



Boston VA Research Institute, Inc.

Date: 12/05/2013

Department: Human Resources

POLICY NO. 13-XX

TITLE OF POLICY:

VISA POLICY

1.0 PURPOSE

The Boston VA Research Institute Inc. ("BVARI") must comply with federal regulations regarding employment of foreign nationals. It is important to insure that each foreign national obtains the appropriate permission by the U.S. Citizenship and Immigration Service ("USCIS") prior to their commencement of employment at BVARI.

2.0 SCOPE

This policy depicts some of the types of sponsorships in which BVARI shall support. BVARI may sponsor a H-1B VISA, TN VISA, and J1 VISA. VISA classifications not listed within this policy are not excluded, but will be considered on an individual basis. Also, under some circumstances, BVARI may support some Green Card application(s) as described within this policy

BVARI shall not provide sponsorship to any foreign national for academic position(s) since BVARI is not categorized as an academic institution. Also, upon the foreign national's leaving, BVARI shall no longer support the sponsorship especially if the individual becomes an employee of a new organization in the U.S.

3.0 POLICY

VISA(s)

The Principal Investigator (PI) shall first follow the BVARI Human Resources' guide on hiring an employee prior to initiating their request for VISA sponsorship. Part of the guide is to provide to the BVARI Human Resources a position description in order to post on an appropriate public website. The PI shall complete the entire recruiting process before BVARI will consider sponsoring the foreign national for the appropriate VISA. The PI shall provide proof of completing the

aforementioned process by delivering at least five different Curriculum Vitae of candidates, which the PI interviewed, to the BVARI Human Resources Department. BVARI reserves the right to repost the position description for additional time. Also, the PI must justify why the proposed candidate is the most suitable for the position and demonstrate that he/she was unable to locate a qualified U.S. Citizen for the position.

Upon approval to proceed with the VISA sponsorship application, the BVARI Human Resources Department shall provide an estimate of all the costs associated with the sponsorship. The costs shall include the processing fee for the application to the USCIS, legal fees, and consulting fees. The consulting fee covers the individual's time and effort to gather all the pertinent information/documentation required for BVARI's attorneys to apply with the USCIS. Once the PI approves the estimate for the costs of the VISA sponsorship, the PI shall provide to BVARI a retainer for said estimate from funds not related to active research grants.

In addition to the retainer for the estimated costs, the PI shall provide proof of adequate, eligible funds to cover 12 months of salary at a prevailing wage that is set by BVARI's attorneys who handle the sponsorship application. The salary dollars shall be confirmed by BVARI as available for foreign nationals as some sponsors have specific regulations pertaining to this type of sponsorship. BVARI can not guarantee the amount of time it will take to process the sponsorship application or the amount of time for approval of said application by the USCIS.

Upon obtaining the VISA, the PI maintains a continuing responsibility to inform BVARI of the individual's physical work location and any foreign travel. This is required by the USCIS who may conduct a site visit without any notification to BVARI.

GREEN CARD

There are two classes of Green Card applicants which BVARI may support. The first class consists of those foreign national(s) who are eligible to "self-sponsor"; this is known as the EB-1 category. The EB-1 category maintains the highest standard pursuant to USCIS regulations and is reserved for foreign nationals who have risen to the top of their field and have achieved sustained national and international acclaim, "Alien of Extraordinary Ability". The second category of Green Card applicants which BVARI may support is the EB-2 National Interest Waiver ("NIW"). The EB-2 NIW category is reserved for foreign nationals who perform work that is in the best interest of the nation and to the ability to demonstrate that said individual made significant contributions to their field. In either category, if successful, the foreign national will eventually get their green card and have unlimited work authorization.

In regards to the EB-1 category, the only requirement is a letter of support from BVARI. In order to obtain said letter, the PI shall request permission from the BVARI Board of Directors with a draft of the support letter. Upon obtaining the BVARI Board of Director's approval, a member of the Board of Directors shall execute said letter. The foreign national would then be responsible for the rest of the application process and all of the costs associated with the EB-1 Green Card application.

For the foreign national who does not qualify for the EB-1 category and meets the USCIS criteria for the EB-2 NIW category, the following BVARI criteria must be met:

- The foreign national must have been on an H1-B VISA for a minimum of five (5) years;
- The PI must provide proof of funds for a retainer which includes all the fees associated with the BVARI sponsorship including the application fee, legal, and consulting fees; an estimate of the aforementioned fees would be provided to the PI;
- Finally, permission from the BVARI Board of Directors to sponsor the Green Card and said request shall contain a rationale of why BVARI should support the foreign national's Green Card application.

4.0 DEFINITIONS

The H-1B VISA is a nonimmigrant classification used by a foreign national(s) who will be employed temporarily in a specialty occupation of distinguished merit and ability. A specialty occupation requires practical application of a specialized knowledge and/or skill set.

The Trade NAFTA ("TN") VISA classification was established by the North American Free Trade Agreement and allows for full-time or part-time employment of nationals of Mexico and Canada in certain specialized positions such as research. The TN generally requires a minimum of a Bachelor's degree and a specialized knowledge and/or skill set.

The J1 VISA is a visitor exchange program designed to promote the exchange of persons, knowledge and skills in the fields of education, arts, and sciences.

The Green Card provides a foreign national the right to live and work in the United States indefinitely. A limited amount of Green Cards are made available by the U.S. Government for each fiscal year. When the numbers are exhausted, wait lists are compiled which can be many years. The U.S. Department of State maintains the wait list, and publishes a bulletin containing this information each month.

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.

6.0 PROCEDURES

- Principal Investigators are prohibited from promising or offering employment including establishing a salary/wage.
- Principal Investigators who desire for BVARI to hire a foreign national shall be required to request permission to BVARI to proceed with the sponsorship. The request shall include the following:
 - A position description which will be posted at a minimum on a public and BVARI approved website for ten (10) business days. Further posting at another location may be required based upon the position and feedback received from the original posting.
 - A statement to justify the reason(s) why a US citizen cannot be found for this position and evidence of the search.
 - The candidates resume/CV
 - Letters of Academic recommendations/references (a minimum of 2)
 - A salary range is set for the position, which would be equivalent or above the prevailing wage
 - Proof of adequate funds to cover 12 months of salary at a prevailing wage that is set by BVARI's Immigration attorneys.
 - The PI must provide proof of funds for the USCIS processing fee (<http://www.uscis.gov/portal/site/uscis>), BVARI's attorney fees, and the consultant's fees prior to BVARI agreeing to proceed with sponsorship.
 - PI approval of the estimated quote for above fees must be agreed by the PI prior to initiating the VISA sponsorship process.

Upon review of submitted resumes and at the conclusion of the interview process, a report will need to be prepared and filed within the BVARI Human Resources Department. BVARI will conclude the process by sending their final decision. If approved, the BVARI Human Resources Department will prepare an offer letter for the candidate with the stipulation that the individual's employment shall be conditioned on USCIS permission to work at BVARI and WOC approval. The PI shall not set a final salary during the interview process or make promises to the candidate without conferring with BVARI Human Resources Department.

It is imperative that upon commencement of employment, the PI notify BVARI of any change in job description and physical location of where the individual performs their duties. The USCIS may conduct onsite inspections without notice and BVARI must know the location of said individual.

7.0 RELATED DOCUMENTS:

BVARI Human Resource Department Hiring procedures and Fee Schedule

8.0 REVISION HISTORY

Revision Letter	Author	Revision Date	Description of Changes
A	Jeffrey Burd	XX/XX/XXXX	Description
B			Edit table and add rows as needed.

Transmittal Sheet

REASON FOR ISSUE:

SUMMARY OF CHANGES:

RELATED DOCUMENTS:

RESPONSIBLE OFFICER:

Director of Human Resources

RECERTIFICATION: This policy is scheduled for recertification on or before the last working day of December, 2016.



Martin Abramson

Chairman of the Board

DISTRIBUTION

Board of Directors, Date: 12/5/13

FLD: Sharepoint Server _____ E-mailed _____ to:

BVARI Staff, Stakeholders