



**E2**

**Customer Guide**

# I Am an Employer

## How Do I... Sponsor an Employee for U.S. Permanent Resident Status?



U.S. Citizenship  
and Immigration  
Services

M-583 (August 2008)

As an employer (or prospective employer), if you want to sponsor a foreign national to become a permanent resident based on a permanent job offer, you and the foreign national need to go through a multi-step process.

In most cases, the process begins when the employer obtains an approved **Labor Certification Application (LCA)** from the U.S. Department of Labor (DOL). After the LCA has been approved by the DOL, the employer continues the process by filing **Form I-140, Immigrant Petition for Alien Worker**, on behalf of the foreign national with U.S. Citizenship and Immigration Services (USCIS). If prior DOL certification is not required, the sponsoring process will start when you file a Form I-140 with USCIS. Form I-140 is available on our website at [www.uscis.gov](http://www.uscis.gov). Sometimes, as discussed below, the foreign national can combine the Form I-140 with a permanent resident application. For information on all of the filing requirements and fees for a labor certification request with DOL, please visit that agency's website at [www.dol.gov](http://www.dol.gov).

### Which employees may I file for?

A U.S. employer may sponsor a prospective or current foreign national employee who is inside or outside the United States and who may qualify under one or more of the employment-based (EB) immigrant visa categories. The EB visa categories are divided into several preference categories. These EB visa categories are organized by occupational priorities as mandated by Congress. The first four of these EB visa categories are available to otherwise eligible foreign nationals sponsored by U.S. employers:

#### EB-1 – Priority Workers

- Aliens with extraordinary ability in the sciences, arts, education, business, or athletics;
- Outstanding professors and researchers;
- Multinational executives and managers.

#### EB-2 – Professionals With Advanced Degrees or Persons With Exceptional Ability

- Aliens who, because of their exceptional ability in the sciences, arts, or business, will substantially benefit the national economy, cultural, or educational interests or welfare of the United States;

- Aliens who are members of professions holding advanced degrees or the equivalent.

#### EB-3 – Professional or Skilled Workers

- Professionals with a baccalaureate degree;
- Aliens capable of performing skilled labor (requiring at least 2 years of training or experience) for which qualified workers are not available in the United States;
- Aliens capable of performing unskilled labor for which qualified workers are not available in the United States.

#### EB-4 – Special Immigrants

- Religious workers;
- Panama Canal Company Employees, Canal Zone Government Employees, or U.S. Government in Canal Zone Employees;
- Certain physicians;
- Certain others.

### What does the petition do for my employee?

Filing a petition shows that you have the intent to hire the employee upon the approval of the petition. By proving that you will have an employer-employee relationship and that the employee has the necessary qualifications for the job, you provide the employee with a place in line among others waiting to immigrate based on the same kind of EB visa category. When the foreign national employee reaches the head of the line, he or she may be eligible to apply to immigrate to the United States.

The foreign national's place in line, known as a "priority date," will be based on the date you file the labor certification with DOL or, if a labor certification is not required, the date your petition is filed with USCIS. For this reason, there is an advantage to filing as soon as you are certain that you wish to permanently employ the foreign national.

### How do I file for a current or prospective employee?

You need to determine if the prospective or current employee meets the criteria of one of the four preference categories shown above.

For further information regarding these categories, please call Customer Service at **1-800-357-2099**. Then, the process begins as follows:

- For category EB-1, file a Form I-140 with USCIS.
- For categories EB-2 and EB-3, first file a labor certification with the Department of Labor (DOL). Then with the approved labor certification, file a Form I-140 with USCIS. Note that, for category EB-2, the requirement for labor certification has been waived for foreign nationals who qualify for a national interest waiver.
- For category EB-4, file a **Form I-360**, *Petition for Amerasian, Widow(er), or Special Immigrant*, with USCIS.

### After I file, how long will it take before the foreign national can immigrate?

The combination of high demand and the limits set by law on how many people can immigrate each year under each category and from a particular country affects the waiting time. For some foreign nationals there may be no waiting period, while others may have a significant waiting period.

Generally speaking, if a foreign national entered the United States legally and is presently in the United States (and meets certain other requirements), he or she may be able to file an application to adjust to permanent resident status if the employment-based immigrant visa category for that foreign national is currently available.

For other foreign nationals who are on the visa waiting list, once the foreign national reaches the "front of the line," the U.S. Department of State will contact and invite him or her to apply for an immigrant visa. If you are interested in the current waiting periods for visa numbers, see "Visa Bulletins" on the State Department's website at [www.travel.state.gov/visa](http://www.travel.state.gov/visa).

### What about the foreign national's family?

In most cases, when the foreign national's place in line is reached and he or she applies to immigrate, the foreign national's spouse and unmarried children under 21 can apply as dependents.

**For example:** You file a petition on behalf of a prospective employee. You cannot directly petition for the employee's spouse and children. However, the employee's spouse and children can apply for immigrant visas (or adjustment of status) at the same time as your prospective employee when the prospective employee reaches the front of the line.

### What happens after I file a petition on behalf of a current or prospective employee?

If you file by mail, we will mail you a receipt to inform you that we have received your petition. If your petition is incomplete, not signed, or filled with incorrect fees, we may have to reject it, or ask you for more evidence or information, which will delay processing. **Please send all required documents the first time to avoid delay.**

We will notify you when we make a decision. Normally, when we approve the petition, we will send it to the U.S. Department of State's National Visa Center (NVC). Once the foreign national reaches the front of the line for a visa number, the NVC will notify you and the foreign national, inviting him or her and the qualifying dependents to apply for immigrant visas. You can get more information about immigrant visa processing from the State Department's website at [www.state.gov](http://www.state.gov).

### How long will it take USCIS to process my petition?

Processing times depend on a number of factors. You can check out current processing times on our website. Once you file a petition, we will post an updated estimate of the processing time on the USCIS website.

### Where can I find more information about this process?

For information on all filing requirements and fees for a labor certification request with the Department of Labor, please visit that agency's website at [www.dol.gov](http://www.dol.gov).

For specific information regarding each category or qualifying occupation, please refer to our website at [www.uscis.gov](http://www.uscis.gov), or call Customer Service at **1-800-357-2099**.

## Key Information

Key USCIS forms referenced in this guide	Form #
Immigrant Petition for Alien Worker	I-140
Petition for Amerasian, Widow(er), or Special Immigrant	I-360

### USCIS

- **On the Internet at:** [www.uscis.gov](http://www.uscis.gov)

For more copies of this guide, or information about other citizenship and immigration services, please visit our website. You can also download forms, e-file some applications, check the status of an application, and more. It's a great place to start!

If you don't have Internet access at home or work, try your local library. If you cannot find what you need, please call Customer Service.

- **Customer Service: 1-800-375-5283 or**
- **Employment-based Visa Questions: 1-800-357-2099**
- **Hearing Impaired TDD Customer Service: 1-800-767-1833**

### Other U.S. Government Services—Click or Call

General Information	<a href="http://www.usagov.gov">www.usagov.gov</a>	1-800-333-4636
New Immigrants	<a href="http://www.welcometoUSA.gov">www.welcometoUSA.gov</a>	
U.S. Dept. of State	<a href="http://www.state.gov">www.state.gov</a>	1-202-647-6575
	<a href="http://www.travel.state.gov/visa">www.travel.state.gov/visa</a>	
U.S. Dept of Labor	<a href="http://www.dol.gov">www.dol.gov</a>	1-877-872-5627

**Disclaimer:** This guide provides basic information to help you become generally familiar with our rules and procedures. For more information, or the law and regulations, please visit our website. Immigration law can be complex, and it is impossible to describe every aspect of every process. You may wish to be represented by a licensed attorney or by a nonprofit agency accredited by the Board of Immigration Appeals.