	<b>COOK COUNTY BUREAU OF HUMAN RESOURCES</b>	
<b>Employment of Foreign Nationals</b>		
<b>Approved: October 3, 2022</b>	<b>Supersede: September 12, 2019</b>	<b>Page   1 of 5</b>

**A. OVERVIEW**

In general, there are a variety of circumstances under which employers can engage Foreign Nationals to work in the United States on a temporary or permanent basis. Foreign Nationals who are not citizens, permanent residents or refugees/asylum seekers to the U.S. must first obtain authorization to work in the U.S. pursuant to nonimmigrant or immigrant visas. Most employment-based visas require employer sponsorship, whereby the employer files for a specific type of nonimmigrant or immigrant visa with the U.S. Citizenship & Immigration Services (USCIS) on behalf of the applicant. Several government agencies are involved with granting permission for foreign workers to work in the United States.

Sponsorship of applicants requiring visa sponsorship by Cook County (“County”) will be authorized under the provisions of this policy only when specific duties of a position are highly specialized, complex, and/or technical, and only when conditions and requirements established by applicable laws are established and documented.

**B. PURPOSE**

This policy establishes guidelines for consistent decisions and practices that ensure compliance with federal regulations governing the employment of Foreign Nationals. This policy applies to the employment of Foreign Nationals at Cook County.

**C. INTENT**


This policy is intended to be interpreted consistent with and subject to applicable law. This policy is not intended to supersede or limit the County from enforcing existing rules, policies, programs, and/or provisions in the Cook County Employment Plan, any applicable collective bargaining agreement and/or the County’s Personnel Rules. Should any provision in this policy conflict with a specific provision in the Personnel Rules, the provision(s) in this policy shall take precedence.

**D. SEVERABILITY**

If any section or provision of this document should be held invalid by operation of law, none of the remainder shall be affected.

**E. JURISDICTION**

The Bureau of Human Resources (BHR) is authorized to develop and issue policies for the effective management of Cook County employees, pursuant to Section 44-45 of the Cook County Code of Ordinances.

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**F. AREAS AFFECTED**

This policy applies to all County employees in Departments in the Offices under the President and/or covered by the Cook County Employment Plan.

**G. NONDISCRIMINATION**

Cook County prohibits the discriminatory application, implementation, or enforcement of any provision of this policy on the basis of race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity or housing status, or any other protected category established by law, statute or ordinance.

**H. EMPLOYEE AND MANAGEMENT RESPONSIBILITIES**

The process to sponsor a Foreign National for employment at the County is complex and as such, no County employee or official shall authorize such sponsorship on behalf of the County, except the BHR Chief (or Designee). Additionally, no County employee shall execute any documents relating to such sponsorship by the County, without advanced written authorization from the BHR Chief (or Designee).

BHR may retain an attorney to represent the County in any nonimmigrant or immigrant petition or application proceedings, in accordance with the procedures provided in Cook County's Procurement Code. A Foreign National may choose to retain an attorney to represent his or her interests; however, the County will not pay for this private representation.

BHR is responsible for employment offers to Foreign National applicants or candidates for positions. Any proposed change in the employment of a Foreign National (including, but not limited to, change in departments, job title, job description, promotion, or termination) shall be subject to pre-approval by BHR.


Department Heads are required to comply with the County's Employment Plan and procedures set by BHR.

**I. DEFINITIONS**

Unless the context clearly requires otherwise, the words and phrases set forth herein shall have the meanings set forth below. Words and phrases not defined shall have the meaning indicated by common dictionary definition.

**Applicant** means prospective employee.

**Employee** means an employee of the County or an individual who performs services that are subject to the will and control of the County in terms of what must be done and how it will be

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done. An employee is paid through the payroll system, with accompanying tax withholding as provided by law.

**Foreign National** means an individual who is not a citizen, national, or permanent resident of the United States.

**Nonimmigrant** means a citizen of another country who has been admitted to the United States for a temporary period and for a specific purpose.

**Permanent resident** means an individual who has been lawfully admitted to the United States to live, an immigrant or holder of a green card.

**Using Department** means the department or bureau that seeks to employ a Foreign National.

**J. POLICY AND PROCEDURES**

Failure to meet the following requirements may result in delay or denial of employment of Foreign Nationals.

**1. INQUIRIES**

The BHR Chief (or Designee) will respond to inquiries from County department administrators, employees, and applicants of the County, concerning employment of Foreign Nationals.

**2. COSTS**

No employee or applicant has a right to cost-free procurement of status. To the extent permitted under law, the County will be responsible for the employer’s portion of any fees and costs associated with a Foreign National's procurement of status, including but not limited to, filing fees, attorney’s fees, and costs that may be associated with the employee’s return to his or her home country. These fees and costs will be charged back to the department requesting sponsorship on behalf of an employee or applicant. The Office of the Chief Procurement Officer ("OCPO") shall not approve any Procurement Request received from a Bureau or Using Department incurring costs, including but not limited to attorney's fees, unless it receives written authorization from the BHR Chief (or Designee). Any fees and costs paid by BHR shall be charged back to the using Department.

**3. ELIGIBILITY**

Under certain conditions, County sponsorship of a visa (or other) petition that would permit a Foreign National to be employed by the County may be appropriate. However, this determination will be made solely by the BHR Chief (or Designee) after consultation with the Using Department and legal counsel. Any Department Head that is interested in



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seeking County sponsorship of a Foreign National for a visa (or other) petition should submit a completed "Request to Sponsor" Form to the BHR Chief (or Designee). The BHR Chief (or Designee) will review the request to determine whether sponsorship appears to be appropriate under this Policy.

**4. PROCESSING**

If sponsorship by the County of a visa (or other) petition appears to be appropriate, as a result of a competitive posting or recruitment, then the BHR Chief (or Designee) will refer the matter to legal counsel for further processing. Upon review, legal counsel shall, if appropriate, prepare relevant documents relating to the visa petition and advise the BHR Chief (or Designee). The BHR Chief shall communicate any pertinent information and/or instructions to the Department Head seeking sponsorship of the Foreign National for employment purposes. If appropriate, the BHR Chief (or Designee) will forward the documents to appropriate parties for execution. Copies of signed documents shall be promptly returned to the BHR Chief (or Designee) for submission by the County's assigned legal counsel.

**5. CONDITIONS**

- a. Throughout all periods of employment by the County, it is the Foreign National's responsibility to maintain a legal status that authorizes employment with the County.
- b. Every offer of employment shall be in accordance with the Cook County Employment Plan and the County's employment policies and procedures; any offer of employment to a Foreign National is conditioned on that individual obtaining a legal status that authorizes his or her employment with the County prior to the employment start date, and satisfying all other conditions of employment.
- c. Any offer of employment to a Foreign National under a nonimmigrant program is considered temporary and is subject to the terms and conditions of the specific program's work authorization.
- d. Individuals who are eligible for admission to the United States as immigrants and who may work in the United States without County sponsorship (including, but not limited to, Canadian and Mexican citizens that qualify as TN NAFTA Professionals, and individuals who may self-petition based on qualifying service in an underserved area) may be required to apply for admission independently.
- e. The sponsorship by the County of a non-immigrant visa for a Foreign National is not an individual's right, and there is no guarantee of sponsorship.



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- f. An agreement by the County to sponsor a Foreign National for a visa (or other) petition does not create, nor should be construed as creating, a binding contract of employment between the Foreign National and the County.
- g. Actual sponsorship by the County of a visa (or other) petition does not guarantee employment or continued employment by the County.
- h. County sponsorship of a visa (or other) petition shall in no way imply or obligate the County to favorable action on future retention, promotion or tenure applications.
- i. The issuance of a visa is at the discretion of USCIS and there is no guarantee that a visa will be obtained, with or without County sponsorship.
- j. Foreign Nationals that are employed by the County pursuant to this Policy shall be subject to the same policies and procedures and shall have the same benefits and responsibilities as any other County employee in a similar position.
- k. In the event of termination prior to expiration of the sponsorship period, the County will give USCIS notice, withdraw its petition, and reimburse the employee for the reasonable cost of return transportation to his/her home country, as required by applicable law.

**K. RESOURCES**

General information concerning employment of foreign workers and available resources may be obtained by visiting BHR's website.