

## How to Get an Employer Sponsored Green Card: Step-by-Step Guide

As a working professional, you may qualify for a green card by receiving a job offer from a United States employer. This can be one of the best ways to get your green card. The process is straightforward and can be completed quickly. Also, unlike other immigrant categories, which initially grant 2-year conditional green card status, once you are approved for an employer sponsored green card, you are eligible to receive a full 10-year green card.

In this guide, I'll discuss everything you need to know about getting an employer sponsored green card.

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## **1. What is an Employer Sponsored Green Card?**

The United States has many different ways for a foreign national to become a permanent resident (green card holder). Some options require you to make an investment in a United States business. Some options are available if you have immediate family members who are US citizens or if you marry a US citizen. Other options are available for people who have a United States company that is willing to sponsor their green card through a job offer, this is called an employer sponsored green card.

To get an employer sponsored green card, a United States company (your employer) will file various immigration forms with the United States Citizenship and Immigration Services (USCIS) on your behalf. Your employer is considered the petitioner (the party filing the immigrant petition with USCIS) and you are the beneficiary (the party directly receiving immigration benefits).

Based on the actions your employer takes on your behalf, they are considered your sponsor.

## **2. What are the Benefits of an Employer Sponsored Green Card?**

- Ability to live and work in the United States.
- Your spouse and unmarried children under 21 years old also qualify for their green cards (as your dependents).
- Direct route to 10-year green card (no 2-year “conditional” green card).
- Lower standards for approval compared to EB1A “extraordinary ability” and National Interest Waiver standards.
- No investment required.
- Eligible to naturalize to become a US citizen after 5 years.

### **3. What is the Process of Getting an Employer Sponsored Green Card?**

Getting an employer sponsored green card is a 3-step process. First, your employer is required to get an approved Labor Certification from the United States Department of Labor (DOL). Second, your employer must file an immigrant petition on your behalf (Form I-140). Third, you are required to either adjust status (Form I-485) **or** apply for your immigrant visa (Form DS-260). Let's now discuss each of these steps in more detail.

#### **Labor Certification**

- The first step in the process of getting a green card through employer sponsorship is for your employer to get an approved labor certification from the United States Department of Labor (DOL). This process is also referred to as PERM.
- The immigration laws seek to protect the interests, wages, and working conditions of the US workforce. Therefore, before you immigrate to the US, the DOL must certify that there is a shortage of qualified workers.
- This process requires your employer to test the US labor market to see if there are any qualified US workers to fill the position that they are offering to you.
- Your employer must make good-faith efforts to hire a qualified US worker by advertising the job opportunity that is available and by considering the qualifications of all US applicants.
- Your employer must also get a prevailing wage determination from the National Prevailing Wage Center by filing a Form ETA 9141.
- Your employer must file an Application for Permanent Labor Certification with the Department of Labor (ETA Form 9089).

## Immigrant Petition

- Once your employer has an approved labor certification application, you can proceed with the next step in the process, which is to file the

immigrant visa petition with the United States Citizenship and Immigration Services (USCIS).

- Employer sponsored green cards fall under 2 visa categories: **EB-2** and **EB-3**. The appropriate category will depend on the job requirements and the individual credentials of the beneficiary.
- **EB-2:** This category is generally appropriate if the position requires an advanced degree. An advanced degree is a US degree (or foreign equivalent) which is higher than a baccalaureate degree.
- **EB-3:** This category is generally appropriate if the position requires a professional, skilled worker, or unskilled worker. A “professional” generally holds at least a US baccalaureate degree or a foreign equivalent. A “skilled worker” is someone who is capable of performing skilled labor (labor that requires at least 2 years of experience or training). An “unskilled worker” is someone who is capable of performing unskilled labor (labor that requires less than 2 years of experience or training).
- The immigrant petition (Form I-140) is filed by your employer. The form is sent to USCIS along with all supporting documentation.

## **Adjustment of Status or Immigrant Visa Processing**

- Once the immigrant visa petition is approved by USCIS, the next step is to either adjust status or to apply for your immigrant visa.
- **Adjustment of Status:** An adjustment of status is the process of converting whatever status you currently have to permanent resident

status. In order to do an adjustment of status, you must file a Form I-485 with USCIS. The entire process is handled within the United States. To adjust status, you must be physically present within the United States. In many cases, your adjustment of status application can be filed at the same time as your immigrant visa petition. By concurrently filing both forms, you can significantly reduce the overall processing time.

- **Immigrant Visa Processing:** Immigrant visa processing, also called “consular processing,” is the process of obtaining an immigrant visa at a US consulate or embassy abroad. To get your immigrant visa, you must electronically file a Form DS-260. You will also be required to attend an immigrant visa interview at the US consulate or embassy of your home country. Upon successful completion of the interview, an immigrant visa should be issued to you within a week. Immigrant visa processing is typically done if you are not physically present in the United States and are therefore ineligible to adjust status.

#### **4. What are the Requirements to Get an Employer Sponsored Green Card?**

##### **Employer Requirements**

###### **1. United States Employer**

- Your employer must be based in the United States.
- The position offered must be based in the United States.

## **2. Permanent Full-Time Position**

- The position offered must be a permanent, full-time position.
- Full-time means at least 35 hours per week.
- Permanent means that the position should be for an indefinite duration. Temporary positions do not qualify.

## **3. Bona Fide Job Opportunity**

- The position being offered must be considered a bona-fide job opportunity.
- With respect to this requirement, the DOL is seeking to determine that the job opportunity is an actual position that the employer is seeking to fill (rather than a way to obtain immigration benefits for a foreign national).

## **4. Employer Attestations**

- On the labor certification application, the employer is required to make a number of attestations under penalty of perjury.

- These attestations include some of the following: 1) that the position is for full-time permanent employment; 2) that the job-opportunity does not involve unlawful discrimination; 3) that the position is open to any US worker; 4) that the employer will pay the foreign national the “prevailing wage” for the position; 5) that the employer has sufficient funds to pay the foreign national the prevailing wage; etc.

## **5. Good Faith Recruitment Efforts**

- The employer must make good-faith efforts to hire a qualified US worker
- These recruitment efforts include some of the following: 1) opening a job order with the appropriate State Workforce Agency (SWA) for a 30-day period; 2) publishing 2 Sunday print advertisements in a newspaper of general circulation.

## **6. Job Requirements**

- The job requirements cannot be tailored to the foreign national’s qualifications.
- The job requirements must be representative of what is customary for the profession.

- The job requirements cannot be unduly restrictive.

## 7. Prevailing Wage

- The general concept of the prevailing wage requirement is that the US immigration laws are designed to protect the interests, wages, and working conditions of US workers. Therefore, the prevailing wage requirement was designed to prevent US employers from paying foreign workers less than what a similarly qualified US worker would get paid for the position.
- The employer is required to get a prevailing wage determination for the National Prevailing Wage Center (NPWC) by filing a Form ETA 9141.
- The prevailing wage is the determination of what the minimum wage is for the position offered.
- The wage offered to the beneficiary must be equal to or higher than the prevailing wage.

## 8. Ability to Pay Prevailing Wage

- In addition to getting the prevailing wage determination and offering to pay the prevailing wage, **the employer must prove its ability to pay the prevailing wage.**

- The employer can show that it has the ability to pay the prevailing wage through: 1) tax returns for the most recent year showing net income equal to or greater than the salary offered to the beneficiary; 2) tax returns for the most recent year showing net current assets equal to or greater than the salary offered to the beneficiary; 3) the beneficiary's most recent paystub and W-2 showing that the employer has paid the beneficiary a salary equal to or greater than the prevailing wage.

## Employee Requirements

### 1. Qualification for the Job

- To qualify for an employer sponsored green card, the beneficiary must satisfy the educational and experience requirements of either the EB-2 visa category or the EB-3 visa category.
- The beneficiary must also meet the requirements for the position offered.
- **EB-2 Visa Category:** Generally requires an advanced degree.
- **EB-3 Visa Category:** Generally requires either 1) a US baccalaureate degree; 2) at least 2 years of experience or training in the field; or 3) less than 2 years of experience or training in the field.

### 2. Cannot be Inadmissible

- To get your green card through employer sponsorship, you cannot be inadmissible for immigration to the United States. There are 10 categories of reasons why someone may be inadmissible (based on health-related issues, criminal convictions, etc.). You cannot be inadmissible for any of these reasons.

### **3. Must Have Good-Faith Intent to Work for the Employer**

- While there is no minimum length of time you are required to work for your sponsoring employer, you must maintain a good-faith intention of working for your employer upon issuance of your green card.

### **5. What is the Processing Time to Get an Employer Sponsored Green Card?**

As discussed throughout this guide, there are 3 main steps to getting an employer sponsored green card. Here is a breakdown of each of the 3 main stages, along with the relevant processing time:

- Approval of Labor Certification Application
- Immigrant Petition
- Adjustment of Status or Immigrant Visa Processing

#### **Approval of Labor Certification Application**

- Once the ETA Form 9089 is filed with the Department of Labor, it should take about 2 to 3 months to process.

- If the Department of Labor audits the application, the processing time can extend to about 7 months.

## Immigrant Petition

- The immigrant petition, which the employer files with USCIS (Form I-140), takes about 5 to 8 months to process.
- **Premium Processing:**
- If a request for additional evidence (RFE) is issued, this process can be extended by another 3 to 6 months.

## Adjustment of Status or Immigrant Visa Processing

- Adjustment of status: 6 to 8 months
- Immigrant visa processing: 5 to 7 months

## Important Points

- In order to adjust status or to apply for your immigrant visa, a visa number must be available. Currently, for the EB-2 and EB-3 visa categories, visa numbers are current and available for all countries except China, India, and the Philippines.
- To check whether a visa number is available, you can check the [Visa Bulletin here](#).
- If you are eligible to adjust status, and a visa number is available for you, you may concurrently file your immigrant petition with your adjustment of status application. This can save a considerable amount

of processing time, as you will not have to wait for the immigrant petition to be approved before filing the adjustment of status application.

- From the time you file your adjustment of status application, you should receive your work authorization (EAD) and travel permission within about 3 to 4 months.

## **6. What Documents are Needed to Get an Employer Sponsored Green Card?**

**Here is a general list of some of the documents needed throughout the process of getting an employer sponsored green card:**

- Beneficiary's CV or resume
- Copies of Beneficiary's diplomas, degrees, and transcripts
- Beneficiary's work experience letters
- Beneficiary's birth certificate
- Copy of biographic page of beneficiary's passport
- Beneficiary's marriage certificate

- US employer's tax return
- Copies of the newspaper ads that were published
- Job description for US position

## 7. Conclusion

As a foreign national, there are multiple ways for you to get a US green card. Of these, one of the best options is an employer sponsored green card. For the right candidate, the process can be straightforward and relatively quick. If you have any questions regarding any of the information in this guide, or if you're interested in hiring my law firm to handle your employer sponsored green card, feel free to email me directly at [Info@immigrationlawfirmltd.com](mailto:Info@immigrationlawfirmltd.com). My team and I are highly responsive, and we would be happy to help you.