



Date: 22 March 2005
To: Personnel Representatives
From: Deborah Ahlstedt, Director, International Faculty and Staff Services
Re: H-1B Anti-fraud fee and Portability

Effective immediately, it no longer will be necessary for departments to pay an additional \$500 anti-fraud fee required by the U.S. Citizenship and Immigration Service for new petitions when a person in H-1B status changes from one UW-Madison department to another. This is because USCIS determines the need for the fee based on the employer's tax ID number. All UW-Madison departments have the same tax ID number and therefore are considered the same employer by USCIS for purposes of payment of the fee.

In order for an H-1B employee to change departments, the new department will still have to file and obtain approval of a new H-1B petition, because changing departments represents a change in the terms and conditions of employment. However, because USCIS considers all of UW-Madison to be a single employer, we cannot benefit from portability when an H-1B changes departments. (Portability is the mechanism that permits an H-1B to start with a new employer based on the USCIS receipt rather than having to wait for the approval.) This means that H-1B requests have to be submitted five months in advance of the desired start date. Otherwise, the new department may be faced with paying the \$1000 fee for premium processing.

To summarize, effective immediately departments will not have to pay the \$500 fee when hiring an H-1B who has been employed by another UW-Madison department but will have to wait for the USCIS approval notice before the new employee may begin employment. Portability between UW-Madison departments is no longer available.

Office of Human Resources