

Date: 20 October 2005

To: Personnel Representatives
From: Deborah Ahlstedt, International Faculty and Staff Services
Re: Immigration Update

The following are some changes in immigration regulations and procedures that should be of interest to you and your departments. Please forward this information. Thank you.

New Fees

Effective 26 October 2005, USCIS fees will increase. All applications received by them on or after that date must have the new fees. The most common ones we use are:

<u>Form</u>	<u>New Fee</u>
I-129	\$190
I-140	\$195
I-539	\$200

The complete list of fees is on the USCIS web site at:

<http://uscis.gov/graphics/formsfee/forms/index.htm#chart>.

The \$500 anti-fraud fee and the \$1,000 Premium Processing fee have not changed.

All checks should be payable to the Department of Homeland Security.

J-1 Scholars

Under new regulations, J-1 scholars may hold J-1 status for up to five years. Time spent outside the U.S. during those five years counts toward the total amount of time, so the absolute limit is five years, no matter how much time the scholar spends outside the country.

Because SEVIS is not yet programmed to process extensions beyond three years, we still must file a request to the Department of State to get their authorization. The scholar also must pay a fee of \$198 for this extension. Requests should be made to IFSS at least four months before the end of the three years. We hope that DHS will re-program SEVIS early next year. Once it has been done, we will be able to process the extension in-house with no fee.

For questions, please contact Kim Maday at ischolars@bascom.wisc.edu.

Permanent Residence for Faculty

All Labor Certification applications must be filed by IFSS through the new electronic PERM system to the Department of Labor. They projected a 45-60 day turnaround, but that is not happening yet. They key issues to keep in mind are:

1. DOL still requires a print advertisement in a national journal. They do not accept just electronic advertising.
2. The application must be filed within 18 months of the initial offer letter, not any subsequent amendments to the offer nor the start date of employment.

3. Because of new posting requirements that must be completed at least 30 days prior to filing the application, we cannot make last minute filings. The Labor Certification can be started even before the person begins employment.

Department Administrators and new faculty should plan to attend one of my monthly permanent residence workshops prior to starting the application process.

Applications that were filed prior to PERM are slowly being processed by the DOL Backlog Reduction Center. Because the address on the envelopes has been a mix of the department's and ours, Department Administrators should be on the lookout for certified applications. So far, they all have been coming from Denver. Contact me as soon as it shows up.

Outstanding Researcher Petitions

We still are not filing new applications because of the "permanent job" issue. Through the Chancellor's office, we have sought the assistance of Tammy Baldwin in resolving this question, but do not have a response from USCIS yet. We will consider filing cases if:

1. The researcher is into his/her fifth year in H-1B status
2. The researcher has a child who will reach age 21 within a year.

I will send out another memo once we have a resolution.

Permanent Residence Visa Availability

There are only 140,000 employment-based immigrant (permanent residence) visas available each fiscal year. Because USCIS has been successful over the past year in its backlog reduction efforts, availability has become a problem. At this time, only China and India are affected, but the Department of State projects that cut-off dates may need to be set for nationals of other countries. Cut-off dates restrict the ability of our faculty and researchers to finalize the permanent residence process. IFSS is monitoring the situation each month when DOS announces new cut-off dates.

This makes it even more important for departments to start the permanent residence process as early as possible, but definitely before the beginning of the sixth year in H-1B status. Please contact me if you have concerns about anyone in your department.

An attachment to the Budget Reconciliation Bill currently being considered by Congress may alleviate some of the problem. I will get out more information as it becomes available.

Plan Ahead

With the end of the calendar year approaching, it is more important than ever to plan ahead. Requests for extensions, changes of status and travel endorsements need to be submitted to IFSS as early as possible. We are short staffed during the holidays and we cannot promise being able to handle last minute requests.

Please contact me at dahlstedt@bascom.wisc.edu if you have any questions about issues raised in this memo.