

UT Arlington Sponsorship of Foreign National Employees for Legal Permanent Residency: Frequently Asked Questions

Q: Who is eligible for University sponsorship for Legal Permanent Residency Status (LPR Status)?

A: The University of Texas at Arlington will consider LPR sponsorship only for positions deemed “permanent.” This includes full-time tenured or tenure-track faculty with the title of Assistant Professor, Associate Professor, Full Professor, or Clinical Professor. LPR sponsorship is NOT available for part-time faculty with the title of Adjunct, Instructor, or Lecturer.

LPR sponsorship will also be considered for full-time non-tenured faculty members holding the title Assistant Professor, Associate Professor, or Professor approved for the primary project of research activities. It may include titles under associates of the faculty such as Librarians. Non-tenure track faculty members and/or research scholars with the rank of Research Associate of higher may be considered if employed full-time at UT Arlington. Post-doctoral positions are NOT eligible for sponsorship.

LPR sponsorship will also be considered only in extraordinary circumstances for full-time staff permanent positions that are documented as “difficult to fill” by the Office of Human Resources when other non-immigrant options are exhausted and the department has conducted a bona-fide, thorough job search.

Exceptions to the criteria are considered for extraordinary circumstances on a case-by-case basis by the Vice President for Human Resources and/or the Office of the Provost.

Please see the attached chart on who is eligible for sponsorship.

***** Please Note: Eligibility for sponsorship is not based solely on the position/job title of the individual. Each individual’s circumstances and qualifications will be evaluated and not all individuals will qualify for sponsorship even if the individual maintains an eligible job title*****

Q: How do I initiate a request for LPR sponsorship through the University?

A: A request for sponsorship CANNOT be initiated by an employee. Only departments may initiate requests for sponsorship, and the decision is made by the department Chair and Dean. If a department wants the University to consider sponsorship of an employee, then the department must submit a permanent residency initiation form, signed by the Chair and Dean. This form should be forwarded to the International Coordinator for Employment for initial review, and will then be forwarded to the Director of the Office of Equal Opportunity Services and/or the Vice President for Human Resources and/or the Provost.

Q: What is the University process for reviewing a request for LPR sponsorship?

A: The request will be reviewed by the Director of the Office of Equal Opportunity Services and/or the Vice President for Human Resources and/or the Provost, who have the final right of decision regarding sponsorship. If the request is approved, the International Coordinator for Employment will contact the department and arrange a meeting between the department and the International Coordinator for Employment. The employee does not participate in this meeting. The purpose of the meeting is to discuss details regarding all permanent residency petition fees/costs, who will pay what expenses, and the various petition options available. The department will then make a final decision as to whether it wishes to go forward with sponsorship of the employee. Again, the department is responsible for informing an employee of its decision regarding sponsorship. The department must also notify the International Coordinator for Employment of its decision.

Q: What are the steps in the LPR process?

A: If the University decides to sponsor someone for permanent residency, there are three steps usually required:

1. Labor certification through the Department of Labor (DOL) - known as the PERM process
2. Immigrant petition to US Citizenship and Immigration Services (USCIS) once labor certification is approved (form I-140).
3. Application for adjustment of status to Lawful Permanent Resident status through USCIS (form I-485)

Q: What does the Labor Certification/PERM require of the department?

A: The labor certification/PERM process usually requires the department to re-recruit for the foreign national's position in order to establish that there is no *minimally* qualified U.S. citizen available to fill the position. This standard gives preference to a minimally qualified US worker over a more qualified foreign national – it is not enough to establish that the foreign national is the *most* qualified individual for the job. Overall labor shortages in the field are also not taken into consideration in this process. The PERM system involves significant documentation of recruitment efforts in order to receive DOL approval. A few of the employment based (EB) immigrant categories permit direct application to the USCIS and do not require going through the DOL PERM process. Departments should be aware that most staff positions and some faculty positions will have to go through the PERM process, and therefore require significant re-recruitment efforts on behalf of the department. Please see the attached chart regarding the various LPR petition options.

Q: What other options are available to sponsor an employee for LPR status?

A: The University may also sponsor an employee under the EB-1(b) category, which is for Outstanding Researchers and Professors. No labor certification/PERM process is required for petitions under this category. However, the University must provide significant documentation supporting the claim that the individual is internationally recognized as outstanding in his/her field. The petition is submitted directly to USCIS and, if approved, there is little or no wait time for the individual to apply for a permanent residency (no backlog of cases with USCIS).

The University may also sponsor an employee under the EB-2 category for Advanced Degree Professionals. Labor Certification/PERM is required for this petition category. However, some classroom teachers at universities and colleges may be able to qualify for **Optional Special Recruitment** through the DOL in this category as an alternative to the regular PERM labor certification process. Special recruitment is a streamlined labor certification process offered by the DOL only to teachers at institutions of higher education. The benefit to this is that the DOL applies a *most* qualified standard- meaning that the University is allowed to hire the foreign national if they are the most qualified, even if a minimally qualified U.S. citizen applied for the position. Special recruitment requires that the petition must be filed within 18 months of the date the individual was selected for the position (not the individual's start date) and requires that the position must have been advertised in print in a national professional publication. If these requirements are met, then the University will consider sponsorship using the special recruitment process, which has the potential to save a department significant time and money. If the 18 month window has passed, it is still possible to take advantage of the higher standard applied by the DOL if the department is willing to reopen the competitive selection process (essentially, re-recruit).

Q: Who decides the best method for a department to sponsor an employee?

A: The International Coordinator for Employment, along with the department, will discuss the potential options for sponsorship, including an evaluation of the costs and timeframes for the various options. The University will pursue an option that is in its best interests, and the Director of Equal Opportunity Services and/or the Vice President for Human Resources and/or the Provost will have final authority to decide what option to pursue should there be any disagreement. There are also options for individual employees to self-petition without University sponsorship, which employees are free to explore independently. The University will not provide legal advice or financial assistance with these options. The University will provide documentation requested by the employees required for the self-petition process.

Q: How long does the entire process take?

A: It takes several months to collect and prepare the large amount of documentation required for an LPR petition. If labor certification/PERM is required, then this adds time for possible re-recruitment efforts and several months for the DOL to review the labor certification. Once a petition is filed with the USCIS, the amount of time before it is approved/denied may range from 6 months to over a year. Overall, the entire process will likely take more than one year. Departments and employees should be aware that an I-140 petition approval only means that an individual is eligible to adjust his/her status to that of a permanent resident. Adjustment of

Status is a separate process which may potentially take years, particularly for individuals from countries such as India and China, where there is a significant backlog of cases in certain petition categories. In such cases, the individual's H1B visa will need to be renewed on a yearly basis while the adjustment of status petition is pending. The adjustment of status process is the responsibility of the individual employee and is not a University sponsored or funded process.

Q: What are the costs involved in sponsorship?

A: The sponsoring department is responsible for all of the costs which the University is obligated to pay when sponsoring a foreign national for permanent residency. These costs include the I-140 petition fee of \$475 and any associated legal fees. Total cost may range from \$1800-\$5000 for the departments if outside legal services are required. In addition, departments may need to re-recruit for an employee's position under the PERM system, which is an internal cost incurred by the department, and which the department cannot pass onto the employee. Paperwork and filing fees beyond the initial I-140 petition may cost individual employees up to an additional \$5000, for which they are responsible. It is very important for departments to consider these costs before moving forward with the sponsorship process.

Q: Is a sponsored employee required to continue working for the University while the LPR process is pending?

A: Departments should be aware that there is no legal obligation for the sponsored individual to continue employment at the University even while the University is sponsoring the individual for permanent residency status. However, in the event that the sponsored individual leaves his or her employment at the University after the LPR petition has been filed, the University may withdraw the petition.

Q: What if I have questions?

A: The International Coordinator for Employment is here to assist departments with the H1B visa and LPR sponsorship process. The Coordinator is also available to answer questions for international employees regarding their immigration status in relation to their employment at the University. The Coordinator does not provide legal advice to employees. Please contact the Coordinator, Jessica Kulkarni, with any questions at 2-0035 or jkulkarni@uta.edu.