov’t OR if skill is on Home Skills list
    • Research Scholars/Professors - 2-year out of U.S. requirement following program
  – Allowable Payments
    • Employment
    • Travel expenses
    • Honorarium
J-1 Exchange Visitors, continued

• Department of State program Government Funding
  – When is it U.S. government funding:
    • Proposed visitor named by name in grant or contract proposal OR
    • International person/researcher specified by category
    • Just because program is funded by U.S. government does not make it direct government funding unless one of above applies
  – Home government funding: any funding from home country government
J-1 Exchange Visitors, continued

• Fees
  – Internal Processing fee:
    • Scholars/Professors: $300 must be paid by UAF hosting unit
    • Student interns: $150 may be paid by intern or hosting unit
  – SEVIS fee: $180
    • May be paid by visitor or UAF hosting department
H-1B (Specialty Occupations)

• Employment category
• Must meet U.S. Department of Labor requirements
  – Position must require a specialized body of knowledge
  – Wage levels
  – Employer-specific
• Must be approved by U.S. Citizenship and Immigration Services
  – Requires petition and fees (USCIS - $325+500; UAF = $150)
• Petition for up to 3 years at a time; maximum 6 years
• If employer terminates prior to authorization end date, return transportation to home country
# J-1 vs. H-1B

<table>
<thead>
<tr>
<th>J-1</th>
<th>H-1B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program sponsorship – under auspices of U.S. Department of State</td>
<td>Employer is the sponsor</td>
</tr>
<tr>
<td>5-year maximum participation</td>
<td>6-year maximum authorization eligibility</td>
</tr>
<tr>
<td></td>
<td>May &quot;recapture&quot; time out of U.S. during authorization</td>
</tr>
<tr>
<td>Section 212(e): 2-year home stay requirement if (1) the country has a home skills list and the skill/areas of expertise is listed or (2) government funding is used to directly support the visitor</td>
<td>Unlimited extensions after approved I-140 (Permanent Residency sponsorship)</td>
</tr>
<tr>
<td>2-year out of U.S. provision before return as Professor/Researcher</td>
<td>1-year out of U.S. provision before return in H-1B status</td>
</tr>
<tr>
<td>1-year bar to repeat participation</td>
<td></td>
</tr>
<tr>
<td>Changes in position must remain related to original program objectives; program objectives cannot change from the original</td>
<td>Any changes in employment require the filing of an amended petition before changes can be implemented</td>
</tr>
<tr>
<td>Cannot be tenure-track position</td>
<td></td>
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## J-1 vs. H-1B, continued

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<th>J-1</th>
<th>H-1B</th>
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<tbody>
<tr>
<td>No federally-mandated minimum salary</td>
<td>Wage must meet higher of actual or prevailing wage</td>
</tr>
<tr>
<td>Nonimmigrant category – generally means that the individual must</td>
<td>Dual intent category – the individual may have immigrant or nonimmigrant intent</td>
</tr>
<tr>
<td>have the intent to return to the home country following program</td>
<td></td>
</tr>
<tr>
<td>participant; makes permanent residency applications more difficult</td>
<td></td>
</tr>
<tr>
<td>Department of State insurance requirements</td>
<td></td>
</tr>
<tr>
<td>Required orientation</td>
<td>Optional orientation offered</td>
</tr>
<tr>
<td>Required cultural component</td>
<td></td>
</tr>
<tr>
<td>Spouse in J-2 status may apply for employment authorization in</td>
<td>No spousal employment eligibility as a dependent</td>
</tr>
<tr>
<td>one-year increments</td>
<td></td>
</tr>
<tr>
<td>OIPPI Processing Fee: $300 for initial</td>
<td>OIPPI Processing Fee: $150 for initial</td>
</tr>
<tr>
<td>SEVIS fee $180 (employer optional)</td>
<td>USCIS Processing fee for initial: $825</td>
</tr>
<tr>
<td>No federally-mandated extension fee</td>
<td>USCIS Processing fee for extension: $325</td>
</tr>
</tbody>
</table>
TN Trade NAFTA

- Restricted to Canadian and Mexican citizens
- Position must be on NAFTA Professional Job List
  - Includes university Research Assistants, Scientific Technician/Technologists and Faculty
- May apply on entry to the U.S.
- Up to 3 years; renewable indefinitely but must retain permanent home in home country
E-3 Australian Treaty Specialty Workers

- Employment category restricted to Australians
- Labor Condition Application required (same as H-1B DOL requirements)
- No USCIS petition required
- Admitted to U.S. in E-3 status after obtaining E-3 visa
F-1 OPT

- May be employed in major field of study
- No DOL/USCIS wage requirements
- Standard OPT - 1 year after degree completion
- STEM extension OPT - additional 17 months
- Generally eligible for change of status to H-1B at end of OPT IF no previous unmet J-1 home stay provision
Export Control

- Attestation required for H-1B petitions
- OIPI requires export control form for any beneficiary - J-1, H-1B, J-1, TN, etc.

- Because:
  - The Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR) are not limited to sponsorship of new employees in H-1B status
  - Apply to all non-U.S. citizens and maybe naturalized U.S. citizens
  - Educational institutions employing foreign nationals must have compliance processes in place to determine whether a deemed export license is required under U.S. export control laws
  - Questions: UAF Office of Research Integrity
Contact info for paperwork assistance:

- For specific questions or clarification of which status is most appropriate, please contact OIPI.
- For how to complete forms and start the process, contact your UAF School/College/Institute Executive Officer or PPA. Forms require Dean or Director level approval.
- Office of International Programs and Initiatives
  Carol Holz - carol.holz@alaska.edu
  Joanna Cruzan - jgcruzan@alaska.edu

www.uaf.edu/oip
Select “Information for UAF Departments”