

# THE ABCs OF IMMIGRATION

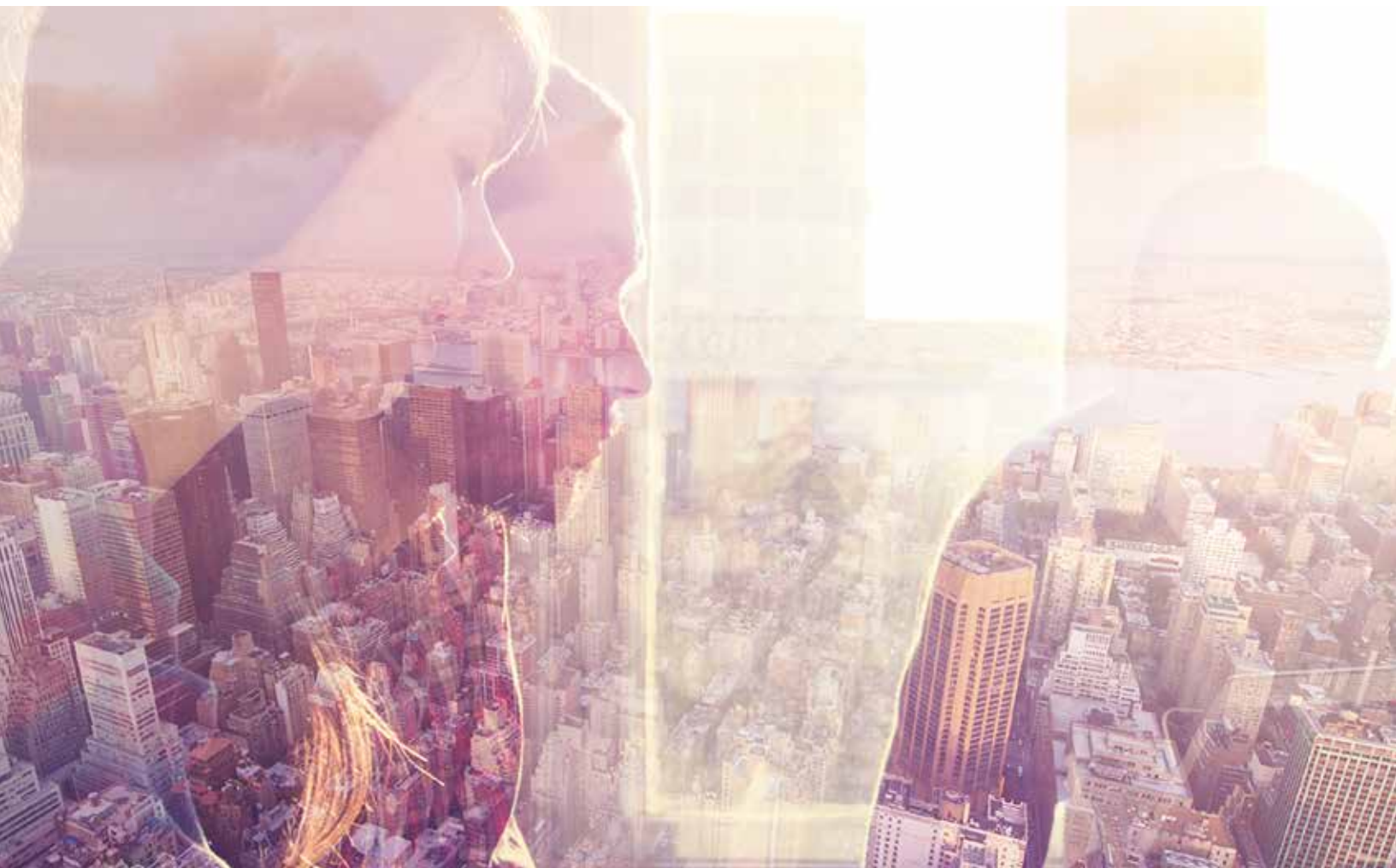
The HR Guide to  
Employment-Based U.S.  
Nonimmigrant Visas and  
Green Cards

B E H L O P TN EB



# INTRODUCTION

As a human resources professional, you're tasked with finding the right talent to help your company prosper. Many times you'll find the best candidate for the position close to home. However, as you work to fill higher-skilled positions, you may need to expand your search into the global job market, which adds a new, complex element to the hiring process — securing a work visa.



# Due to the nuances of each hiring situation and candidate, there are many different types of U.S. nonimmigrant visas available.

To help you understand the requirements for each visa type, we've created The **ABCs of Immigration: The HR Guide to U.S. Immigration Visas and Green Cards** a comprehensive overview of seven U.S. nonimmigrant visa types, as well as employment-based green cards.

The important details of each employment-based visa (e.g. H-1B, E-3, O-1) and green card category are covered in this guide, which is divided into two sections: visas meant for temporary stays in the U.S. and green cards intended for permanent residency.

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# B VISA

An aerial photograph of a large container yard, showing numerous rows of stacked shipping containers in various colors (red, blue, white) and several gantry cranes. The image is overlaid with a purple-to-white gradient that transitions from the top right corner towards the bottom left.

The **B-1 Temporary Business Visitor visa** is commonly used for overseas contract negotiations by foreign nationals who need to enter the U.S. to attend or receive short-term training, to attend conferences or in-person consulting.

## B-1: BUSINESS VISITOR

### Who's Eligible

Foreign nationals who are entering the U.S. for business purposes are eligible for a B-1 visa. The B-1 does not allow for the foreign national to work in the U.S.

Business purposes can include the following: Attending meetings, trainings, seminars and negotiating contracts.

In order to qualify, the business person must have:

- ▶ Funds to cover expenses throughout the stay
- ▶ No compensation by a U.S. employer during the trip
- ▶ Residence and country ties in the home country with no interest in abandoning those ties
- ▶ Intent to leave the U.S. at the end of his or her visit

### Visa Waiver Program

Citizens in select countries can travel to the U.S. for a stay of **90 days or less without a U.S. visa**. In order to travel under the Visa Waiver Program, the traveler must have completed the Electronic System for Travel Authorization (ESTA) process prior to the trip. Persons admitted under the Visa Waiver Program cannot extend or change their status while in the U.S. Participating countries include:



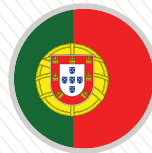
Australia



Ireland



Japan



Portugal



South Korea



United Kingdom

For a full list visit: <http://www.cbp.gov/travel/international-visitors/esta>

## Validity Period



## Government Fees

**Consular filing fee: \$160**

**Premium processing:** There is no expedited application processing available for B-1 visas applied for at U.S. Consulates or if filing a change of status or extension with USCIS.

## Dependents

**Spouses and children** of B-1 visa holders are eligible to apply for B-2 visas to accompany the B-1 visa holder.

# B-1 VISA

## Foreign Employer Document Checklist

- Itinerary for trip
- Catalogs, brochures or other types of marketing literature
- An invitation letter provided by the U.S. entity inviting the B-1 visitor to the U.S.
- Acknowledgment letter from foreign employer confirming the trip and the reasons it will benefit the foreign national's employment abroad



## Foreign Employee Document Checklist

- Proof of funds to support trip
- Digital photo for DS-160, the Electronic Consular Application
- Resume or curriculum vitae
- Flight itinerary
- Evidence of intent to depart the U.S.
- Evidence that establishes where the employee will stay in the U.S.
- Passport
- Employment contract with foreign employer, if applicable
- Evidence of connection back to home country (leases, bank records, etc.)

## KEY EMPLOYER TAKEAWAYS

- ❗ Visitors are not permitted to accept employment or work in the U.S.
- ❗ Acceptable reasons for travel include attending contract negotiations, business meetings, short-term training, conferences and in-person consulting sessions.



# E VISAS



The U.S. maintains commerce and navigation treaties with various countries around the world to encourage mutual trade and business negotiations. U.S. Consulates, Embassies and U.S. Citizenship and Immigration Services (USCIS) grants visas for select work-authorized purposes for people originating from these treaty countries.

This section will cover:

- 1 E-2: Treaty Investor**
- 2 E-3: Certain Specialty Occupation Professional from Australia**



## E-2: TREATY VISA

### Who's Eligible

Foreign nationals sharing the same nationality as the company or person that owns the sponsoring U.S. entity may apply for an E-2 visa.

There are three types of individuals eligible for an E-2 visa:

- 1 A foreign national **investor with a sizable stake in a U.S. entity** (at least 50% ownership must be held at all times)
- 2 A **managerial or executive employee** of an investing corporation maintaining a controlling interest at all times, with at least 50% ownership
- 3 An **essential employee** of an investing corporation with key skills that allow for performing specific job functionalities

### Treaty Countries

The nationality of both the employee and sponsoring U.S. company must be the same and be included in the list of E-2 visa treaty countries, which include:



Australia



Belgium



Colombia



Costa Rica



Czech Republic



Egypt

See the full list of treaty countries at

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/fees/treaty.html>

## Validity Period



## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Consular application filing fee: \$205**

**USCIS petition filing fee: \$460.** E-2 visas are typically applied for at a U.S. Consulate or Embassy abroad and can be extended with USCIS, as needed.

**Premium processing:** Employers can pay a **\$2,500 premium processing fee** when available and USCIS will adjudicate the E-2 petition, meaning that USCIS is required to approve, issue a Request for Evidence or deny the visa petition **within 15 calendar days**.

## Dependents

**Employees may be accompanied by their spouses or unmarried children** under age 21 with the E-2 nonimmigrant dependent visa classification. The dependents' nationalities don't need to be the same as the employee or treaty investor, and they may study during their stay. Spouses in E-2 status are eligible to present a valid and notated Form I-94 in addition to a passport to evidence work authorization once they enter the U.S.

## SPECIAL INVESTOR REQUIREMENTS

### The investment must:

- ▶ Be sufficient to ensure the success of the operation
- ▶ Lead to a fully operational commercial or entrepreneurial undertaking
- ▶ Generate more income than to provide a living for the traveler's family, or it should majorly impact the U.S. economy
- ▶ Be at risk commercially and the funds must be controlled by the investor. Loans secured with assets don't qualify

## Employer Document Checklist

- The non-U.S. entity's founding documents
- The U.S. petitioner's founding documents
- Documents demonstrating a qualifying relationship between U.S. petitioner and the non-U.S. entity
- Documentation evidencing ownership and nationality
  - ▶ If the U.S. company is owned by several individuals, in lieu of a foreign company, submit passports of all the owners.
- Documentation evidencing substantial investment by the foreign company to the U.S. company, such as bank deposits
- Organizational chart for the non-U.S. position
- Organizational charts for the U.S. position
- Job description

## Employee Document Checklist

- Passport
- Any previous Form I-797 Approval Notices
- Resume or curriculum vitae
- Diploma
- Digital photo for DS-160, the Electronic Consular Application
- Any prior visa stamps
- Form I-94, if inside the U.S. and applying to USCIS

**!** The exact list of required documents varies between E-2 visa applications.



## KEY EMPLOYER TAKEAWAYS

- !** Only foreign nationals from certain countries qualify for the E-2 visa category.
- !** The employee must either act in an executive or supervisory capacity, or have special, essential skills or qualifications.
- !** Only foreign nationals sharing the same nationality as the company or person that owns the sponsoring U.S. entity are eligible.
- !** The foreign entity must own or control the U.S. entity.

## E-3: CERTAIN SPECIALTY OCCUPATION PROFESSIONAL FROM AUSTRALIA

### Who's Eligible

This special visa classification is available to Australian citizens if:

- ❗ There's a legitimate offer of employment in the U.S.
- ❗ The individual possesses at least a **U.S. bachelor's degree** or its equivalent
- ❗ It will fill a **specialty occupation that requires a specific skill set or specialized knowledge**. Specialty occupations typically include: **health care, biotechnology, human resources, education, engineering, computer sciences, management, medicine, etc.**
- ❗ The U.S. employer must make attestations about the wage and working conditions in a Labor Condition Application, which is submitted to the Department of Labor.





## Validity Period

The infographic consists of four colored boxes. The first box (yellow) has a location pin icon and text: 'INITIAL STAY', '2 years'. The second box (purple) has a circular refresh icon and text: 'RENEWALS', 'Extensions granted in', '2-year', 'increments'. The third box (yellow) has a calendar icon and text: 'TOTAL STAY', 'Up to', 'Varies'. The fourth box (yellow) has a warning icon and text: 'Special Note', 'The E-3 visa itself is valid up to two years. Once you enter the U.S. on that valid visa, you will get a two-year period of stay.'

## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Consular application filing fee: \$205**

**USCIS petition filing fee: \$460.** E-3 visas are typically applied for at a U.S. Consulate or Embassy abroad and can be extended with USCIS, as needed.

**Premium processing:** This expedited application processing feature is **not available** for E-3 visas that were applied for with USCIS.

## Dependents

E-3 visa holders **may be accompanied by their spouses or unmarried children 21 years and under** with an E-3 nonimmigrant dependent visa classification. Spouses and minor children do not need to be Australian citizens. Dependents are allowed to study while in the U.S. Spouses in E dependent status are eligible to present a valid and notated Form I-94 in addition to a passport to evidence work authorization once they enter the U.S.

## Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures and other types of marketing literature
- Detailed job description

## Employee Document Checklist

- Passport
- Diploma
- Education evaluation, if degree is not from Australia or U.S.
- Previous visa stamps, if any
- Transcripts or marksheets
- Resume or curriculum vitae



## KEY EMPLOYER TAKEAWAYS

- ❗ Only available to Australian citizens.
- ❗ A Labor Condition Application must be filed with the Department of Labor.
- ❗ For change of employment, the new employer must file a new Labor Condition Application.
- ❗ Premium processing is not available and USCIS processing times take three to five months, so it may be faster for the beneficiary to leave the U.S. and apply directly at the U.S. Embassy or Consulate abroad.

# H VISAS



Temporary worker visas are available for people wishing to enter the U.S. and work or train for a fixed period of time. U.S. Citizenship and Immigration Services (USCIS) created multiple subcategories for the most common employment situations.

This section will cover:

- 1 H-1B Specialty Occupation**
- 2 H-1B1: Free Trade Agreement Professional from Chile or Singapore**
- 3 H-3 Nonimmigrant Trainee or Special Education Exchange Visitor Visa**

## H-1B: SPECIALTY OCCUPATION

### Who's Eligible

The H-1B visa is designated for **individuals working in a specialty occupation that requires a specific skill set and background of specialized knowledge**. Specialty occupations typically include: **biotechnology, education, engineering, computer sciences, management, medicine, etc.**

#### Additional requirements:

- ▶ Must have completed a U.S. bachelor's degree or its equivalent in a field of study related to the position. If the degree was obtained overseas or is not a four-year bachelor's degree, an education evaluation must be completed.
- ▶ Industry standard education requirements for the position must include at least a bachelor's degree.
- ▶ Salary for the position must meet minimum prevailing wage requirements.
- ▶ If the position requires the employee to work off-site, additional proof of employment may be needed.

**WORK EXPERIENCE CAN BE USED TO SUBSTITUTE YEARS OF STUDY.**



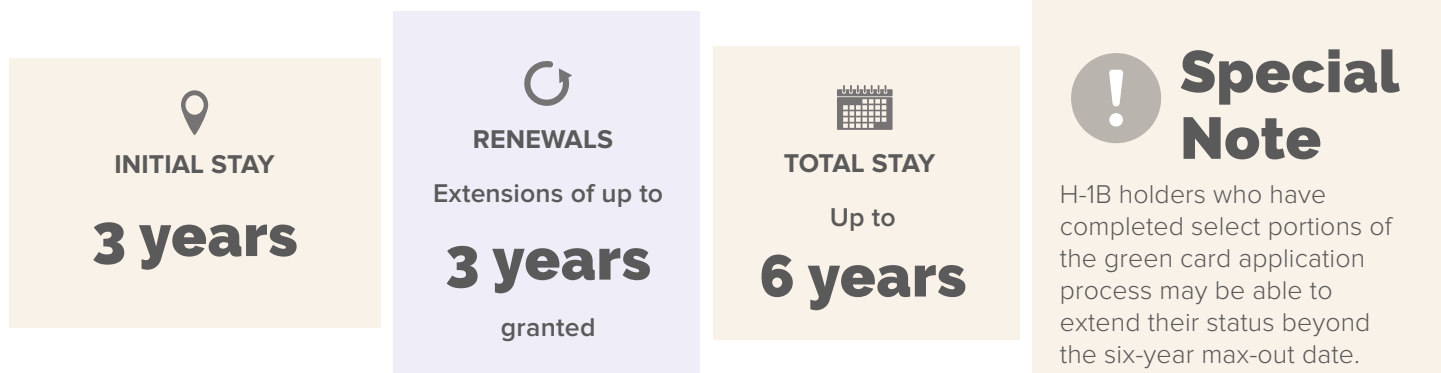
**3 years**

of work experience is equivalent to one year of study.



# H-1B VISA: SPECIALTY OCCUPATION

## Validity Period



## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Petition filing fee: \$460 to \$2,460**

(Excludes premium processing fees and/or super H-1B dependent companies)

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the H-1B petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days**.

## Dependents

**Employees may be accompanied by their spouses and unmarried children 21 years and under** with an H-4 nonimmigrant dependent classification. Select spouses are entitled to apply for work authorization once the H-1B holder has reached a certain point in the green card application process. Dependents are allowed to study while in H-4 status.

## H-1B CAP

First-time H-1B visa petitioners are subject to the H-1B lottery.

The number of visas processed each year are:



**65,000**

for bachelor's degrees and an additional

**20,000**

for applicants with master's degrees.

If the H-1B petition is accepted for processing and approved, the first official start date is October 1.

**Note:** H-1B petitioners employed at an institution of higher education or at certain nonprofit entities are not subject to the cap.



## Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Employment contract or job offer letter
- Job description with requirements and job site location

## Employee Document Checklist

- Passport
- Form I-94 if in the U.S.
- Diploma
- Transcripts or marksheets
- Resume or curriculum vitae
- All previous Form I-797 Approval Notices
- Payroll paycheck stubs for the last two pay periods
- Previous employment authorization document cards, if applicable
- All prior I-20s, if applicable
- All prior dates spent inside the U.S. in H-1B and L-1 Intracompany Transferee visa statuses
- Visa stamp

## KEY EMPLOYER TAKEAWAYS

- ! The H-1B petition generally requires a bachelor's degree in a specific field.
- ! Salary for the position must meet the minimum prevailing wage.
- ! It is important to discuss with your employer when the permanent residency process should start to help ensure ongoing work authorization.

## H-1B1: FREE TRADE AGREEMENT PROFESSIONAL FROM CHILE OR SINGAPORE

### Who's Eligible

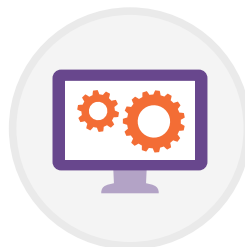
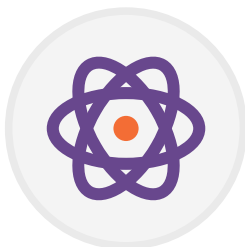
Citizens of **Chile and Singapore** are eligible for the H-1B1 professional work visa. The job must involve specialty work that requires at least a U.S. bachelor's degree or its equivalent.

- ▶ Qualifying **candidates must be filling a “specialty occupation” role**, meaning it requires a specific skill set and background of specialized knowledge.
- ▶ Specialty occupations usually include: **engineering, mathematics, physical sciences, computer sciences, medicine, health care, education, biotechnology, management, human resources, etc.**
- ▶ Candidates must also hold at least a **U.S. bachelor's degree** or its equivalent in a major related to the U.S.-based position they are pursuing, or possess equivalent work experience.




### SPECIAL NOTE

The application process isn't petition-based. The employee may apply directly at the U.S. Embassy in Singapore or Chile. No filing is necessary in the U.S.

**For more information, contact the U.S. Embassy in Chile or Singapore or consult an attorney.**



## Validity Period

 <b>INITIAL STAY</b> Up to <b>1 year</b> for a citizen of Chile <b>1 year</b> for a citizen of Singapore	 <b>RENEWALS</b> Unlimited extensions permitted <b>1 year</b> at a time	 <b>TOTAL STAY</b> <b>varies</b>
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**NOTE:** The visa stamp can be issued for 18-months but I-94s are issued in one-year increments.

## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Consular application filing fee: \$190**

**USCIS petition filing fee: \$460**, if applying through USCIS to extend the foreign national's current stay in H-1B1 status or to change employers without leaving the U.S.

**Premium processing:** This expedited application processing feature is **not available** for H-1B1 visas.

## Dependents

Employees may be accompanied by their spouses and unmarried children 21 years and under with an H-4 nonimmigrant dependent classification. Dependents are allowed to study while in H-4 status but are not eligible for work authorization.





## Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Job description with requirements and job site location

## Employee Document Checklist

- Passport
- Form I-94 if inside the U.S.
- Diploma
- Transcripts or marksheets
- Resume or curriculum vitae
- All previous Form I-797 Approval Notices\*
- Payroll paycheck stubs for the last two pay periods\*
- Previous visa stamps, if any
- Digital photo for DS-160, the Electronic Consular Application, if applying directly at an embassy or consulate

\*Exact documentation required for each case varies based on the distinct nuances of each application.



## KEY EMPLOYER TAKEAWAYS

- !** H-1B1 holders who are changing employers and are inside the U.S. must wait for the H-1B1 transfer to be approved by the USCIS. Alternatively, they could leave the country and apply at an embassy or consulate.

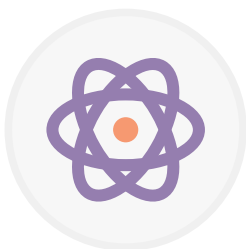
## H-3: NONIMMIGRANT TRAINEE OR SPECIAL EDUCATION EXCHANGE VISITOR VISA

### Who's Eligible

The H-3 visa allows you to sponsor individuals coming to the U.S. for training. Additionally, it allows special education exchange visitors to enter the U.S. to train specifically in special education.

#### Additional requirements:

- For trainees, the training can be in any field that is only offered in the U.S., except graduate medical education or training.
- For special education exchange visitors, the training will allow him or her to develop practical experience educating children with physical, mental or emotional disabilities.



## Validity Period

  
INITIAL STAY

**Varies  
depending  
on training**

  
RENEWALS

**Extensions**  
can't go beyond the maximum  
amount of time requested for the  
visa.

  
TOTAL STAY

up to  
**24 months**

**NOTE:** 18 months for special education trainees

## Government Fees

**Petition filing fee: \$460**

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the H-3 petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days.**

## Dependents

H-4 dependent visa is available for the spouse and children under 21 years. Dependents may study but not work.



## Employer Document Checklist

- Training program description
- Catalogs, brochures and other types of marketing collateral
- List of permanent U.S. locations
- Application process for program
- Application process for program
- Financial statement or annual report
- Detailed explanation of why the training must take place in the U.S.

## Employee Document Checklist

- Diploma
- Passport
- Resume or curriculum vitae
- Digital photo for DS-160
- Letter confirming how training will benefit his or her career outside of the U.S. and why training isn't available in the home country



## KEY EMPLOYER TAKEAWAYS

- ❗ Great for contributing to knowledge abroad since it helps the visa holder gain valuable training and on-the-job experience.
- ❗ Helps diversify your training program.



# L VISAS



L visas are available for employers wishing to transfer people between foreign branches of the company. The foreign national must have been employed with the organization outside of the U.S. for at least one continuous year in the preceding three years at a qualifying foreign entity.

This section will cover:

- 1 L-1A: Intracompany Transferee for Executives or Managers**
- 2 L-1B: Intracompany Transferee for Employees With Specialized Knowledge**

## L-1A: INTRACOMPANY TRANSFEREE EXECUTIVE OR MANAGER

### Who's Eligible

Foreign nationals who've worked abroad at a foreign affiliate of the sponsoring U.S. entity in an executive or managerial capacity can apply for this visa category.

**Executive capacity** refers to the employee's ability to make major decisions without much oversight.

**Managerial capacity** refers to the ability of the employee to supervise and direct the work of employees and to manage the organization, or a department, subdivision, function or another component of the organization.

- ▶ Candidates must have worked at a related entity abroad for at least 12 continuous months out of the last three years at the time of application.
- ▶ The work or service must be in an executive, managerial or specialized knowledge capacity for a parent company, branch, subsidiary or affiliate of the same employer.
- ▶ There must be a qualifying relationship with a foreign company such as a parent company, branch, subsidiary or affiliate.




## BLANKET PETITIONS

Some companies choose to establish an intracompany relationship in place of filing individual L-1 petitions. The benefit of the L Blanket is that the employee can apply for the L visa directly at the U.S. Consulate. Nothing needs to be filed in the U.S., which saves time and money.

### **L Blanket certification may be established if:**

- ❶ All parties involved are engaged in commercial trade or services.
- ❷ The petitioner has a U.S. office that's been operational for one year.
- ❸ There are three or more domestic and foreign branches, subsidiaries and affiliates.
- ❹ All parties have met one of the following:
  - ▶ Obtained at least 10 L-1 approvals during the previous 12-month period
  - ▶ Have U.S. subsidiaries or affiliates with combined annual sales of at least \$25 million
  - ▶ Have a U.S. workforce of at least 1,000 employees

## Validity Period



INITIAL STAY

**3 years**



RENEWALS

Two extensions granted in

**2-year**

increments



TOTAL STAY

**7 years**

## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Petition filing fee: \$960**

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the L-1A petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days.**

## Dependents

**Employees may be accompanied by their spouses and unmarried children 21 years and under** with an L-2 nonimmigrant dependent classification.

**NOTE:** Dependents are allowed to study. Spouses in L-2 status are eligible to present a valid and notated Form I-94 in addition to a passport to evidence work authorization once they enter the U.S.

## NEW OFFICES

**If the executive's or manager's reason for travel is to open a new office in the U.S., the following conditions must be met:**

- ▶ The employer has secured the physical office location
- ▶ Executive, managerial or specialized knowledge capacity
- ▶ The executive or manager has been employed in that position for one continuous year in the three years preceding the filing of the petition
- ▶ The intended U.S. office will support an executive or managerial position within one year of the approved petition

## Employer Document Checklist

- The U.S. petitioner's founding documents
- Documents demonstrating a qualifying relationship between U.S. petitioner and the non-U.S. entity
- The non-U.S. entity's founding documents
- Employment contract
- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Organizational chart for the non-U.S. position
- Organizational charts for the U.S. position

## Employee Document Checklist

- Pay records from the non-U.S. entity, demonstrating a full year of employment there
- Digital photo for DS-160, the Electronic Consular Application
  - ▶ If applying under an L-1 blanket directly at the consulate or embassy
- Abroad experience proving the beneficiary acts in a managerial, executive or specialized knowledge capacity
- U.S. experience proving the beneficiary acts in an executive or managerial capacity
- Form I-94 Arrival/Departure Record\*
- Resume or curriculum vitae
- Passport
- All previous form I-797 Approval Notices
- All prior dates spent inside the United States in H-1B status or L-1 status
- Visa stamp

\*If inside the U.S. and applying for an extension or change to L-1A



## KEY EMPLOYER TAKEAWAYS

- ! The work or service must be in an executive or managerial capacity for a parent company, subsidiary, affiliate or branch of the same employer.
- ! Candidates must have worked abroad for at least 12 continuous months out of the last three years at the time of application.
- ! Spouses in L-2 status may be eligible for work authorization.
- ! Note: Foreign nationals in L-1 status that spend less than 180 days per year inside the U.S. are considered intermittent L-1 visa holders and are eligible to extend their L-1 status indefinitely in 2-year increments.



## L-1B: SPECIALIZED KNOWLEDGE INTRACOMPANY TRANSFEREE

### Who's Eligible

The L-1B classification allows a U.S. employer to transfer an employee with specialized knowledge relating to the organization from one of its affiliated foreign offices to a U.S. parent company, subsidiary, affiliate or branch.

#### To qualify the employee must:

- ▶ Have worked in the qualifying organization for at least 12 continuous months within the last three years leading up to transfer.
- ▶ Have specialized knowledge based on employment with the foreign employer that will be used in the U.S.



### SPECIAL NOTE

Specialized knowledge means that an individual possesses an advanced level of knowledge or skill relating to the company's product, services, research, equipment, techniques or management. The knowledge can be company-specific (e.g., not commercially available), and the employee must be one of few employees with the same level of advanced knowledge. It is reserved for truly unique employees within the organization.

#### **If the employee's reason for working in the U.S. is to open a new office, the following conditions must be met:**

- ▶ The employer has secured a sufficient physical location to house the new office.
- ▶ The employer has the financial ability to compensate the employee conducting business in the U.S.

Additionally, foreign nationals in L-1 status that spend less than 180 days per year inside the U.S. are considered intermittent L-1 visa holders and are eligible to extend their L-1 status indefinitely in 2-year increments.

## Validity Period



## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Petition filing fee: \$960**

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the L-1B visa petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days**.

## Dependents

**Employees may be accompanied by their spouses and unmarried children 21 years and under** with an L-2 nonimmigrant dependent visa classification.

**NOTE:** Dependents are allowed to study. Spouses in L-2 status are eligible to present a valid and notated Form I-94 in addition to a passport to evidence work authorization once they enter the U.S.

## Employer Document Checklist

- The U.S. petitioner's founding documents
- Documents demonstrating a qualifying relationship between the U.S. petitioner and the non-U.S. entity
- The non-U.S. entity's founding documents
- Employment contract
- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Copy of company letterhead
- Organizational charts for foreign and U.S. positions

## Employee Document Checklist

- Form I-94\*
- Evidence of specialized knowledge
- Diploma
- Resume or curriculum vitae
- Passport
- Visa stamp\*
- All previous Form I-797 Approval Notices, if any
- All prior dates spent inside the U.S. in H-1B or L-1 Status, if any
- 12 months of paystubs from the foreign entity to prove one year of employment
- DS-160 Photo
  - ▶ If applying directly at the embassy or consulate under an L Blanket


\*If inside the U.S. and applying for an extension



## KEY EMPLOYER TAKEAWAYS

- ❗ Employee must have worked in the qualifying organization for at least 12 months within the last three years leading up to transfer.
- ❗ Employee must have specialized knowledge, which is uncommon knowledge of the organization's products, services or equipment.
- ❗ Evidence of specialized knowledge includes training materials, presentations, projects among other work materials.
- ❗ Foreign nationals in L-1 status that spend less than 180 days per year inside the U.S. are considered intermittent L-1 visa holders and are eligible to extend their L-1 status indefinitely in 2 year increments.

# O VISA



O visas are designed for designed for individuals with extraordinary ability related to their employment and, as a result, they only apply to very specific workers.

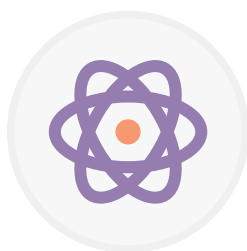
This section will cover:

- 1 O-1: Individuals with Extraordinary Ability or Achievement**

## O-1: INDIVIDUALS WITH EXTRAORDINARY ABILITY OR ACHIEVEMENT

### Who's Eligible

The special visa classification is for people who possess extraordinary ability in the **sciences, arts, education, business and athletics**.




**Extraordinary ability** means the person has risen to the very top of the field of endeavor and is known internationally or nationally for his or her achievements.

### CONSULTATION REQUIREMENT

To obtain an O-1 visa, a written advisory opinion might be required in the application from a peer group (including labor organizations) or a person designated by the group with expertise in the beneficiary's area of specialization. Not all O-1 visas require this.



## Validity Period



INITIAL STAY


**3 years**



RENEWALS

Unlimited extensions granted up to

**1 year**



TOTAL STAY

**Varies**

## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Petition filing fee: \$460**

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the O-1 petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days**.

## Dependents

**Spouses and unmarried children 21 years of age and under may accompany the O-1 holder** with an O-3 nonimmigrant dependent visa classification. They are not authorized to work and cannot apply for work authorization as an O-3 dependent. However, they are allowed to study.



## Employer Document Checklist

- Job description
- Copy of company letterhead
- Financial statements or annual report
- Catalogs, brochures, or other types of marketing literature
- Employment contract

## Employee Document Checklist

- Form I-94\* Arrival/Departure Record
- Passport
- Previous visa stamps, if any
- All previous Form I-797 Approval Notices, if any
- Documentation evidencing beneficiary's extraordinary ability (note: this is tailored for each applicant; please consult an attorney for a personalized checklist).
- Recommendation letters
- Payroll paycheck stubs for the last two pay periods\*
- Resume or curriculum vitae

\*If inside the U.S. and applying for an extension

## KEY EMPLOYER TAKEAWAYS

- ❗ The O-2 visa, sometimes referred to as the “entourage visa,” allows O-1 holders to have managers, assistants and other aides travel with them.
- ❗ Premium processing is available for this visa category.
- ❗ Dependents may accompany the O-1 holder. They aren't authorized to work, but can study.

# P VISAS



P visas are a rare category used for internationally known athletes and entertainers.

This section will cover:

- 1 **P-1A: Internationally Recognized Athlete**
- 2 **P-3: Artist or Entertainer Coming to Be Part of a Culturally Unique Program**

## P-1A INTERNATIONALLY RECOGNIZED ATHLETE


### Who's Eligible

The P-1A visa category is designed for athletes to **perform at a specific event or competition** as part of a group or individually.

- ▶ The beneficiary coming to the U.S. must have achieved significant and international recognition in the sport.
- ▶ The event must be distinguished and require the participation of athletic teams of international recognition.


### Validity Period

#### Individual Athlete



INITIAL STAY

**5 years**



RENEWALS


**Limited extensions granted**



TOTAL STAY

**10 years**

#### Athletic Group



INITIAL STAY


**1 year**



RENEWALS

Extensions granted

**At USCIS discretion**



TOTAL STAY

**Varies**

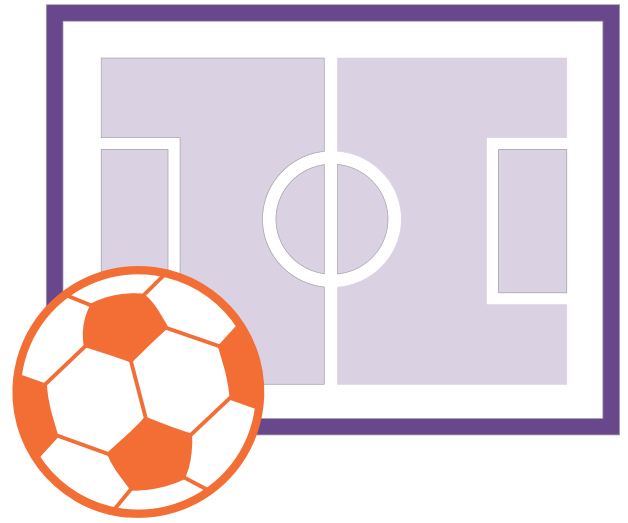
## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Petition filing fee: \$460**

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the P-1A petitions, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days**.



## Dependents

Employees may be accompanied by their spouses and unmarried children 21 years and under with a P-4 nonimmigrant dependent visa classification. Dependents aren't authorized to work in the U.S., but they may study.



## Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Detailed job description

## Employee Document Checklist

- Documentation evidencing beneficiary's contract with major U.S. sports league or team
- Passport
- All previous Form I-797 Approval Notices, if any
- Form I-94\* Arrival/Departure Record
- Any other evidence about the athlete's international recognition

\*If inside the U.S. and applying for an extension or P-1 transfer



## KEY EMPLOYER TAKEAWAYS

- ❗ Essential support personnel of the athlete may also travel under this visa to perform support services that cannot be readily performed by a U.S. worker, including coaches, scouts, trainers, broadcasters, referees, linesmen, umpires, and interpreters.
- ❗ Length of stay is determined by the main visa holder, up to 10 years.
- ❗ Spouses and unmarried children 21 years of age and under may apply for P-4 dependent visas. Dependents aren't authorized to work in the U.S., but they may study.

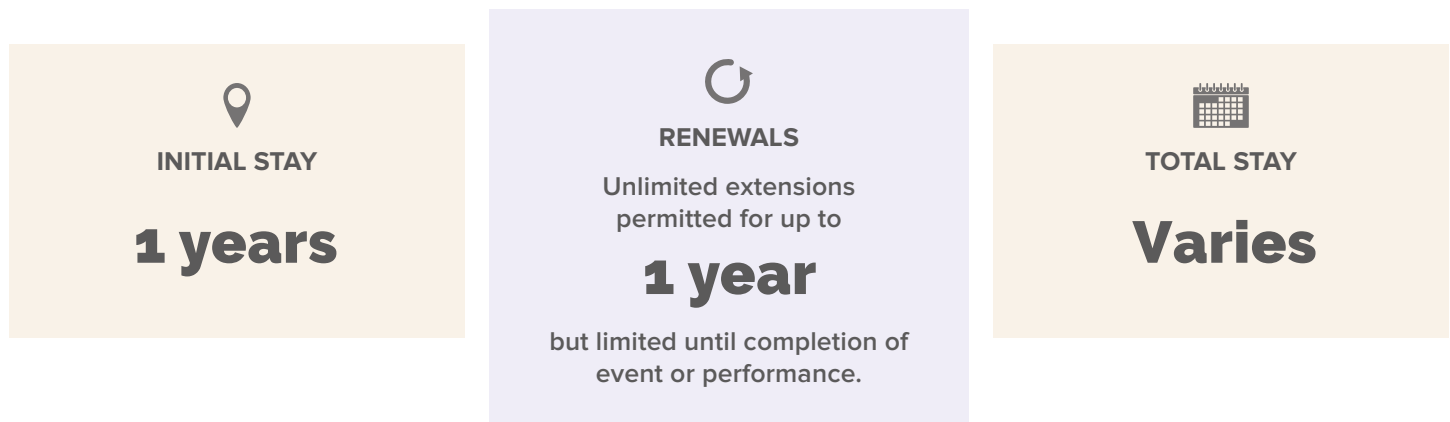
## P-3: ARTIST OR ENTERTAINER COMING TO BE PART OF A CULTURALLY UNIQUE PROGRAM

### Who's Eligible

For a P-3 visa, the petitioner must be coming to the U.S. either individually or as a group for the purpose of developing, coaching or teaching a unique cultural program, such as a traditional ethnic, folk, cultural, musical, theatrical or artistic performance or presentation.



## Validity Period



## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Petition filing fee: \$460**

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the P-3 petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days**.

## Dependents

Employees may be accompanied by their spouses and unmarried children 21 years and under with a P-4 nonimmigrant dependent visa classification. Dependents cannot work, but they are able to study.

## Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Evidence that it's a culturally unique program
- Copy of signed contract between petitioner and beneficiary
- Written consultation from appropriate labor organization, if applicable
- Explanation of event and itinerary

## Employee Document Checklist

- Documentation evidencing beneficiary's talent and artistry
- Passport
- All previous Form I-797 Approval Notices, if any
- Form I-94\*

\*If inside the U.S. and applying for an extension or transfer



## KEY EMPLOYER TAKEAWAYS

- ❗ Must be an art form that is unique to the artist's culture in his or her home country.
- ❗ An itinerary must be submitted if the events or performances will take place in multiple areas.
- ❗ Dependents may accompany the P-3 visa holder under the P-4 classification.

# TN VISA



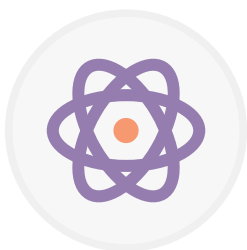
The TN visa is a special classification for citizens of **Canada and Mexico** as part of the U.S.–Mexico–Canada Agreement (USMCA), formerly known as the North American Free Trade Agreement (NAFTA).

## TN: NORTH AMERICAN FREE TRADE PROFESSIONALS

### Who's Eligible

**Citizens from Mexico and Canada in the following professions:**

Accountant, engineer, scientist, medical/healthcare professional, architect, lawyer, teacher, economist, social worker, mathematician, psychologist, computer systems analyst, industrial designer and more. A full list of NAFTA-designated professions can be found here: <https://resources.envoyglobal.com/temporary-work-visas/what-is-the-tn-visa>





## Validity Period



## Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

## Government Fees

**Consular filing fee: \$160**

**USCIS petition filing fee: \$460**, only necessary if the foreign national is inside the U.S. and switches to a TN visa from another visa status. TN visas only need USCIS approval in this rare situation.

**Premium processing:** Employers can pay the **\$2,500 premium processing fee** when available and USCIS will adjudicate the TN petition, meaning they are required to approve, issue a Request for Evidence (RFE) or deny the visa petition **within 15 calendar days**.

## Dependents

**Employees may be accompanied by their spouses and unmarried children 21 years and under** with a TD nonimmigrant dependent visa classification. Dependents do not have to be citizens of Canada or Mexico to be eligible for TD status. Dependents are not authorized to work, but they are allowed to study.



## Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Copy of company letterhead
- Employment contract
- Detailed job description

## Employee Document Checklist

- Visa stamp, if any
- Diploma
- Form I-94\* Arrival/Departure Record
- Transcripts/marksheets
- Digital photo for DS-160, the Electronic Consular Application
  - ▶ Only for Mexicans applying at an embassy or consulate
- Resume or curriculum vitae
- Education evaluation, if it's not a Mexican, Canadian or U.S. degree
- Passport
- All Previous Form I-797 Approval Notices, if any

\*If inside the U.S. and applying for an extension or transfer

## KEY EMPLOYER TAKEAWAYS

- ! Only citizens of Mexico and Canada qualify.
- ! Limited types of professions qualify for the TN visa.
- ! Contact an attorney if the position becomes long-term or permanent to discuss your options.

# EMPLOYMENT-BASED GREEN CARDS



Employment-based (EB) green cards are a valuable tool to attract and retain foreign talent, allowing U.S.-based companies to maximize their competitive edge and promote national economic growth. For a comprehensive look at the green card process, read our ABCs of Green Cards guide.

This guide covers the most common employment-based green card categories, including:

- 1 **EB-1: Priority Workers**
- 2 **EB-2: Advanced Workers**
- 3 **EB-3: Skilled or Other Workers**

# WHAT IS A GREEN CARD?

A green card is officially known as a Permanent Resident Card. By having a green card, individuals are allowed to live and work permanently in the U.S.

Individuals who have a green card are also referred to as Lawful Permanent Residents (LPR).



# BENEFITS OF A GREEN CARD

In addition to being able to permanently live and work in the U.S., lawful permanent residents enjoy many other benefits.

These include:

- Eventual ability to pursue U.S. citizenship after meeting the legal requirement
- Additional legal rights
- Can collect Social Security after a period of time
- Can sponsor certain relatives for their own green card

## Types of Employment-based Green Cards

There are three types of employment-based (EB) green cards.

- 1 EB-1: Priority Workers**
- 2 EB-2: Advanced Workers**
- 3 EB-3: Skilled or Other Workers**

# EB-1: PRIORITY WORKERS

## Who's Eligible

- 1 Workers of extraordinary ability
  - ▶ These are individuals with extraordinary expertise in the **sciences, arts, education, business or athletics**. The beneficiary must be nationally or internationally known for their achievements.
- 2 Outstanding university professors or researchers
  - ▶ Higher learning educators held in high esteem in the international academic community for their achievements.
  - ▶ Accomplished researchers in private companies that employ at least three full-time researchers.
- 3 Executives or managers of multinational companies
  - ▶ Foreign nationals must be employed for at least one year in the three years preceding the petition.
  - ▶ The U.S. petitioner must have been doing business for at least one year, have a qualifying relationship to the entity the foreign national worked for outside the U.S. and intend to employ the beneficiary in a managerial or executive capacity in the U.S.




### DID YOU KNOW?

The EB-1 green card is one of the more desirable options. It does not require companies to complete the **PERM labor certification process**, which can often be a complex and time-intensive process.




## Validity Period



INITIAL STAY


**Indefinite**



RENEWALS

The physical green card typically needs to be renewed

**Every 10 years**



**Special Note**

A green card holder is eligible to apply for citizenship after five years, assuming he/she is not married to a U.S. citizen.

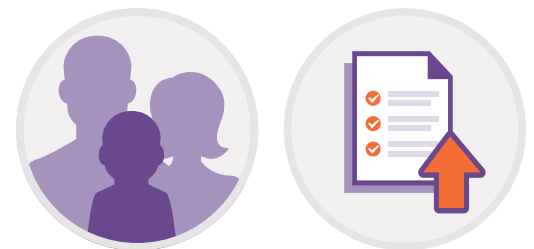
## Government Fees

**Application filing fee for I-140: \$700**

**Application filing fee for I-485 (for applicants age 14 years old or older): \$1,225**

**Premium processing:** Expedited application processing is **only available for the extraordinary ability and outstanding researcher EB-1 green card** category. It's not generally available for EB-1 multinational manager or executives.

Employers can pay the **\$2,500 premium processing fee** and USCIS will adjudicate the EB-1 petition **within 15 calendar days**. This means USCIS will either approve, issue a request for evidence (RFE) or deny the petition **within 15 calendar days**.



## Dependents

Individuals may concurrently file green card applications for their spouse and unmarried child/children (typically under 21 years of age), along with their green card application. While the green card applications are pending, any dependent may apply for work and travel authorization.

## Employer Document Checklist

- Job description
- Copy of company letterhead
- Financial statements or annual report
- Catalogs, brochures or other types of marketing literature
- Evidence of qualifying relationship between the U.S. entity and foreign entity for multinational manager or executive petitions.

## Employee Document Checklist

- Hard copy of passport photos
- Form I-94
- Passport
- Visa stamp
- All previous Form I-797 Approval Notices
- Documentation evidencing beneficiary's extraordinary ability or managerial duties
- Payroll paycheck stubs for the last two pay periods
- Resume or curriculum vitae
- Diplomas and/or professional certifications
- Written confirmation of work experience and skills obtained with past employers
- Form I-693, Medical Exam
- W-2
- Birth certificate
- Marriage or divorce certificate\*
- Military record\*
- Criminal record\*
- Most recent federal income tax return

\*If applicable

**!** Since supporting documentation for green cards can vary widely, consult an attorney for a personalized checklist.



## KEY EMPLOYER TAKEAWAYS

- !** EB-1 green cards require a very specific candidate whose achievements are nationally and internationally renowned, so qualifying candidates are rare.
- !** Most green card holders are eligible for citizenship after five years.

# EB-2: ADVANCED WORKERS

## Who's Eligible

- 1 Professionals who hold advanced degrees
  - ▶ Example: master's degrees OR bachelor's degrees and five years of post-bachelor's work experience
- 2 Foreign nationals with exceptional ability in the **sciences, arts or business**
- 3 Professionals whose work benefits the national interest of the U.S.




### SPECIAL NOTE

The PERM process is designed to test the labor market to ensure there are no ready, willing and able U.S. workers who could qualify for the job offer.


# EB-2 - ADVANCED WORKERS

## Validity Period



INITIAL STAY


**Indefinite**



RENEWALS

The physical green card typically needs to be renewed

**Every 10 years**



**Special Note**

A green card holder is eligible to apply for citizenship after five years.

## Government Fees

**Application filing fee for I-140: \$700**

**Application filing fee for I-485 (for applicants age 14 years old or older): \$1,225**

**Premium processing:** This service is available for one stage of the EB-2 green card application process that is filing Form I-140. However, it's not available for other portions of the application, including the PERM labor certification process.

Employers can pay the **\$2,500 premium processing fee** and UCIS will adjudicate the EB-2 petition. This means USCIS will approve, issue an RFE or deny the petition **within 15 calendar days**.



## Dependents

Individuals may concurrently file green card applications for their spouse and unmarried child/children (typically under 21 years of age), along with their green card application. While the green card applications are pending, any dependent may apply for work and travel authorization.

# EB-2 - ADVANCED WORKERS

## Employer Document Checklist

- Job description
- Copy of company letterhead
- Financial statements or annual report

## Employee Document Checklist

- Hard copy passport photos
- Form I-94
- Passport
- Visa stamp
- All previous Form I-797 Approval Notices
- Payroll paycheck stubs for the last two pay periods
- Resume or curriculum vitae
- Diplomas and/or professional certifications
- Transcripts or marksheets
- Education evaluation, if the degree or diploma is not from the U.S.
- Written confirmation of work experience and skills obtained with past employer(s)
- Form I-693, Medical Exam
- W-2
- Birth certificate
- Marriage or divorce certificate\*
- Military record\*
- Criminal record\*
- Most recent federal income tax return

\*If applicable

**!** Since supporting documentation for green cards can vary widely, consult an attorney for a personalized checklist.



## KEY EMPLOYER TAKEAWAYS

- !** Most EB-2 green cards require the employer to undergo a mandatory recruitment process to ensure there are no ready, willing and able U.S. workers who are qualified for the position.
- !** When describing the job, as part of the labor certification process, employers must clearly articulate the minimum requirements for the position as holding a master's or bachelor's degree, plus five years of progressive experience.

# EB-3: SKILLED OR OTHER WORKERS

## Who's Eligible

- 1 Professionals with a bachelor's degree or foreign equivalent who are filling a role that requires a college degree. Examples include: **teachers, architects and engineers.**
- 2 Skilled workers include foreign nationals with at least two years of training or work experience who may or may not hold a college degree.
- 3 Other or unskilled workers are those filling a job that requires less than two years of training or experience. Examples include: **nannies, housekeepers, groundskeepers and nurse's aides.**




### SPECIAL NOTE

The EB-3 casts the widest net in terms of who qualifies. As a result, it has the largest processing backlog. Additionally, the PERM labor certification process is required to complete the application.



# EB-3 - SKILLED OR OTHER WORKERS

## Validity Period



INITIAL STAY


**Indefinite**



RENEWALS

A physical green card typically needs to be renewed

**Every 10 years**



**Special Note**

A green card holder is eligible to apply for citizenship after five years.

## Government Fees

**Application filing fee for I-140: \$700**

**Application filing fee for I-485 (for applicants age 14 years old or older): \$1,225**

**Premium processing:** This service is available for one stage of the EB-3 green card application process, filing Form I-140 Immigrant Petition for Alien Worker. However, it's not available for other portions of the application, including the PERM labor certification process.

Employers can pay the **\$2,500 premium processing fee** and USCIS will adjudicate the EB-3 petition. They will approve, issue an RFE or deny the visa petition **within 15 calendar days**.



## Dependents

Individuals may concurrently file the green card applications for their spouse and unmarried minor children along with their green card application. While the green card applications are pending, any dependent may apply for work and travel authorization.

# EB-3 EMPLOYMENT-BASED GREEN CARDS

## Employer Document Checklist

- Job description
- Copy of company letterhead
- Financial statements or annual report
- Catalogs, brochures, or other types of marketing literature

## Employee Document Checklist

- Hard copy passport photos
- Form I-94
- Passport
- Visa stamp
- All previous Form I-797 Approval Notices
- Payroll paycheck stubs for the last two pay periods
- Resume or curriculum vitae
- Diplomas and/or professional certifications
- Transcripts or Mark sheets
- Education evaluation, if the degree or diploma is not from the U.S.
- Written confirmation of work experience and skills obtained with past employer(s)
- Form I-693, Medical Exam
- Birth certificate
- Marriage or divorce certificate\*
- Military record\*
- Criminal record\*
- Most recent federal income tax return

\*If applicable



## KEY EMPLOYER TAKEAWAYS

- ! The EB-3 is the most common employment-based green card category. As such, it's in higher demand than the EB-1 or EB-2. Due to demand, there may be a lengthy average approval waiting period that can vary because of per-country allotments.
- ! An EB-3 green card requires the employer to undergo mandatory recruitment to ensure there are no ready, willing and able U.S. workers who are qualified for the position.
- ! The green card holder may be eligible to apply for citizenship after five years.
- ! Since supporting documentation for green cards can vary widely, please consult an attorney for a personalized checklist.



**855-840-8046**



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