

H-1B Employee Visas on Sponsored Project Accounts

An H1-B visa grants nonresident alien professional employees authorization to work for a sponsoring agency in the United States. As the sponsoring agency, the University of Kentucky is responsible for payment of the petition for an application for an H1-B visa and any necessary renewals of the work permit. The visa is valid for specific dates of employment only. Effective immediately, the following procedures have been established for sponsored projects accounts:

I. Petition for Initial Application

A. Visa processing fees and application

- 1) The Office of International Affairs (OIA) is responsible for procuring legal assistance and processing the H-1B visa application paperwork. The department is responsible for submitting the fees for the application to the Department of Homeland Security, updating the employee's compensation information, and transferring any relevant costs to the sponsored project after the petition has been approved.
 - a) When a department is going to hire or has hired a professional employee to work on a sponsored project, the department should contact the Office of International Affairs to retain its services in processing the H-1B visa application. At this time, a non-sponsored project account number should be given to the OIA for required processing expenses for the visa.
 - b) Although the Office of International Affairs will obtain any necessary legal assistance, the requisite attorney fees for employees seeking H-1B status who possess bachelor or certain types of master level degrees must be paid by the employee. Reimbursement to the employee can be processed on a departmental DAV charging a non-sponsored project account only. These legal expenses *cannot* be transferred to the sponsored project even if the petition for H-1B status is approved.
 - c) After the H-1B visa paperwork has been processed by OIA, the initiating department will complete a DAV to the Department of Homeland Security charging a non-sponsored project account for the application fee for the visa and the mandatory fraud prevention fee.
 - d) The expenses for processing the application will be charged via a JV to the departmental account previously given to the OIA service center.
 - e) After the Notice of Action from US Citizenship and Immigration Services (CIS), which indicates H-1B approval has been received by the University of Kentucky, the department may transfer the cost of the application, the fraud prevention fee, and OIA processing fees to the sponsored project on a JV.

1. Submit a PAR to the Compensation office with a copy of the Notice of Action so the nonresident alien's visa type and I-9 dates can be updated in HRS.
2. The Notice of Action, a copy of the original JV from International Affairs, and a copy of the departmental DAV for the application fees and fraud prevention fees must be attached to the new JV as documentation for the cost transfer.
3. GL account 535035 Non-resident Alien Visa Expenses should be charged to the project for the application and fraud prevention fees. GL account 639307 H-1 Visa Certification should be charged to the project for the OIA Service Center fees. If a federal grant is not budgeted for GL accounts 535035 and 639307, a budget revision should be submitted and approved through the Office of Sponsored Projects Administration prior to the receipt of the JV in Sponsored Projects Accounting.

f) **Note:** Expediting fees for premium processing by the Department of Homeland Security that improve the processing time of an H-1B visa from five or six months to a few weeks *cannot* be charged to a sponsored project at any time. The department is responsible for submitting the expediting fee to CIS.

B. Since the H-1B petition is not always approved by the US Citizenship and Immigration Service (CIS), an employee's professional payroll cannot be charged to a sponsored project until a Notice of Action from CIS is received by the University of Kentucky.

- 1) Student employees - If the nonresident alien was a post-doctoral scholar or graduate student and was paid by the grant for services rendered to the project, the individual cannot be hired into a professional position on the grant until the H-1B visa application has been approved. Once the university has been notified of the visa approval, the nonresident alien should be hired into a professional position or the current position's assignment should be corrected to reflect the appropriate salary object code. This change in assignment/position should be undertaken within 90 days of the start date on the H-1B Notice of Action.
- 2) Regular employees - If the nonresident alien is employed by the university on a visa type other than an H-1B but has petitioned CIS for H-1B status, the employee's payroll cannot be charged to the project until the university has been notified of the visa approval. In addition to the labor distribution sheets for the employee's payrolls, include a copy of the Notice of Action from CIS as documentation for the JV which transfers the payroll costs to the grant. The cost transfer to the grant should take place within 90 days of the start date on the H-1B Notice of Action.
- 3) If the H-1B visa application is denied by CIS, the nonresident alien employee cannot work for the sponsored project.

- a) Student employees - Student workers should be removed from the grant immediately since the application for the H-1B visa indicates a change in status from a student to a professional employee.
- b) Regular employees - University employees holding visa types other than H-1B cannot be employed by the grant and may be terminated by the university if the original visa authorization has expired.

II. **Renewal Application**

- A. The Office of International Affairs (OIA) is responsible for processing the H-1B visa extension paperwork. The department is responsible for submitting the fee for the extension application to the Department of Homeland Security, updating the employee's compensation information, and transferring any relevant costs from the sponsored project if the application for renewal is denied.
- B. When an employee's H-1B visa is almost expired, the responsible department should contact the Office of International Affairs to retain its services in processing the H-1B visa extension. At this time, a non-sponsored project account number should be given to the OIA for required processing expenses for the visa extension.
- C. The OIA will contact the department when the application fee for renewal can be processed on a DAV charging the same non-sponsored project account.
- D. During the 240 days after the postmark on the visa extension paperwork that is mailed to the Department of Homeland Security, the employee is allowed to work under the conditions of the current H-1B visa.
 - 1) When the Notice of Action indicating the visa renewal is received from CIS, the employee's I-9 information should be updated through the Compensation office by submitting a PAR to change the I-9 dates for the visa.
 - 2) At this time, the department may also transfer the cost of the application fee, and OIA processing fees to the sponsored project on a JV. GL account 535035- Non-resident Alien Visa Expenses should be charged to the project for the application and fraud prevention fees. GL account 639307- H-1 Visa Certification should be charged to the project for the OIA Service Center fees. If a federal grant is not budgeted for GL accounts 535035 and 639307, a budget revision should be submitted and approved through the Office of Sponsored Projects Administration prior to the receipt of the JV in Sponsored Projects Accounting
 - 3) If the H-1B visa extension is denied by CIS, the nonresident alien employee can no longer work for the sponsored project and his/her employment may be terminated by the university.
 - a) All payrolls subsequent to the visa renewal rejection must be charged to a departmental account.
 - b) Any required cost transfers on a JV should be made within 90 days after receiving notification of the visa rejection. A copy of the rejection notice by CIS should be included as documentation for the JV.

- c) Modifications to the nonresident alien employee's compensation information may need to be made via a PAR completed by the department. Contact the Compensation office for more information.