

City of Saint Paul Sponsorship Policy for H-1B Visa

Effective: June 12, 2008

Description:

The United States Immigration and Nationality Act, section 101(a) (15) (H), provides for a non-immigration H-1B visa. This allows employers in the United States to employ foreign guest workers in specified specialty occupations.

The Immigration and Nationality Act regulations define a “specialty occupation” as those requiring theoretical and practical application of a body of highly-specialized knowledge in a field of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, law, accounting, business specialties, theology, and the arts. Likewise, the foreign worker must possess at least a bachelor’s degree or its equivalent and state licensure, if required to practice in that field. A H-1B work authorization is strictly limited to employment by the sponsoring employer.

If a City department wishes to sponsor an individual for an H-1B visa, they must be able to make a public policy argument that justifies spending tax dollars (including City Attorney and department time) on the sponsorship. The primary consideration for sponsorship is:

- Can the department make a public purpose argument given the labor market for the classification in question?

In addition to the above consideration, an affirmative response to each of these questions is required.

1. Does the classification in question meet the Immigration and Nationality Act regulations for a specialty occupation?
2. Has the department analyzed the job market to determine if the classification is a difficult one to fill because of a tight labor market? *For example:* Collect data from a recent job posting showing the number of qualified candidates available or U.S. Census availability data for the seven county metro area for the specific labor market in question.
3. Does the potential candidate meet the requirements of the classification?
4. To what extent does the department intend to fill the vacant position on a certified basis?
5. Are there available department funds to pay for the cost of sponsorship and is the City Attorney’s Office able to provide the required legal assistance required of sponsorship?

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Procedures:

Step 1: Prior to entering into an agreement to sponsor a candidate, the City department will seek written approval from Human Resources and ensure the City Attorney's Office has an attorney available to provide the required legal services. The department must detail the public policy argument and address all of the considerations noted above in a memo to the Director of Human Resources.

Step 2: The Director of Human Resources will evaluate the request to determine whether the arguments made meet a public policy purpose, whether the candidate meets the requirements, and whether the department has complied with Civil Services Rules.

Step 3: If approved, and the candidate is subsequently hired, the department's request and Human Resources' approval will be placed in the employee's service history file.