“Employment Options and Guidelines for Hiring Foreign Employees”

MOTT Center
Wayne State University
March 23, 2010
Agenda

► 19 Questions (how to find the right match)

► Overview of common scholar statuses
Some Statistics

Number of Scholars by Year

New and Continuing

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>New</th>
<th>Continuing</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>212</td>
<td>602</td>
</tr>
<tr>
<td>2005</td>
<td>171</td>
<td>567</td>
</tr>
<tr>
<td>2006</td>
<td>177</td>
<td>510</td>
</tr>
<tr>
<td>2007</td>
<td>207</td>
<td>500</td>
</tr>
<tr>
<td>2008</td>
<td>200</td>
<td>475</td>
</tr>
<tr>
<td>2009</td>
<td>223</td>
<td>358</td>
</tr>
</tbody>
</table>
Some Statistics

Total Scholars - Top 10 Positions

<table>
<thead>
<tr>
<th>Position</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research Associate</td>
<td>147</td>
<td>145</td>
<td>119</td>
</tr>
<tr>
<td>Post Doctor research fellow</td>
<td>108</td>
<td>102</td>
<td>107</td>
</tr>
<tr>
<td>Research Assistant</td>
<td>97</td>
<td>62</td>
<td>81</td>
</tr>
<tr>
<td>Visiting Scholar</td>
<td>137</td>
<td>123</td>
<td>73</td>
</tr>
<tr>
<td>Assistant Professor</td>
<td>68</td>
<td>59</td>
<td>68</td>
</tr>
<tr>
<td>Assistant Professor (Clinician-Educator)</td>
<td>55</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Research Scholar</td>
<td>10</td>
<td>18</td>
<td>21</td>
</tr>
<tr>
<td>Associate Professor</td>
<td>20</td>
<td>35</td>
<td>31</td>
</tr>
<tr>
<td>Research scientist</td>
<td>15</td>
<td>12</td>
<td>14</td>
</tr>
<tr>
<td>Part-Time Faculty</td>
<td>12</td>
<td>10</td>
<td>12</td>
</tr>
<tr>
<td>Total Scholars</td>
<td>160</td>
<td>145</td>
<td>119</td>
</tr>
</tbody>
</table>
Some Statistics

Total Scholars - Top 10 Departments

Key Questions

► Position Title?
► Full-time/Part-time?
► How long is the intended visit?
► Individual’s country of citizenship?
► Intended start date?
► Credentials?
► Will they take classes?
► Who is paying the salary?
► Are they currently in the U.S., if so, how long and what status?
Key Questions (Cont’d).

► Have they been in J-1 status before? especially as a Research Scholar
► Are they subject to 212(e)?
► Full-time/Part-time?
► Does the individual have long term intentions to stay in the U.S.?
► Are they an M.D.? Is patient care involved?
► Do they have dependents?
► Will the person work in multiple sites?
► Is the person from Australia, Canada, Mexico, Chile or Singapore?
Key Questions (Cont’d).

► Is the person “Nobel Prize worthy?”
Short term vs. Long Term Research Projects

- Temporary—no desire to sponsor individual for Lawful Permanent Residency (LPR)
- Strictly a temporary project where individual desires to return home upon completion of project

Employment Options

- Canadian citizen: TN (NAFTA) most Research and teaching positions are on the Skills List
- Initial 3 year period subsequent (1-3 year renewals) indefinite renewals.
Short term vs. Long term Research Projects (Cont’d).

► Temporary—no desire to sponsor individual for Lawful Permanent Residency (LPR)
► Strictly a temporary project where individual desires to return home upon completion of project

Employment Options

► Chilean or Singapore nationals
► H1B1 – (Similar to H-1B) initial one year maximum (renewable in 1 year increments)
► Individual may apply at consular sections abroad. Indefinite renewals
Short term vs. Long term Research Projects (Cont’d).

- Temporary
- Non-tenure track

*Employment Options*

- Australian national
- E-3 – “Specialty Worker”
- Indefinite extensions
Short term vs. Long term

► “Australian Specialty Occupation Workers”
► Similar to H-1B requirements
► Maximum of 10,500 per fiscal year
► No I-129 needed if applying from OSEAS
► No extension limit
Short term vs. Long term Research Projects (Cont’d).

► Temporary—no desire to sponsor individual for Lawful Permanent Residency (LPR)

► Strictly a temporary project where individual desires to return home upon completion of project.

*Employment Options*

► J-1 – Short-term scholar (6 month maximum not subject to any Bars or restrictions except no extensions beyond 6 months allowed)*
Status Overview: J-2

- Dependent of J-1
- May apply for work authorization (EAD) card
- No restrictions with EAD card
- Full or part-time study O.K.
Long term vs. Short-term Research Projects (Cont’d).

► Temporary—no desire to sponsor individual for Lawful Permanent Residency (LPR)

► Strictly a temporary project where individual desires to return home upon completion of project.

Employment Options

► J-1 – Research Scholar (5 year maximum)*
Special Conditions for J-1*
Exchange Visitor

► Cannot hold tenure or tenure-track position

► J-1 may be subject to 212(e) two year home residency requirement based on skill or funding
  - Chinese nationals and other groups are subject to 212(e) either all skills or partial skills.

► Can apply for waiver of 212(e); no waiver or fulfillment prevents H-1B or LPR sponsorship
Special Conditions for J-1 Exchange Visitor

► J-1 Research Scholar who leaves the U.S. and the SEVIS record is closed cannot reenter the U.S. in another Professor/Research Scholar category for 24 months

► J-1 - 12 month Bar – Cannot begin a “new” exchange program as Professor/Research Scholar if he or she was physically present in any “J” status (including J-2) all or part of the 12 month period immediately preceding the date of program commencement
Long term vs. Short term Research Projects (Cont’d).

- Dual intent
- Specialized body of knowledge
- Tenure track
- May sponsor for LPR

**Employment Options**

- H-1B – Temporary Worker in a Specialty Occupation—Minimum Bachelor’s degree required.
- Six year maximum can do initial 1-3 years and subsequent 1-3 year renewals.
Special Conditions for H-1B

► Increased processing times prior to submitting the petition to USCIS:
  - 60 Days for prevailing wage
  - 2-3 three weeks for LABOR certification

► Submit to OISS 6 months prior to start date or if extension, program end date of previous H-1B

► Challenging for late notifications of grant awards
Special Conditions for H-1B

- Increased USCIS site visits to ensure:
  - Employee is earning the salary offered
  - Employee is working in the position
  - Employee is working at the site of the position listed on the H-1B petition
Long term vs. Short term Research Projects (Cont’d).

- Temporary
- Tenure track position
- May sponsor for Permanent Residency*

**Employment Options**

- O-1 – Workers of Extraordinary Ability
- Initial 3 years, renewable in 1 year increments.
Status Overview: O-1

► “Person of Extraordinary Ability”
► “Nobel prize” equivalent
► Must demonstrate extraordinary qualifications (“Nobel prize worthy”)
► Must be sponsored and employed by U.S. institution
► Incidental study O.K.
► People subject to 212(e) – 2 year home residency requirement change to this status because they are not eligible for H-1B.
Status Overview: B-1, B-2, WB, WT

► **B-1**: visitor for *business*, may not be employed, may receive honorarium & reimbursements (less than 9 days), 6 month limit

► **B-2**: visitor for *tourism*, may not be employed, may receive honorarium but not reimbursements, 6 month limit

► **WB/WT**: same as above for waiver countries such as Western Europe, Japan, Australia, etc., 90 day limit
On the Horizon

► Deemed Export requirements met “prior to” filing an H-1B

► Possible fee increases

► Visit the www.oiss.wayne.edu for more detailed information.