

IOWA

Faculty & Staff Immigration Services (FSIS)

POLICIES FOR EMPLOYMENT-BASED IMMIGRATION SERVICES

March 1, 2024

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1.0 INTRODUCTION

The core function of the University of Iowa Office of Faculty & Staff Immigration Services (FSIS) is to obtain and maintain employment authorization for foreign national employees eligible for employment-authorization sponsorship by the University. To ensure and facilitate the maintenance of employment authorization at the University, it may also be in the University's interests to sponsor a foreign national employee for permanent residency.

Each Hiring Department is represented by no more than two (2) FSIS Departmental Liaisons. Departmental Liaisons are responsible for initiating sponsorship cases and streamlining communications between FSIS, the foreign national employee, and the Hiring Department. All communications with foreign national employees will include the designated FSIS Departmental Liaison(s). For efficiency and accuracy purposes, FSIS requests that only the designated Departmental Liaisons contact our office for case-specific questions/concerns.

All sponsorship cases must be initiated using the [Universal Case Initiation Form \(CIF\)](#) Workflow form.

2.0 SCOPE OF SERVICES

2.1 Employment Authorization Sponsorship

Subject to the "Eligibility Criteria" under [Section 3.0](#), the following types of petitions and applications fall within FSIS's scope of services related to sponsoring a foreign national for non-immigrant employment authorization:

- **H-1B** Petitions ("Specialty Occupations")
- **O-1** Petitions ("Individuals with Extraordinary Ability or Achievement")
- **TN** Applications (citizens of Canada or Mexico only)
- **E-3** Applications (citizens of Australia only)
- **H-1B1** Applications (citizens of Chile or Singapore only)

FSIS provides consultative services to the hiring Department and the sponsored foreign national employee only.

2.2 Sponsorship for Permanent Residency

Subject to the “Eligibility Criteria” under [Section 4.0](#), the following types of applications fall within FSIS’s scope of services in sponsoring a foreign national employee for permanent residency:

- **PERM Applications (Labor Certification – Form ETA 9089) for “College Teaching Positions”** under the Department of Labor’s “*Special Handling*” Rules
- **PERM Applications (Labor Certification – Form ETA 9089) for fulltime, permanent Professional & Scientific positions**
- **I-140 Immigrant Petitions under the EB-2 “Member of the Professions with Advanced Degree” Category**
- **I-140 Immigrant Petitions under the EB-2 “National Interest Waiver” Category**
- **I-140 Immigrant Petitions under the EB-1B “Outstanding Professor Researcher” Category**

FSIS provides consultative services to the hiring Department and the sponsored foreign national employee only.

2.3 Dependents

FSIS does not provide consultative services to, or immigration services for, dependents of foreign national employees. It is the foreign national’s sole responsibility to prepare and file any necessary applications to obtain or maintain their dependent’s nonimmigrant status.

2.4 Nonimmigrant Visa Issuance and International Travel

FSIS does not provide consultative services related to nonimmigrant visa issuance by the U.S. Department of State’s Bureau of Consular Affairs. A foreign national who intends to apply for a nonimmigrant visa should consult the website of the U.S. Embassy or U.S. Consulate where the application for a nonimmigrant visa will be submitted for guidance on policies and procedures applicable to that particular Consular post.

FSIS does not provide consultative services regarding the advisability, timing, logistics, or procedures applicable to international travel or re-entry into the United States. A foreign national who intends to travel internationally should consult the U.S. Department of State’s “Travel” website, as well as the Department of Homeland Security’s Office of Customs and Border Protection Website, for information relevant to international travel by foreign nationals.

2.5 Driver's Licenses

The issuance of Iowa driver's licenses is handled by the Iowa Department of Motor Vehicles (DMV). FSIS has no role in the application process to obtain or renew an Iowa driver's license. FSIS does not provide consultative services regarding driver's licenses, nor does FSIS provide documentation aside from Form I-797 receipts and/or approval notices for driver's license renewal purposes.

3.0 ELIGIBILITY CRITERIA FOR EMPLOYMENT AUTHORIZATION SPONSORSHIP

Hiring Departments have the discretion to decide whether a position will be eligible for employment authorization sponsorship; However, the Hiring Department must be consistent in decision making for all recruitments conducted for a specific position or job classification within the department. Considerations for deciding whether a position will be eligible for employment authorization sponsorship may include sponsorship costs, required prevailing wage, availability of U.S. workers, etc.

The University offers employment authorization sponsorship for foreign national employees to the extent permitted by federal law and subject to the additional criteria set forth below. FSIS holds the ultimate authority in determining which status a foreign national employee is eligible for. If the Hiring Department elects to utilize outside legal counsel for filings that fall under [Sections 3.2](#) or [3.3](#), FSIS must be notified of that election at the time the case is initiated by the Hiring Department.

3.1 H-1B Eligibility

The University will offer sponsorship for H-1B Status ("Specialty Occupations") to a foreign national employee if the following criteria are met:

- The position requires at least a bachelor's degree in a field directly related to the job duties; and
- The prospective employee holds at least a bachelor's degree in a field directly related to the job duties; and
- The offered salary (exclusive of fringe benefits) meets or exceeds the "Prevailing Wage" for positions of this type as determined by FSIS.

3.2 H-1B Physician of International/National Renown (PINR)

If FSIS determines that a foreign national physician meets the eligibility criteria for H-1B PINR sponsorship, the Hiring Department may, **at its option and at its sole expense**, elect to utilize outside legal counsel under the procedures outlined in [Section 5.0](#) to prepare and file the H-1B PINR petition on behalf of the foreign national employee. The option to utilize outside counsel is only available for H-1B PINR petitions and is not available for any other type of H-1B filing.

3.3 O-1 Eligibility

The University will offer sponsorship for O-1 Status (“Individuals with Extraordinary Ability or Achievement”) to a foreign national employee if the following criteria are met:

- The employee has been offered either a faculty position or a senior research staff position (e.g., Assistant/Associate Research Scientist/Engineer); and
- The employee either:
 - Has compiled a research record consisting of no less than twelve (12) peer reviewed publications having no less than 200 independent citations; and
 - Has performed significant peer review work in the field of expertise; and
 - Has been invited to present research findings at no less than six (6) national or international conferences.

OR

- Has a doctoral degree in a federally designated STEM discipline; and
- Has a record of research productivity in the STEM discipline; and
- Has obtained at least one (1) letter of support from a federal agency related to the prospective employee’s research in the STEM discipline.

If the O-1 sponsorship criteria are met, the hiring department may, **at its option and at its sole expense**, elect to utilize outside legal counsel under the procedures outlined in [Section 5.0](#) to prepare and file an O-1 petition on behalf of the foreign national employee.

3.4 TN Eligibility

The University will offer sponsorship for TN Status (“North American Free Trade Agreement [NAFTA] Professionals”) to a foreign national employee if the following criteria are met:

- The foreign national employee is a citizen of Canada or Mexico; and
- The profession is listed on the [TN NAFTA List](#); and
- The foreign national employee has the qualifications required for the profession (typically at least a bachelor's degree).

3.5 E-3 Eligibility

The University will offer sponsorship for E-3 Status ("Specialty Occupation Workers from Australia") to a foreign national employee if the following criteria are met:

- The foreign national employee is a citizen of Australia; and
- The position requires at least a bachelor's degree in a field directly related to the job duties; and
- The prospective employee holds at least a bachelor's degree in a field directly related to the job duties; and
- The offered salary (exclusive of fringe benefits) meets or exceeds the "Prevailing Wage" for positions of this type as determined by FSIS.

3.6 H-1B1 Eligibility

The University will offer sponsorship for H-1B1 Status ("Free Trade Agreement Workers in a Specialty Occupation") to a foreign national employee if the following criteria are met:

- The foreign national employee is a citizen of Chile or Singapore; and
- The position requires at least a bachelor's degree in a field directly related to the job duties; and
- The prospective employee holds at least a bachelor's degree in a field directly related to the job duties; and
- The offered salary (exclusive of fringe benefits) meets or exceeds the "Prevailing Wage" for positions of this type as determined by FSIS.

4.0 ELIGIBILITY CRITERIA FOR EMPLOYMENT-BASED PERMANENT RESIDENCY SPONSORSHIP

Hiring Departments have the discretion to decide whether a position will **allow for** permanent residency sponsorship; However, the Hiring Department must be consistent decision making for all recruitments for a specific position or job classification within the department.

The Hiring Department must consider University hiring guidelines and document the basis for deciding that a position will not offer permanent residency sponsorship to its departmental HR office *and* FSIS before sending an offer letter. The Department should also consider the budgetary impacts and need for the position when determining whether permanent residency sponsorship will be offered. It is best practice to document the reason(s) why permanent residency sponsorship will not be offered for a specific position in the form of a written departmental policy.

If permanent residency sponsorship will not be offered, the Hiring Department must disclose in the prospective foreign national employee’s offer letter that the proffered position will not be sponsored by the University for permanent residency.

The primary purpose of the University’s sponsorship of a foreign national employee for permanent residency is to ensure and facilitate maintenance of employment authorization at the University of Iowa. Generally, the University supports offering sponsorship to align with University interests such as:

- (i) enhancing the foreign national employee’s eligibility for extramural research funding; and
- (ii) facilitating international travel for University-related business.

The University’s sponsorship of a foreign national employee for permanent residency is predicated upon, and constrained by, these employment-related interests.

The foreign national employee, not the University, is solely responsible for determining whether other personal interests or concerns (such as international travel for personal reasons, employment authorization for dependents, etc.) will be addressed by the University’s sponsorship of the foreign national employee for permanent residency. Foreign national employees are strongly encouraged to consult a private immigration attorney on such matters.

The University serves as the **sponsor** of the foreign national employee for permanent residency. As sponsor, the University determines the appropriate process and pathway for sponsorship to ensure

compliance with federal law. The University, not the foreign national employee, controls the timeline and submission(s) to the relevant federal agencies for University sponsorship.

The foreign national employee is the **principal beneficiary** of the University's sponsorship. The foreign national's spouse and unmarried children under 21 years of age (if not U.S. Citizens) are **derivative beneficiaries** of the University's sponsorship.

The University's role begins with an initial filing with the federal government, which establishes the foreign national employee's employment-based **priority date**. The University's role concludes with the approval of a Form I-140 Immigrant Petition by the USCIS.

Aside from providing a Form I-485 Supplement J Confirmation of Bona Fide Job Offer after the approval of a Form I-140, or at the request of the foreign national employee, the University has no role in the final step of the permanent residency process (either the filing of an Adjustment of Status Application OR the submission of an Immigrant Visa Application). This final step is undertaken by the foreign national employee and results in the change of status to "Lawful Permanent Resident" (LPR) and the issuance of a "Permanent Resident Card" (Green Card).

Important Note: the beneficiary of an approved I-140 Immigrant Petition filed by the University **must file their Adjustment of Status Application within one (1) year of the approval of the I-140 Immigrant Petition** to preserve their eligibility for H-1B extensions of stay beyond the normal six-year maximum period of H-1B eligibility. The beneficiary of an approved I-140 Immigrant Petition who is unable to file their Adjustment of Status within one (1) year of the approval date and thus rendering them ineligible for an H-1B extension of stay should consult a private immigration attorney.

4.1 Selection of Employment-Based Sponsorship Category

The University (specifically FSIS) solely determines the appropriate employment-based category for the University's sponsorship of the foreign national employee for permanent residency.

FSIS will consult with the Hiring Department and take into consideration the relevant University interests in making this decision, including maintenance of the foreign national's employment authorization at the University and the foreign national employee's eligibility for extramural funding. The selection of the appropriate employment-based category will not be based on the personal interests of the foreign national employee or any eligible dependents such as the following:

- International travel that is not required by the foreign national employee's position at the University;
- Employment authorization for a spouse or dependent; or

- The “aging out” of a dependent.

4.2 Faculty Permanent Residency Sponsorship

FSIS will make the initial filing in the permanent residency sponsorship process (which establishes the foreign national’s priority date) typically within **18 months of the employment start date for a foreign national holding a faculty appointment**. In some instances, FSIS’s caseload, changes in applicable regulations, or other factors may extend this initial filing period.

4.2.1 Faculty “EB-2 PERM” Category

The University typically sponsors eligible foreign national employees holding faculty appointments for permanent residency under the “EB-2 PERM” category (“Employed-Based” preference category 2, “Member of the Professions with Advanced Degrees”).

The University’s role as sponsor under the “EB-2 PERM” category has three (3) discrete steps:

- The submission of a Prevailing Wage Determination (“PWD”) request by the University to the U.S Department of Labor.
- Upon issuance of the PWD, the filing of a Form ETA 9089 PERM Application for Alien Employment Certification by the University with the U.S. Department of Labor (which establishes the foreign national’s priority date).
- Upon approval of the PERM Application, the filing of a Form I-140 Immigrant Petition by the University under the “EB-2” category with the USCIS.

The University serves as the petitioner for each of these steps.

When proceeding under this permanent residency sponsorship category, the University must make the initial filing in the permanent residency sponsorship process (i.e., the submission of a PERM Application to the U.S. Department of Labor) within **eighteen (18) months** of the **final approval** of an offer of **permanent, full-time employment** as a faculty member at the University of Iowa. This is typically the date when the Search & Selection Summary is submitted through workflow and approved by FSIS.

4.2.2 Faculty “EB-2 National Interest Waiver” Category

The University may sponsor eligible foreign national employees holding faculty appointments for permanent residency under the “EB-2 National Interest Waiver” (“EB-2 NIW”) category (“Employed-Based” preference category 2, “Member of the Professions with Advanced Degrees who are seeking a National Interest Waiver”).

The University's role as sponsor under the EB-2 NIW category has a single step: the filing of a Form I-140 Immigrant Petition by the University under the EB-2 NIW category with the USCIS (which establishes the foreign national's employment-based priority date).

The University may offer sponsorship under the EB-2 NIW category to an employee who meets the following criteria:

- The employee has been offered a permanent, full-time faculty position; and
- The employee either:
 - Has compiled a research record consisting of no less than six(6) peer reviewed publications having no less than 100 independent citations; and
 - Has performed significant peer review work in the field of expertise; and
 - Has been invited to present research findings at not less than three (3) national or international conferences.

OR

- Has a doctoral degree in a federally designated STEM discipline; and
- Has a record of research productivity in the STEM discipline; and
- Has obtained at least one (1) letter of support from a federal agency related to the prospective employee's research in the STEM discipline.

Foreign national employees sponsored for permanent residency under the EB-2 NIW category are responsible for providing FSIS with all necessary supporting documentation in a "file-ready" format.

If the sponsorship criteria are met under the EB-2 NIW category, the Hiring Department may, ***at its option and at its sole expense***, elect to utilize outside legal counsel under the procedures outlined in Section 5.0 to prepare and file an EB-2 NIW petition on behalf of the foreign national employee.

4.2.3 Faculty "EB-1B Outstanding Professor or Researcher" Category

The University may sponsor eligible foreign national employees holding faculty appointments for permanent residency under the "EB-1B Outstanding Professor or Researcher" ("EB-1B OPR") category ("employment-based" preference category 1).

The University's role as sponsor under the EB-1B OPR category has a single step: the filing of a Form I-140 Immigrant Petition by the University under the EB-1B OPR category with the USCIS (which establishes the foreign national's employment-based priority date).

The University may offer sponsorship under the EB-1B OPR category to an employee holding a faculty appointment who meets the following criteria:

- The employee either:
 - Has compiled a research record consisting of no less than twelve (12) peer reviewed publications having no less than 200 independent citations; and
 - Has performed significant peer review work in the field of expertise; and
 - Has been invited to present research findings at no less than six (6) national or international conferences.

OR

- Has been offered a tenure-track faculty position; and
- Holds a doctoral degree in a federally designated STEM discipline awarded no less than three (3) years prior to the anticipated filing date of the EB-1B OPR Petition; and
- Has a record of research productivity in the STEM discipline; and
- Has obtained at least one (1) letter of support from a federal agency related to the prospective employee's research in the STEM discipline.

Foreign national employees sponsored for permanent residency under the EB-1B OPR category are responsible for providing FSIS with all necessary supporting documentation in a "file-ready" format.

If the sponsorship criteria are met under the EB-1B OPR category, the Hiring Department may, **at its option and at its sole expense**, elect to utilize outside legal counsel under the procedures outlined in [Section 5.0](#) to prepare and file an EB-1B petition on behalf of the foreign national employee.

4.3 P&S Permanent Residency Sponsorship

A foreign national employee holding a Professional & Scientific appointment must be in valid H-1B status to be eligible for permanent residency sponsorship by the University.

FSIS will make the initial filing in the permanent residency sponsorship process (which establishes the foreign national's employment-based priority date) **typically within three years (36 months) of the foreign national's employment start date in the sponsored position provided they have at least three years (36 months) of H-1B time remaining**. For cases in which the foreign national's employment start date in the sponsored position was the same as the foreign national's first date in H-1B Status, this initial filing date should roughly correspond with the foreign national's third anniversary in H-1B Status.

For cases in which the foreign national is hired into the sponsored position with **less than three years (36 months) of H-1B time, but more than two years (24 months) remaining**, FSIS will make the initial permanent residency filing within 12 to 18 months before the employee’s sixth-year anniversary in H-1B status.

FSIS’s caseload, changes in applicable regulations, or other factors may extend the initial filing period; but in any event, FSIS’s commitment is to work with the Hiring Department to ensure that the initial filing in the permanent residency sponsorship process is made no less than 12 months before the sixth anniversary of the foreign national’s first date in H-1B Status (whether that occurred at the University of Iowa or at a former employer) to establish an employment-based priority date and allow for H-1B extensions of stay beyond the normal six-year maximum period of H-1B eligibility.

Important Note: *A foreign national employee is not eligible for permanent residency sponsorship if they have less than two years (24 months) of remaining H-1B eligibility as of the start date in the sponsored position.* This includes foreign national employees who are promoted from a position that is “ineligible” for permanent residency sponsorship (such as Postdoctoral Research Scholar) to a position that is “eligible” for permanent residency sponsorship (such as Assistant Research Scientist).

The University’s sponsorship of a foreign national employee holding a P&S appointment is based upon employment in a position (the “sponsored position”) meeting the following criteria:

- The position requires at least:
 - a master’s degree; or
 - a bachelor’s degree plus 5 years (60 months) of relevant job-related experience; and
- The position meets the eligibility requirements under Sections 4.3.1 or 4.3.2; and
- The foreign national employee’s appointment is not considered temporary or Specified Term .

4.3.1 P&S “EB-2 PERM” Category

The University may sponsor eligible foreign national employees holding P&S appointments for permanent residency under the “EB-2 PERM” category (“Employed-Based” preference category 2, “Member of the Professions with Advanced Degrees”). These positions must require, at a minimum, a bachelor’s degree plus five years (60 months) of experience, or a master’s degree.

The University does not offer sponsorship under the “EB-3, Member of Professions” category. This includes positions that require less than a bachelor’s degree plus five years (60 months) of experience. Exceptions may be made for senior research staff conducting research in the national interest.

The University's role as sponsor under the "EB-2 PERM" category for P&S positions has four (4) discrete steps:

- i. The submission of a Prevailing Wage Determination ("PWD") request by the University to the U.S Department of Labor;
- ii. Upon issuance of the PWD, the completion of a "Market Test" conducted in accordance with the regulations administered by the U.S. Department of Labor;
- iii. Upon completion of a "Market Test" which discloses no minimally qualified "ready, willing and able U.S. Workers," the University will file the Form ETA 9089 PERM Application with the U.S. Department of Labor (which establishes the foreign national's priority date); and
- iv. Upon approval of the PERM Application, the University will file the Form I-140 Immigrant Petition under the "EB-2" category with the USCIS.

The University serves as the petitioner for each of these steps.

To be eligible for permanent residency sponsorship under the "EB-2 PERM" category, the foreign national employee must hold a position meeting all of the following conditions:

1. The University's *actual minimum requirements* for the sponsored position are either:
 - o a master's degree; or
 - o a bachelor's degree plus 5 years (60 months) of relevant job-related experience; and
2. The foreign national employee's *current salary* in the sponsored position meets or exceeds the Department of Labor's "prevailing wage" determination; and
3. The employee's continued employment in the sponsored position is critical to the business needs of the Hiring Department and can be demonstrated through:
 - o Documentation provided by the Hiring Department that it has been unable to recruit minimally qualified U.S. Workers for the sponsored position; and
 - o Documentation provided by the Hiring Department that an inability to fill the sponsored position would have a direct and adverse impact on the Department's ability to perform a critical operation.

An employee who is promoted (whether pursuant to a reclassification or a competitive search) to a position meeting the criteria set forth in this Section (4.3.1) and who has more than 24 months of H-1B time remaining becomes eligible for permanent residency sponsorship under the EB-2 PERM category upon the effective date of the promotion.

4.3.2 P&S “EB-2 National Interest Waiver” Category

The University may sponsor eligible foreign national employees holding senior research positions (for example, Assistant or Associate Research Scientist/Engineer) for permanent residency under the “EB-2 National Interest Waiver” (“EB-2 NIW”) category (“Employed-Based” preference category 2, “Member of the Professions with Advanced Degrees who are seeking a National Interest Waiver”).

The University’s role as sponsor under the EB-2 NIW category has a single step: the filing of a Form I-140 Immigrant Petition by the University under the EB-2 NIW category with the USCIS (which establishes the foreign national’s employment-based priority date).

The University may offer sponsorship under the EB-2 NIW category to an employee who meets the following criteria:

- The employee has been offered a permanent, full-time, senior research staff position; and
- The employee **either**:
 - Has compiled a research record consisting of no less than six (6) peer reviewed publications having no less than 100 independent citations; and
 - Has performed significant peer review work in the field of expertise; and
 - Has been invited to present research findings at no less than three (3) national or international conferences.

OR

- Has a doctoral degree in a federally designated STEM discipline; and
- Has a record of research productivity in the STEM discipline; and
- Has obtained at least one (1) letter of support from a federal agency related to the prospective employee’s research in the STEM discipline.

Foreign national employees sponsored for permanent residency under the EB-2 NIW category are responsible for providing FSIS with all necessary supporting documentation in a “file-ready” format.

If the sponsorship criteria are met under the EB-2 NIW category, the Hiring Department may, **at its option and at its sole expense**, elect to utilize outside legal counsel under the procedures outlined in Section 5.0 to prepare and file an EB-2 NIW petition on behalf of the foreign national employee.

4.3.3 P&S “EB-1B Outstanding Professor or Researcher” Category

The University may sponsor eligible foreign national employees holding senior research positions (for example, Assistant or Associate Research Scientist/Engineer) for permanent residency under the “EB-1B Outstanding Professor or Researcher” (“EB-1B OPR”) category (“Employment-Based” preference category 1).

The University’s role as sponsor under the EB-1B OPR category has a single step: the filing of a Form I-140 Immigrant Petition by the University under the EB-1B OPR category with the USCIS (which establishes the foreign national’s employment-based priority date).

The University may offer sponsorship under the EB-1B OPR category to an employee who meets the following criteria:

- The employee has been offered a permanent, full-time, senior research staff position; and
- The employee:
 - Has compiled a research record consisting of no less than twelve (12) peer reviewed publications having no less than 200 independent citations; and
 - Has performed significant peer review work in the field of expertise; and
 - Has been invited to present research findings at no less than six (6) national or international conferences.

Foreign national employees sponsored for permanent residency under the EB-1B OPR category are responsible for providing FSIS with all necessary supporting documentation in a “file-ready” format.

If the sponsorship criteria are met under the EB-1B OPR category, the Hiring Department may, ***at its option and at its sole expense***, elect to utilize outside legal counsel under the procedures outlined in Section 5.0 to prepare and file an EB-1B petition on behalf of the foreign national employee.

5.0 UTILIZING OUTSIDE LEGAL COUNSEL

The University (specifically FSIS and General Counsel’s Office) will provide an option to the Hiring Department to utilize outside legal counsel, at the Hiring Department’s sole expense, to prepare and file the following types of cases for both faculty and P&S staff:

- i. H-1B Physician of National or International Renown Petitions (H-1B PINR)

- ii. O-1 Petitions
- iii. EB-2 National Interest Waiver Petitions (EB-2 NIW)
- iv. EB-1B Outstanding Professor or Researcher Petitions (EB-1B OPR).

Engaging outside legal counsel may be an option for Hiring Departments and/or foreign national employees wanting to “internally” expedite a case, or for cases that may only marginally meet the criteria for the requested classification/category.

The Universal Case Initiation Form (CIF) in workflow contains a list of the approved retained outside legal counsel along with the associated, pre-negotiated, flat **legal fees** for the selected case type. The normal USCIS filing fees are not included in the legal fee(s). The Hiring Department is responsible for paying both the legal fees and the filing fees.

If utilizing outside legal counsel, the Hiring Department must select a firm from the pre-approved list of retained counsel. FSIS will provide a list of the retained counsel firms and legal fees/costs for each type of filing at the Hiring Department’s request.

The pre-approved outside legal counsel represents the University, not the sponsored foreign national employee; therefore, the University, not the sponsored foreign national employee, determines the scope of work and actions to be undertaken by outside legal counsel.

The Hiring Department must notify FSIS of its election to utilize outside legal counsel at the time the CIF is completed. FSIS will then serve as the liaison between the Hiring Department, the sponsored foreign national employee, and the retained outside legal counsel.

FSIS will sign the Form G-28 and the relevant petition form(s) on behalf of the University. FSIS will also coordinate payment with the Hiring Department for the legal fees and costs (filing fees, copying charges, Fed Ex bills, etc.). ***Foreign national employees must never reimburse the Hiring Department for legal fees, filing fees, or any additional costs related to the University-sponsored petition.***

Important Note: The services provided by outside legal counsel will be strictly limited to the preparation and filing of the specified petition and ***will not include consultative services to the sponsored foreign national employee or the Hiring Department regarding maintenance of status, international travel, dependents, or other matters falling outside the preparation and filing of the specified petition.*** If the foreign national employee wishes to consult with outside legal counsel on such personal matters, the employee must enter into a separate agreement for legal representation on such matters and will be responsible for paying all fees and costs associated with such personal consultation.

6.0 SUPPLEMENTAL INFORMATION

6.1 Sponsorship Language

When preparing an offer letter for a candidate that has disclosed they will need employment authorization sponsorship (for example, H-1B or O-1 status), the offer must be expressly contingent upon ***“the successful completion of University sponsorship for employment authorization”***. This language must be included in the offer letter.

When a Hiring Department is recruiting to fill a position that is not eligible for employment authorization sponsorship as described in Section 3.0, the following language must be included in the advertisement: ***“This position is not eligible for University sponsorship for employment authorization.”***

When a Hiring Department is recruiting to fill a position that will not offer permanent residency sponsorship, the following language must be included in the advertisement: ***“The Department of (_____) does not offer permanent residency sponsorship for this position.”***

6.2 Legal Counsel Retained by the Foreign National Employee

Due to reasons that fall outside of the University’s interests, a foreign national employee may prefer to have their University-sponsored permanent residency case (either EB-2 NIW or EB-1B OPR) filed as early as possible rather than within the timeframes FSIS has established.

If the Hiring Department does not want to engage outside legal counsel at its sole expense to expedite the permanent residency filing, the foreign national employee may hire their own private attorney to assist with preparing the petition cover letter and supporting documentation. The foreign national employee is responsible for legal fees incurred by their own private attorney; The Hiring Department is responsible for the associated USCIS filing fee.

Upon receipt of the cover letter and supporting documentation in a “file-ready” format, FSIS will file the University-sponsored petition with the USCIS on behalf of the foreign national employee within 30 days.