



Payment of Visa/Petition Fees

General Information

As a rule, per the Oklahoma Office of State Finance, fees and other costs associated with the first time application and/or renewal of a visa are NOT allowable on state-budgeted funds. Such costs are considered personal in nature rather than business-related and represent the individual's permission to work in the US as opposed to working for a specific employer.

The **exceptions to this rule** are applications or petitions that require the employer (petitioner) to apply directly to the USCIS for employment authorization (i.e., H-1B, O-1, E-3). Costs associated with employer-based fees are not personal in nature. Therefore, such costs are business-related and are allowable on state budgeted funds and CLINOPS accounts. However, funds such as Grant Awards (e.g., National Science Foundation, National Institutes of Health, American Cancer Society, etc.), Contracts, and Contribution Accounts, are normally excluded unless specifically allowed by the agency.

Premium processing fees, dependent family fees, or employer internal processing fees are not allowable as direct charges to a federal award. If you have a question on the allowability of costs under a specific grant or contract, please contact the University's Office of Grants & Contracts at 271-2177.

Under the Immigration and Nationality Act **it is a violation for an employer to require the alien worker named in an H-1B petition to reimburse or otherwise creatively compensate the employer for any part of the H-1B petition filing fee.** This filing fee is solely the employer's burden.

In summary, Departments must pay all required employer-based filing fees associated with a petition for a nonimmigrant H-1B worker.

Premium Processing Service Request

The US Citizenship and Immigration Services (USCIS) allow businesses to request premium processing by filing the Form I-907 with an additional filing fee of \$2,500.00. Premium Processing Service guarantees 15-calendar day processing of certain employment-based petitions or applications, such as H-1B or O-1. The request may be filed with the related application or petition, or it may be filed after, as long as the relating petition or application is still pending. A separate check is required.

Per the Oklahoma Office of State Finance, fees and other costs associated with immigration petitions must be considered a business-related expense to be allowable on University administered funds. If the expense can be documented as necessary for the performance/operation of the agency, then the fee would be considered an appropriate expense.

A justification letter from the sponsoring department must be submitted with the voucher request to the Accounts Payable Department. This should be included with the International Faculty & Staff Services Premium Processing Fee invoice. (Justification guidelines listed below)

H-1B Portability Provision (Change of Employers-Transfer)

- The AC21 "Act" portability provisions allows a nonimmigrant alien previously issued an H-1B visa or otherwise accorded H-1B status to begin working for a new H-1B employer as soon as the new employer files a "non-frivolous" H-1B petition for the alien.
- The portability provisions described in AC21 relieve the alien from the need to wait for approval notification from the USCIS before commencing H-1B employment with the new employer.

YOU CANNOT PLACE THE ALIEN WORKER ON PAYROLL WITHOUT THE USCIS I-797C RECEIPT NOTICE. This notice proves the university has filed a non-frivolous H-1B petition AND will be necessary to meet I-9 employment eligibility verification requirements. The receipt notice will arrive in approximately 2 weeks after the University's filing date.

NOTE: Premium Processing Service does not normally apply to H-1B transferring employees since work authorization is permitted using the USCIS Receipt Notice. Departments must be able to give a business-related reason that would justify the necessity for the performance and operation of the program, which is unrelated to any personal needs of the worker.

UNIVERSITY GUIDELINES FOR PAYMENT OF PREMIUM PROCESSING SERVICE

Program Jeopardy:

- 1) Explain how the delay of the alien worker will jeopardized the program **AND**;
- 2) Give the reason for the worker's delay:
 - a. Recruitment time caused delays in hiring (give posting date) **AND/OR**;
 - b. A position within the program is unexpectedly vacated (give explanation) **AND/OR**;
 - c. U.S. consulate visa procedures will cause delay to employment start date (give U.S. Consulate's anticipated waiting period), **AND/OR**;
 - d. Petition is beyond normal processing times (give H-1B [I-797C] receipt date)

List the source of University funds that will be used to pay the \$2,500 premium-processing fee (Excluding grant/contract funds unless specifically outlined).

Non-valid reasons:

- 1) Worker wants the H-1B approved quickly due to personal needs.
- 2) Department promised to expedite the petition and pay fee as part of hiring offer to candidate.
- 3) Worker would like to depart the U.S. for personal reasons and will need the H-1B approval to obtain new U.S. entry visa.
- 4) Worker wants the H-1B approved in order to start the green card process.
- 5) Worker's state driver's license will expire – license must be a job requirement in order to qualify for the occupation (i.e., Transit Driver, Pharmacy Driver, Police Officer, etc.)

NOTE: Premium Processing is not normally available for H-1B extensions, unless the department can give a business-related reason that would justify the necessity for the performance and operation of the program. Licenses that are necessary to qualify for the occupation and are issued with an expiration date based on the USCIS work validity date may qualify as a true business-related reason.