Payments to Foreign Nationals

Introduction
This policy states the requirements for paying foreign national visitors and suppliers, including: Visiting professors, teachers, researchers, scientists, guest speakers, as well as other types of independent contractor arrangements.

If you have specific questions about the immigration categories/visas relating to international scholars contact the Office of International Student & Scholar Services (OISSS).

Policy Statement
Brown University will pay foreign national visitors, scholars, and suppliers only after determining that the payment request is permitted under United States statute.

- Departments submitting payment requests must collect documentation required by the Controller’s Office to determine whether foreign nationals are eligible to be paid under common law, tax law, and immigration law.
  - Immigration law will be applied to determine whether the requested payment to the foreign national is permitted based on the visa the individual used to enter the United States.
  - Tax law will be consulted to determine the appropriate tax withholding from the payment request and to determine whether or not a tax treaty is available to reduce or eliminate the tax obligation.
  - Common law will be applied when payment is for professional services to determine whether the intended service to Brown can be the basis of a professional services arrangement and for the appropriate tax withholding from the payment request.
- Final decisions will be made by the Controller’s Office. Departments are encouraged to seek guidance from the Controller’s Office prior to engaging a foreign national as an independent contractor or guest speaker.
- Brown University will not pay individuals who are not legally entitled to work in the United States.
- Payments will be subject to federal and state tax withholding as required by law.

Definitions

- **Foreign National:** Any person other than a US citizen.
- **Resident Alien (RA):** An individual who (a) is not a US citizen and (b) meets the green card test or substantial presence test. (Both tests are set out by the IRS). Also referred to as lawful permanent resident.
- **Nonresident Alien (NRA):** An individual who is neither a US citizen nor a resident alien (defined above). A resident of a foreign country under the residence article of an income tax treaty is an NRA for purposes of withholding.
- **IRS:** Internal Revenue Service
- **ITIN:** Individual Taxpayer Identification Number. If a foreign national individual does not have a US social security number, they will need an ITIN to obtain any available tax treaty benefits. Use Form W-7 to apply for an ITIN.
- **Professional Service Provider/Independent Contractor**: A Professional Service Provider provides professional and consulting services. The services are outlined in a contract (Professional Service Agreement – PSA) and the contractor is paid a fee for those services.

- **Guest Speaker**: A guest speaker is a professional service provider. Use the Guest Speaker Form for payments equal to or less than $5,000. Use a Professional Services Agreement and a purchase order for speakers paid more than $5000.

- **Fellowship Payment**: A fellowship payment is money or other value (like plane tickets or other travel expenses) paid to or allowed on behalf of an individual to aid that individual in his or her personal scholarship. Fellowships include but are not limited to payments made to students, non-employee postdocs, teaching fellows, and visiting scholars.

- **Travel Reimbursement**: Payments to individuals for reimbursement of expenses incurred while traveling on University related business. Reimbursement(s) are in accordance with Brown University’s accountable plan/travel reimbursement policy.

- **US Department of State/Visas**: The US Department of State is the United States federal executive department responsible for the international relations of the United States. One of its functions is to issue travel visas to foreign nationals allowing them to travel to the United States. Many foreign nationals need a visa to enter the United States to visit, work, and live. Visas do have payment restrictions. Commonly used visas include:
  - B1 or WB Visa: Business travelers may enter the United States using a B1, or “Visitor for Business”, Visa.
  - B2 or WT Visa: Leisure/tourist travelers may enter the United States using a B2 or “Visitor for Pleasure” Visa. **Payments options to B2/WT Visa holders is highly restrictive!**
  - J1 Professor, Research Scholar, and Student: The J1 non-immigrant visa enables foreign nationals to come to the US to teach, study, conduct research, or demonstrate special skills.
  - F1: An F1 visa is a nonimmigrant visa for individuals wishing to study in the US.

The Frequently Presented Foreign National Visa Types chart provides information on the types of payments permitted foreign nationals who enter the United States using these common visas.

**Responsibilities**

**Foreign National Payee**: Depending on the type of payment, the Foreign National Payee is responsible for completing the supplier registration form, providing Brown University with appropriate immigration documentation and for entering sufficient data in the Foreign National Information System (FNIS) which is used to accurately assess the foreign national’s tax status.

**Financial Coordinators**: Financial Coordinators initiate the supplier invoice in Workday. The Financial Coordinator attaches required information based on procedures outlined below. The Financial Coordinator advises the foreign national payee to access and enter required information into the Foreign National Information System (FNIS). The FNIS instructions provide detailed information.

**Cost Center Managers**: Reviews the supplier invoice created by the Financial Coordinator, ensures appropriate documentation is attached and the correct spend category was used, and confirms that the individual being paid is a visiting researcher/scholar receiving a fellowship. The Cost Center Manager confirms that the foreign national payee received instruction to access and enter required information into the Foreign National Information System (FNIS). The FNIS instructions provide detailed information.

**Payroll Office**: The Payroll Office reviews professional service provider and fellowship payments to foreign nationals, ensures payments are permitted by the foreign national’s visa, and calculates and applies any tax withholding.

**Accounts Payable**: Accounts Payable reviews the supplier invoices to ensure required documentation is attached. They also review foreign national visitor travel payment requests to ensure payments are permitted by the visitor’s visa. Accounts Payable processes the supplier invoice.
Procedures
Review the chart Frequently Presented Visa Types to determine if the independent contractor you would like to engage may legally work and accept payment as an independent contractor. Departments are encouraged to contact the Controller’s Office with questions regarding the payment process.

- **Payment of living expenses/stipends to international scholars/researchers**: Refer to the Payments to Researchers/Scholars Unaffiliated with Brown policy for detailed procedures. Note that payment of living expenses/stipends is limited to J1 and F1 visa holders.

- **Payment of guest speaker honorarium**: Note that payment of guest speaker honorariums are permitted to B1, B2, and J1 professors and research scholars. However, all visa types have restrictions. Review the Frequently Presented Visa chart for detailed information.
  - Guest speaker completes the supplier registration form which is located on the Purchasing website.
  - The Guest Speaker must access and enter required immigration information, such as passport and visa information, into the Foreign National Information System (FNIS). The FNIS instructions provide access information.
    - The foreign national visiting researcher will be required to supply supporting documentation for information entered into FNIS.
  - Payment to the guest speaker is initiated using the create supplier invoice business process.
  - Use the spend category Guest Speaker Services (3320).
  - Attach the guest speaker form
  - Submit the supplier invoice for review and payment
  - Tax Withholding: All guest speaker payments to foreign nationals are subject to 30% Federal tax withholding and 5.99% RI tax withholding unless a tax treaty provision applies. The foreign national guest speaker will receive a Form 1042s summarizing payment(s) for tax reporting.

- **Payment of Professional Services**: Note that payment to foreign nationals for professional services is permitted for J1, B1, and P1. However there are restrictions. Review the Frequently Presented Visa chart for detailed information.
  - Refer to the Policy on Hiring Consultants/Independent Contractor for detailed procedures related to professional service procurement and payment.
  - Professional services provider completes the supplier registration form which is located on the Purchasing website.
  - Professional services provider must access and enter required immigration information, such as passport and visa information, into the Foreign National Information System (FNIS). The FNIS instructions provide access information.
    - The foreign national visiting researcher will be required to supply supporting documentation for information entered into FNIS.
  - Payment to the professional service provider is initiated using the create supplier invoice business process. Attach required documentation: Professional Services Agreement for transactions $5,000 or less, invoice with purchase order number for transactions greater than $5,000.
  - Submit the supplier invoice for review and payment.
  - Tax Withholding: All professional service payments to foreign nationals are subject to 30% Federal tax withholding and 5.99% RI tax withholding unless a tax treaty provision applies. The foreign national service provider will receive a Form 1042s summarizing payment(s) for tax reporting.

- **Travel Expense Reimbursement**: Note that travel reimbursement for visitor travel is permitted for J1 professors and research scholars, H1-B professionals, B1/VWB visa holders. There are restrictions for B2/VWT visa holders: contact Accounts Payable for assistance.
Visitor must be a registered supplier. Complete the Brown University Visitor Travel Reimbursement Registration form. The visitor will receive either a check or a wire transfer.

Refer to the travel policies for detailed information on expense reimbursement limits and permitted expenses.

Travel must be for Brown University Business purpose. If travel is not for Brown University purpose, contact Accounts Payable for assistance.

Visitor travel reimbursement is initiated using the create supplier invoice business process. Use spend category Visitor Travel (3940).

Attach receipts. Attach a copy of the visitor’s passport and visa/visa stamps. Refer to B Visa Examples for assistance identifying visa information.

Submit the supplier invoice for review and payment.

Forms/Instructions

- Foreign Visitors Honoraria/Expense Reimbursement Attestation Form
- B Visa Examples
- Frequently Presented Visa Types
- Chart - Payments to Researchers/Scholars Unaffiliated with Brown University
- FNIS Instructions
- Payments to Visiting Researchers/Scholars Form

Policy Owner Approved by Associate Vice President for Finance

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