

Immigrant Visa: Permanent Residency

Effective Date: July 1, 2005

Function: Human Resources

Contact: Vice President of Human Resources

Basis for Procedure

The immigrant visa gives noncitizens the right to live and work in the United States without time limitations. Persons holding an immigrant visa are known as permanent residents.

Generally, noncitizens seeking immigrant visas must be sponsored, either by a relative or an employer, who files a petition with the United States Citizenship and Immigration Services (USCIS) to have the noncitizen classified as a person qualified to immigrate. If the noncitizen is so classified, he or she can then apply for an immigrant visa.

Legal Counsel

The Research Foundation (RF) has retained services of Harris Beach PLLC, Attorney at Law firm to assist with all immigration issues. To learn more about the firm you may visit their website at <https://www.harrisbeach.com/>

The RF strongly recommends that noncitizens use Harris Beach PLLC to work in cooperation with the operating location in this complicated process. You can contact Leonard J. D'Arrigo, Partner directly at 518-701-2770 (ldarrigo@harrisbeach.com).

Eligibility

The two most common ways for a person to obtain an immigrant visa are through:

- close family ties to U.S. citizens or permanent residents.
 - an offer of permanent employment by an employer in the United States.
- In both cases, the noncitizen must be sponsored, either by the relative or the employer, who files a petition with the United States Citizenship and Immigration Services to have the noncitizen classified as a person qualified to immigrate. If the noncitizen is so classified, he or she can then apply for an immigrant visa. (For information on the application process for noncitizens, see When Noncitizens Apply and Application Process below.

Unless a U.S. citizen or permanent resident is petitioning for a spouse, the preliminary petition must be approved by the USCIS before the person applies for an immigrant visa. The actions cannot be taken concurrently.

Note: The Research Foundation recommends little or no involvement on the part of operating locations in the petition process unless the operating location is the petitioner for an employment-based visa.

Eligibility for Employment-Based Visas

The employment-based immigrant visa is designed to help achieve an objective of the Immigration Act of 1990 (IMMACT): the attraction to the United States of persons whose occupational skills are in short supply.

The USCIS issues a limited number of employment-based immigrant visas each year. For information on the petition procedure for the employer, see [Immigrant Visa: Petitioning for an Employment-Based Immigrant Visa](#).

Persons eligible for employment-based immigrant visas are noncitizens belonging to certain "preference classifications," of which three are relevant to Research Foundation employment:

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, see [Immigrant Visa: Preference Classifications for an Employment-Based Immigrant Visa](#).

When Noncitizens May Apply

A noncitizen is eligible to apply for an immigrant visa when the person has reached his or her "priority date."

The priority date is generally the date the sponsor's completed, signed petition and supporting documentation (including the fee) are properly filed with the USCIS.

If the sponsor is petitioning for an employment-based immigrant visa and is required to submit a labor certification, the priority date is the day the application for the labor certification is filed with the state labor department. (For information about labor certifications, see [Immigrant Visa: Obtaining a Labor Certification for an Employment-Based Immigrant Visa](#).)

Note: The priority date does not indicate that the person has been approved for permanent residency nor does it change the person's status.

Application Process

Noncitizens Outside the U.S.

Noncitizens outside the U.S. can apply for an immigrant visa, including an employment-based immigrant visa, at the closest U.S. consulate in their native country. See [Applying at U.S. Consulate](#) below.

Noncitizens in the U.S. in Legal Status

Noncitizens who have maintained and are currently in legal nonimmigrant status in the U.S. and who wish to apply for an immigrant visa have two options:

- adjustment of status, which means applying for the immigrant visa in the United States. See ["Adjustment of Status"](#) below.

- consular processing, which means returning to their native country and applying at the closest U.S. consulate. See Applying at U.S. Consulate below.

Adjustment of Status

Noncitizens in the U.S. can obtain an immigrant visa, including an employment-based immigrant visa, by applying for adjustment from nonimmigrant to immigrant status.

The stages in the application process depend on the local USCIS district office that has jurisdiction over the noncitizen's place of residence. For example:

- Some districts require the noncitizen to obtain a medical exam (by a physician authorized by the USCIS) before filing the application.
- A few districts offer a streamlined process, in which the noncitizen simultaneously submits the documentation, pays the fee, and has an interview with an USCIS officer; the USCIS then notifies the noncitizen regarding approval or disapproval within about 90 days. Noncitizens should check with the appropriate USCIS office to determine the details of the process in their jurisdiction.

The following table describes one common process for how an eligible noncitizen in the U.S. applies for an immigrant visa, assuming that the petition submitted by the noncitizen's sponsor has been approved by USCIS:

Stage	Description
1	Noncitizen submits necessary form and supporting documents to the local USCIS district office having jurisdiction over the nonresident's place of residence.
2	USCIS district office schedules final interview and notifies the noncitizen.
3	At the time of the interview, the USCIS officer reviews the noncitizen's documents and grants or denies the visa application.
4	If the visa is approved, the USCIS officer issues the visa in the form of a stamp in the noncitizen's passport. The laminated alien registration receipt card or "green card" will be sent by USCIS to the person's home address within six months.

Applying at U.S. Consulate

An eligible noncitizen outside the U.S. can apply for an immigrant visa, including an employment-based immigrant visa, at a U.S. consulate in his or her native country, assuming that the petition submitted by the noncitizen's sponsor has been approved by USCIS.

In the first stage of the application process, USCIS sends the approved petition to the Department of State's Transitional Visa Processing Center, which then forwards the approved petition to the designated consulate and sends the application form and instructions to the noncitizen. Once the noncitizen informs the consular office that all of the necessary documents are available, the consular office schedules the interview.

At the interview, the consular office reviews the applicant's documents and grants or denies the visa application.

If the visa is approved, the noncitizen must enter the U.S. within four months, at which time the official at the port of entry issues an immigrant visa in the form of a stamp in the noncitizen's passport. The laminated alien registration receipt card or "green card" will be sent by USCIS to the person's home address within six months.

Employing an Immigrant Visa Holder

For the purposes of employment and taxation, immigrant visa holders — i.e., permanent residents, but not persons with conditional permanent residency status — are considered the same as U.S. citizens.

Definitions

None

Related Information

None

Forms

None

Change History

Date	Summary of Change
December 9, 2022	Updated to reflect the recommended immigration attorney, Harris Beach PLLC's contact information; and updated with the new template format.
July 1, 2015	Updated Fragomen & WOH contact information.
December 1, 2009	Updated Fragomen contact information.
July 24, 2006	Updated U.S. Immigration and Naturalization Service (INS) to United States Citizenship and Immigration Services (USCIS).
July 5, 2005	Added Legal Counsel resource for permanent residency applications that involve labor certifications.

Feedback

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