

Immigrant Visa: Petitioning for an Employment-based Immigrant Visa

Background

Noncitizens, except those classified as having extraordinary ability, must be sponsored before they can apply for an immigrant visa.

One way for a noncitizen to be sponsored is for an employer to submit a petition on behalf of the noncitizen to the United States Citizenship and Immigration Services (USCIS) for an employment-based immigrant visa.

To be eligible for such a visa, the noncitizen must belong to one of the USCIS' "preference classifications" of workers (see "Preference Classifications" below).

Refer to [Immigrant Visa \(Permanent Residency\)](#).

Preference Classifications

The USCIS preference classifications relevant to the Research Foundation (RF) are:

1. priority workers, including (a) noncitizens of extraordinary ability, (b) outstanding professors and researchers, and (c) managers and executives subject to transfer to the U.S.
2. (a) noncitizens of exceptional ability and (b) advanced degree professionals.
3. (a) professionals with bachelor's degrees not qualifying in the second preference, (b) skilled workers, and (c) unskilled workers.

For more information, refer to Immigrant Visa: Preference Classifications for an Employment-Based Immigrant Visa.

What Must Be Submitted for All Preference Classifications

To obtain an employment-based immigrant visa, the noncitizen's United States sponsor must submit to the appropriate USCIS Service Center the following items:

- [USCIS Form I-140](#), "Immigrant Petition for Alien Worker" (available from the [USCIS Web site](#)).
- Supporting documentation regarding ability to pay the noncitizen's salary.
- Supporting documentation that the noncitizen meets the job requirements.
- Additional supporting documentation. See Additional Requirements for Each Preference Classification below.
- Filing fee (for instances in which it is appropriate to request premium processing, the prospective employer should pay the \$1,000 fee).

Note: After the petition is approved the noncitizen must then submit an application for an immigrant visa.

Additional Requirements for Each Preference Classification

For each preference classification, the following table indicates whether the USCIS also requires:

- a labor certification. For more information, refer to Immigrant Visa: Obtaining a Labor Certification for an Employment-Based Immigrant Visa.
- a letter from the employer, supporting the petition, if the employer already employs the person. For more information, see Employer's Letter below.
- a job offer, if the employer does not already employ the person. For more information, see Job Offers below.
- supporting evidence. For more information, refer to Immigrant Visa: Supporting Evidence Required for Employment-Based Immigrant Visa Petitions.

Additional Requirements	What Is Required for Preference Classification:		
	1	2	3
Labor certification	Not required.	Required.	Required.
Employer's letter (if employer already employs person)	Required, except for subclassification (a), noncitizens of "extraordinary ability."	Required.	Required.
Job offer (if employer does not already employ person)	Required, except for subclassification (a), noncitizens of "extraordinary ability."	Required, unless it is waived in the national interest.	Required.
Supporting Evidence	Required for (a) noncitizens of extraordinary ability and (b) outstanding professors and researchers.	Required for (a) noncitizens of exceptional ability.	Not required.

Employer's Letter

The employer's letter must be signed by the operations manager or designee. Project directors may not sign the letter.

See Sample Letter Verifying Permanent Research Position ([HTML](#)) ([Word](#)) for a sample letter.

Job Offers

Job offers must follow the requirements of Communications with Applicants and Offers of Employment Policy.

A written job offer to be used for an employment-based visa (permanent resident) petition must address the permanency of employment. The Research Foundation cannot guarantee permanent employment due to the nature of Research Foundation funding. Operating locations may address the issue of the permanency of the employment by using the following sample wording in job offers:

1. "Although this position is funded by a grant which runs from [date] to [date], it is expected to continue for an undetermined amount of time. It has currently been funded for [no. of years/months] and there is no expectation that funding will be cut."

Guidelines for Completing Form I-140

To maintain uniformity throughout the Research Foundation, the Central Office of Employee Services recommends that operating locations complete the sections of the form listed below as indicated.

- Part 1, information about the person or organization filling this position. Company or organization: "The Research Foundation of State University of New York."
- Part 5, additional information about the employer. Type of business: "educational research." Use corporate figures for current number of employees, gross annual income, and net annual income.

Forms

The Immigrant Petition for Alien Worker (Form I-140) is downloadable from the United States Citizenship and Immigration Services. The current filing fee is listed on the USCIS Forms and Fees page.

The USCIS also provides Forms by Mail.

Feedback

Was this document clear and easy to follow? Please send your feedback to webfeedback@rfsuny.org.

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