



Boston VA Research Institute, Inc.

Date 9/8/2009

Human Resources

POLICY NO.09 17

TITLE OF POLICY:

VISA POLICY

1.0 PURPOSE:

This policy established the policies and procedures for supporting various types of Visa applications through the Boston VA Research Institute, Inc.

2.0 SCOPE:

This policy sets limits on the types of Visas that can and will be supported by BVARI and the conditions under which BVARI will support them. **Visa types not covered by this policy are not excluded, but will be considered on an individual basis with no expectation that BVARI will support them. This policy also sets fees for BVARI's services. These fees are based on current (to the date of latest policy review) environment but are subject to change based on fees charged by the responsible organizations.**

3.0 POLICY:

BVARI will attest that wages offered are at least equal to the actual wage paid by the employer to other workers with similar experience and qualifications for the job in question, or alternatively, pay the prevailing wage for the occupation in the area of intended employment, whichever is greater. This will be determined by methods described in the Procedures section.

By signing the Labor Condition Application (LCA), the BVARI attests that: prevailing wage rate for area of employment will be paid; that working conditions of the position will not adversely affect conditions of similarly employed American workers; and that a copy of the LCA form will be given to the H1B worker and posted in 2 conspicuous locations for at least 10 days in the place the H1B applicant will be working;

Under the regulations, LCAs are a matter of public record. Corporations hiring H1B workers are required to make these records available to any member of the public who requests to look at them.

The BVARI CEO, HR Director or assignee are the only individuals authorized to be interviewed or share information with the INS regarding the sponsorship of their employees.

4.0 DEFINITIONS:

H1B Visa: H-1B classification applies to persons in a specialty occupation which requires the theoretical and practical application of a body of highly specialized knowledge requiring completion of a specific course of higher education. This classification requires a labor attestation issued by the Secretary of Labor. This classification also applies to Government-to-Government research and development, or co-production projects administered by the Department of Defense.

J1 Visa: The "J" exchange visitor program is designed to promote the interchange of persons, knowledge, and skills in the fields of education, arts, and sciences. Participants include students at all academic levels; trainees obtaining on-the-job training with firms, institutions, and agencies; teachers of primary, secondary,

and specialized schools; professors coming to teach or do research at institutions of higher learning; research scholars; professional trainees in the medical and allied fields; and international visitors coming for the purpose of traveling, observing, consulting, conducting research, training, sharing, or demonstrating specialized knowledge or skills, or participating in organized people-to-people programs.

5.0 RESPONSIBILITIES:

5.1 BVARI Board of Directors: The BVARI Board of Directors is responsible for the overall policy, planning and coordination of all BVARI activities within the VA Boston Healthcare System.

5.2 CEO: The BVARI CEO is responsible for developing, administering and coordinating a business process that provides optimal internal controls for BVARI.

5.3 Director of Human Resources : BVARI's Department Director is responsible for ensuring that the BVARI employees follow the policies defined in the policy.

5.0 PROCEDURES:

H1B Visa Process:

I.

BVARI requires written documentation from the Principal Investigator regarding sponsoring a foreign national on a H1B work visa. The written documentation will be presented should address:

- A full position description.
- A statement to justify the reason(s) why a US citizen cannot be found for this position and evidence of your search.
- The candidates resume/CV
- Letters of Academic recommendations/references (a minimum of 2)
- Short description of the position that we will post on our BVARI website for 14 days
- PI approval of the quote for BVARI administration (25%) and legal fees prior to initiating visa processing. All funds will be transferred from your account upon an approval of the BVARI Executive Committee.
- What BVARI project/ funding source will pay for the employee's salary and fringe benefits?
- State employees salary and FTE
- Address what party will be paying for the H1B visa processing fees – employee or PI project funds?
- In the event that employee is fired or laid off, the **PI is required** to offer the one-way ticket to the country of residence. The employer is not involved in whether the employee leaves or not. The employee can choose to find another job and transfer H1B.
- In the event of deportation, the U.S. government pays for one way travel expense to country of residence.
- PI should be willing to write a letter of job offer and be involved in the process with issues requiring PI consent.
- Project accounts should have at least 18 months of funding available to cover the prevailing-wage salary (set by BVARI's lawyer) for employee being sponsored.

BVARI will not be liable for any fees associated with H1B visa processing

II. **Fees associated with H1B visa processing:**

A. Fees payable to US Citizenship & Immigration Services (USCIS) - subject to change

- \$190 petition filing fee
- \$500 fraud prevention and detection fee
- \$1000 premium processing – **H1B response within 15 calendar days** USCIS fee link: <http://uscis.gov/graphics/formsfee/forms/i-129.htm>

B. Attorney fee

BVARI will offer recommended counsel to support H1B visa processing

- \$2000 BVARI attorney fee – **varies and is dependent upon the complexity and urgency of case**
- Employee can choose to have a personal attorney / counsel
- Investigator or H1B visa applicant are responsible for all attorney costs incurred

C. BVARI H1B visa processing fee

- BVARI administrative rate for supporting the H1B visa process is \$70 per hour. Administrative support has averaged 3 – 8 hours.
- This fee will apply to both initial processing time as well as any administrative time required during any continuing efforts

J1 Visa Process

- BVARI requires a written documentation from the Principal Investigator regarding sponsoring a foreign national on an J1 visa.
- The PI needs to state what BVARI projects/ funding would pay for the employee’s salary and fringe benefit..
- Additionally, the PI would also have to state who will be responsible for the J1 visa processing fees - PI project accounts or employee?
- BVARI is not liable for any fees associated with J1 visa processing, and a Z account must be used to pay for all associated costs.

Fees associated with J1 visa processing:

I. Fees payable to USCIS – US Citizenship and Immigration Services

- \$185 US CIS fee
- \$500 fraud fee
- \$1000 premium processing

II. Attorney fee

BVARI has networked with an attorney in the area that works on BVARI H1B visa processing.

- \$_____ BVARI attorney fee – **could vary depending on the complexity and urgency of case.**

III. Types of J1 VISAs:

BVARI cannot sponsor research scholars (ie. Post-doctoral Fellows) J1 visas, they require academic sponsorship.

Trainees: maximum 18 month commitment.

Requirements:

1. must have a **related degree or professional certificate** from a foreign post-secondary academic institution outside the United States **AND at least one year of full time prior related work experience** in his or her occupational field **outside of the United States** **OR**
2. must have five years of work experience in his or her occupational field outside of the United States
3. cannot have been unemployed within the past six months
4. must be working in a related field for the past six months

Internships: maximum 12 month commitment.

Requirements:

1. must be currently enrolled in and pursuing related studies at a degree- or certificate-granting foreign post-secondary academic institution

OR

2. graduated from such an institution no more than 12 months prior to the **start date** of the exchange visitor program.

AND

3. must be currently enrolled or employed within the past six months.

In addition:

- Applicants must have a recent demonstrated career path in the field for which they are requesting an internship or training experience.
- If the applicant is a student, the field of study must match the field in which training is being offered.
- If the applicant's most recent work or educational experience has been outside of his or her home country, AIPT may require that the applicant return to his or her home country to gain additional experience for one year or more, and then apply to the program.
- The internship or training experience in the United States must be suitable and appropriate for the individual's level of career development.
- No professional recruiters or employment agencies, either in the United States or abroad may be used to recruit or select prospective participants.
- The host employer must not intend to assist the participant in remaining in the United States for purposes other than the internship or training assignment or activities appropriate to the program.
- The participant must intend to enter the United States solely for the purpose of internship or training and not to abandon non-immigrant status.
- Participants must know English well enough to enable them to function in an English-speaking environment, both during the normal work period and non-working hours. This must be verifiable.

7.0 RELATED DOCUMENTS:

8.0 REVISION HISTORY:

Revision Letter	Author	Revision Date	Description of Changes
A	Nancy Watterson-Diorio	9/8/2009	

Human Resources

POLICY NO.0917
Transmittal Sheet

Date

REASON FOR ISSUE:

SUMMARY OF CHANGES:

RELATED DOCUMENTS:

RESPONSIBLE OFFICER:

Director of Human Resources

RESCISSION:

RECERTIFICATION: This policy is scheduled for recertification on or before the last working day of September , 2011 .

Nancy Watters on-Diorio
Chief Executive Officer

DISTRIBUTION

Board of Directors, Date:

FLD: Sharepoint Server _____, E-mailed _____ to:

BVARI Staff, Stakeholders