

QUICK FACTS ON THE U.S. IMMIGRATION SYSTEM

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Immigration is a Federal practice, which means attorneys who practice immigration law can do so in all 50 States.

Definitions:

- Immigrant v. nonimmigrant:
 - Immigrant is someone seeking to permanently stay in the U.S.
 - Nonimmigrant is someone who is here temporarily for a set period of time
- The word “Immigrant” may be used interchangeably with “Lawful Permanent Resident”, “Green Card Holder” and “Permanent Resident”

Agencies:

- U.S. Department of State – Issues the visas
- U.S. Department of Labor (DOL) – Determines whether pay is sufficient and whether there are no U.S. workers to do the job
- U.S. Department of Homeland Security (DHS)
 - U.S. Citizenship and Immigration Services (USCIS) (formerly INS) - Decides the status of the alien
 - U.S. Customs and Border Protection (CBP) – Protects and inspects the border and monitors travel and trade
 - U.S. Immigration and Customs Enforcement (ICE) – Investigates and acts as police force for DHS

Family, Employment and Other:

- Both family and employment are subject to a worldwide cap
- Family
 - Marriage
 - Immediate relative – child, mother, father
 - Other relative – brother, sister
- Employment – divided into Employment-Based categories
 - EB-1 – Extraordinary ability, Outstanding researchers and professors and Multinational managers or executives
 - EB-2 – Advanced degree, Exceptional ability and National Interest Waiver
 - EB-3 – Skilled worker, Professionals and Unskilled workers
 - EB-4 - Religious ministers and workers, Broadcasters, Iraqi/Afghan translators, Iraqis who have assisted U.S., International organization employees, Physicians, Armed Forces members, Panama Canal Zone employees, Retired NATO-6 employees, Spouses and children of deceased NATO-6 employees
 - EB-5 – Investors for New Commercial Enterprise, Troubled Businesses and Regional Centers
- Other – Refugee and Asylum
- Waiting times vary due to backlog, processing times, etc.

Common Non-Immigrant Visas:

- E-1 – substantial trader of goods, etc., only those countries that have treaty with U.S., no labor certificate required
- E-2 – substantial investor, only those countries that have treaty with U.S., no labor certificate required
- H-1B - need bachelor's degree, most flexible, subject to cap unless fall under exceptions
- H-2A - agricultural, temporary or seasonal nature, labor certificate required
- H-2B - non-agricultural, temporary or seasonal, subject to cap, labor certificate required
- TN - Canada and Mexico citizens, need bachelor's degree in most instances
- L-1 - international transfer of employees, managers and specialists

Individuals

- Keep a good record of all your immigration paperwork
- Consult an attorney when necessary to apply for or renew your status (immigration is very confusing and very subjective)
- Timeframes change constantly, so someone else's experience may be different from yours
- Individual results vary, so do not compare your situation to anyone else's

Employers

- Begin the immigration process EARLY, so you do not lose time with a critical foreign worker
- Maintain the I-9 Forms for all your workers and in accordance with the regulations
- Consult an attorney when necessary to apply for or renew your worker's status (submission of the application in the right order and with the proper documentation can be crucial to your business)

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