

## STANDARD ADMINISTRATIVE PROCEDURE

### 33.06.01.M0.03 International Alternate Work Locations

*Approved November 7, 2023*

*Next Scheduled Review: November 7, 2028*

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#### Standard Administrative Procedure Statement

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Texas A&M University recognizes that international mobility is paramount to the conduct of business and therefore, it is important to provide flexibility to employees that may need to work remotely from abroad to satisfy a critical business need resulting from their employment responsibilities.

This procedure establishes, outlines, and explains, the specific terms and conditions that must be followed if an International Alternate Work Location (IAWL) is approved.

This procedure, however, does not apply to faculty members on (i) Faculty Development Leave, (ii) study abroad, (iii) Fulbright awards, (iv) highly prestigious and prestigious international fellowship awards, (v) travel to international conferences (see section 4.4), (vi) ongoing international collaborations with foreign institutions for 60 days or less, or (vii) employees on leave without pay.

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#### Reason for Standard Administrative Procedure

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Having employees work from foreign jurisdictions brings about an array of potential foreign legal liabilities, tax risks, payroll withholdings, data security, compliance, immigration, and foreign local obligations, for which the university could be responsible. Consequently, the objective of this Standard Administrative Procedure is to provide a consistent and uniform approach and understanding of the requests of an IAWL. The criteria for this type of request are based on an incidental specific critical business need, the maximum authorized duration, and the terms and conditions of the IAWL.

Accordingly, academic units and non-academic units must not transfer to or employ individuals in foreign jurisdictions without first contacting Faculty Affairs to understand the potential foreign legal risks, taxation obligations, and compliance responsibilities surrounding an IAWL.

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#### Procedures and Responsibilities

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##### 1. TERMS AND CONDITIONS

## 1.1 Governing law and jurisdiction

- 1.1.1 An IAWL does not change the location of the employment, the payroll, or reporting of the employee at Texas A&M University in the United States or in Doha, Qatar, if the employee is employed at Texas A&M University at Qatar.
- 1.1.2 An IAWL does not change, modify, or supersede the annual faculty appointment agreement between the faculty member and the academic department. As such, the faculty member remains subject to the terms and conditions of the annual appointment during the period of the approved IAWL request.
- 1.1.3 An IAWL does not change, modify, or supersede the position description, duties, and responsibilities of the staff member. As such, the staff member remains subject to the terms and conditions of the position during the period of the approved IAWL request.
- 1.1.4 The employer/employee relationship between the employee and Texas A&M University while on the IAWL remains subject to the laws and jurisdiction of the State of Texas and to all policies, regulations, rules, standard administrative procedures, and guidelines of The Texas A&M University System (A&M System), Texas A&M University, and its branch campuses in Doha, Qatar, and Galveston, Texas, as applicable.

## 1.2 Terms of the IAWL

- 1.2.1 The work specified in the IAWL request is for a specific critical business academic or non-academic need that will be performed by the employee temporarily from abroad.
- 1.2.2 The employee while on IAWL will exclusively adhere to performing the specific critical work which has been approved in the IAWL.
- 1.2.3 The employee on IAWL will not hold in-person business meetings at their international alternate work location except for those meetings related to research activities as disclosed in the IAWL request.
- 1.2.4 The employee on IAWL will not make representations on behalf of the university or enter into any agreements, promises with third parties, outsource any work, or work for any local employer.
- 1.2.5 The employee will not use their home address in the host country as a Texas A&M University address in any email communications, business cards, or other modes of identification.

- 1.2.6 All products, documents, reports, and data created during the IAWL as a result of work-related activities are the property of Texas A&M University and are subject to the Texas Public Information Act.
- 1.2.7 The employee will safeguard all work-related records and files from loss, damage, or unauthorized disclosure and will return all work-related property to the employee's department upon request. All work associated with the IAWL program should be done utilizing university or agency-owned computer equipment. To the extent possible and at the discretion of the department, the university may provide the necessary equipment and supplies that are needed for the specific IAWL agreement. The use of equipment provided by the university is limited to authorized persons and for purposes relating to university business. No personally owned computers should be used, and any computer or information-technology equipment used in the performance of university business must be used in compliance with all applicable university policies, including with respect to computer and network security and data security. Personal cell phones and other devices may be used for validating credentials with TAMU multi-factor security systems and authorized web-based systems such as Email. Personal devices may be subject to TAMU policies and procedures if used to remotely operate authorized University assets and web systems. Security protocols appropriate for the specific law, contract, or legal framework govern data access and use. Guidance can be found at – <https://it.tamu.edu/community/tools/data-classification.php>. Employees are personally liable for lost, stolen, or damaged university equipment. Employees are responsible to maintain access to networking and/or internet capabilities at the IAWL with sufficient bandwidth as necessary to perform the position's duties.
- 1.2.8 Texas A&M University will not be responsible for maintenance, utilities, or any other operating or incidental costs associated with the use of a residence as an IAWL. The employee will remain solely and fully responsible for his or her accommodations and for the payment of any services and costs thereof associated with the IAWL, including any rents on real estate property leased. Employees at an approved IAWL may request reimbursement for authorized expenses (such as business travel) specifically incurred in connection with the remote work in accordance with applicable policies.
- 1.2.9 The IAWL terminates on the last day of the authorized period. The employee is expected to return to their work location at Texas A&M University in the United States, or in Doha, Qatar, unless leave has been requested after the termination of the IAWL. Failure to return on a timely basis may result in the university placing the employee on leave without pay status.
- 1.2.10 The IAWL is only approved and valid for the specific country disclosed and approved in the IAWL. Working from any other country is a violation of the

terms and conditions of the IAWL and an immediate invalidation of the approved request.

- 1.2.11 The employee requesting business travel is responsible for submitting on a timely manner the appropriate international travel request via SSO/Concur and that such request is approved for international travel. However, submission via SSO/Concur of an international travel request does not supersede the need for the IAWL request and approval.
- 1.2.12 Use of Leave: An IAWL may not be used in place of paid or unpaid leave. If at any time an employee is unable to perform the specific work approved in the IAWL, the employee must utilize the appropriate leave category to record the absence. Accordingly, the employee will submit appropriate documentation requesting sick leave, vacation, or other types of leave, as applicable, and in accordance with established policies and procedures. A request to use leave must be approved in accordance with TAMU rules/SAPs.
- 1.2.13 The employee will maintain at all times the data security and confidentiality of all information by adhering and complying with A&M System policies, regulations, and university rules that pertain to the use of information technology.
- 1.2.14 IAWL is governed by the provisions of Workers' Compensation during the agreed-upon work hours while performing work-related duties. It is TAMU's responsibility to ensure, as an employer, compliance with the host country and local jurisdictional workers' compensation programs and policies. This may require the purchase of a local workers' compensation insurance policy or government policy enrollment for compliance with local law and custom. System Risk Management will assist in the placement of any needed commercial worker's compensation policies.

## 2. ELIGIBILITY REQUIREMENTS

- 2.1 Unlike regular Alternate Work Locations requests within the United States, requests for IAWL are an exception and only granted for a limited short amount of time, and for the specific critical need purpose. The IAWL is intended to cover the critical business need of the employing unit for a short time incidental to the travel of the employee overseas or otherwise as a specific business travel of the employee.
- 2.2 Texas A&M University employees (faculty and staff) are eligible to request an IAWL provided the requests are based on a "critical business need" as outlined below, and the employee fulfills the following eligibility requirements:
  - a. The employee must be a full-time employee,
  - b. The employee must not be subject to current formal disciplinary action,

c. The employee must be able to perform the assigned duties of their job description while working at the IAWL.

2.3 Faculty on visiting appointments (excluding full-time visiting professors), graduate students, undergraduate students, contractors, consultants, affiliate faculty, and volunteers, are ineligible for an IAWL.

2.4 Employed graduate assistants, while part-time, may request an IAWL in accordance with this procedure if the request is based on the critical business need as employees and not students in the pursuit of their degree.

### 3. PROCEDURES FOR REQUESTING AN INTERNATIONAL ALTERNATE WORK LOCATION (IAWL)

3.1 IAWL requests are in essence incidental requests to an international stay in which the employee is intending to temporarily work remotely from a foreign jurisdiction outside the United States due to a critical business need for which the employee will perform the duties and responsibilities outlined by the appropriate supervisor in the IAWL agreement, for a short-term duration not to exceed 60 days.

3.2 IAWL requests must be submitted using the International Alternate Work Location Request Form. This form is initiated by the employee and is routed to the supervisor through the appropriate approval process depending on whether the employee is a faculty member or staff member:

3.2.1 An IAWL request for a faculty member is contingent upon approval by the Department Head, Dean of the College/School, Immigration Affairs, and the Vice Provost for Faculty Affairs, and should not be considered an employee entitlement. The IAWL may be terminated at any time and for any reason.

3.2.2 An IAWL request for a staff member is contingent upon approval by the supervisor, unit Director, Vice President for Human Resources and Organizational Effectiveness, and Immigration Affairs, and should not be considered an employee entitlement. The IAWL may be terminated at any time and for any reason.

3.2.3 An IAWL request for a graduate assistant is contingent upon approval by the supervisor, Department Head, Graduate Operations Committee (GOC), Dean of the College/School, Associate Provost and Dean of the Graduate and Professional School, Vice President for Human Resources and Organizational Effectiveness, and Immigration Affairs, and should not be considered an employee entitlement. The IAWL may be terminated at any time and for any reason.

- 3.3 IAWL requests require the justification of a "critical business need" which must be detailed and documented in writing by the employee and supervisor requesting the IAWL approval.

"Critical business need" is generally defined as one in which the individual's work contribution is a must for the completion of a research or essential project within a prescribed deadline. That is, an action that cannot be delayed without jeopardizing the outcome. The justification should address:

- the critical business need for the department or unit to continue to employ the employee overseas
- the critical business need should outweigh the potential of making the university subject to potential foreign risks and obligations
- the impact on the department or unit if the request is not approved
- the reasons why the duties and responsibilities cannot be performed by existing employees in the United States or Qatar if employed by TAMUQ.
- the estimated time in which the critical business need will be resolved

- 3.4 An IAWL request should not be based on the following instances since they do not constitute a critical business need:

- Teaching from abroad to fulfill regular faculty responsibilities (except when teaching a study abroad course approved by the university).
- The regular performance of day-to-day duties and responsibilities.
- The lack of a business succession plan.
- Request for a new employee to start to work from abroad due to a delay in the travel arrangements.
- The assignment of summer teaching to be conducted from abroad.
- Leaving the United States to care for a sick relative.
- Leaving the United States to attend a personal medical matter.
- The need for the employee to leave the United States due to the fulfillment of the maximum period of stay in a non-immigrant visa or due to another type of immigration matter.

- IAWL requests that are petitioned for the convenience of the employee.

- 3.5 All requests for IAWL must first route to the Export Control Office to obtain clearance on the intended performance of activities of the employee while in the foreign jurisdiction.
- 3.6 Additionally, all requests for IAWL must also route after the Export Control review to the System Budgets and Accounting office for the assessment of potential tax and financial responsibilities.
- 3.7 All IAWL requests must be submitted for approval with at least 60 days from the intended start date of the IAWL.

#### 4. DURATION AND APPLICABILITY OF AN INTERNATIONAL ALTERNATE WORK LOCATION (IAWL)

- 4.1 An IAWL will not be approved for greater than 60 days unless the request demonstrates a critical business need that cannot be satisfied in 60 days or less. At no time will an IAWL serve as a mechanism to shift remotely to a foreign jurisdiction the performance of the day-to-day work of the employee.
- 4.2 Requests for an IAWL exceeding 60 days are subject to review as per section 5 below. Requests will not be approved if the total requested time is 180 days or more.
- 4.3 Requests for conducting research abroad due to the subject matter of the project or otherwise, unless on an approved Faculty Development Leave, require the submission of an IAWL subject to potential further review as per section 5 below.
- 4.4 An IAWL request is not necessary to travel to international conferences or meetings provided the total duration of the intended trip does not exceed two (2) weeks and as long as the employee does not intend to stay beyond the approved two (2) weeks with the intent to work remotely from that foreign location or other foreign jurisdiction.
- 4.5 An IAWL is not needed if the teaching is an approved study abroad course or research during an approved Faculty Development Leave.

#### 5. REVIEW BY OUTSIDE COUNSEL

- 5.1 An IAWL for greater than 60 days will be subject to review by the A&M System Office of General Counsel which may include further review by the System Office of Business Affairs and authorized outside counsel. Immigration Affairs will determine whether a request for IAWL for 60 days or less will need A&M System review before approval.
- 5.2 If the IAWL request is subject to review by outside counsel, Immigration Affairs will contact the academic department or administrative unit. Academic departments and

administrative units will be responsible for the payment of the outside counsel fees and any other fees and costs for the guidance issued on the IAWL request. Outside counsel review does not guarantee that the IAWL request will be ultimately approved by the administration.

## 6. IMMIGRATION AND WORK PERMIT

- 6.1 IAWLs are incidental and for a short-term duration based on a critical business need. They are not intended to shift remotely the day-to-day performance of the work but rather to attend to a critical business need for a short period of time and not on a permanent basis. However, Texas A&M University will not approve an IAWL unless the employee has the legal right to work in the host country. Note that entering a foreign jurisdiction on a business or tourist visa does not provide per se the right to work and thus, the IAWL will not be approved.
- 6.2 Texas A&M University will not engage in or approve any requests to petition or support a foreign immigration visa or a work permit to facilitate the performance of the work requested in the IAWL.

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### **Related Statutes**

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Supplements [System Regulation 33.06.01, \*Flexible Work Arrangements\*](#)

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### **Contact**

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Immigration Affairs