

Immigration Solutions Agriculture

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Visa Options

Nonimmigrant Visa Options

- TN
- O-1
- H-1B
- H-1B1
- L-1A or L-1B
- B-1
- J-1
- E-3
- H-2A
- H-2B
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Immigrant Visa Options

- EB-1
- EB-2
- EB-3

TN (Treaty Based Visa)

Visa Basics

- United States Canada Mexico Agreement (USCMA) carves out positions of need in United States that can be filled by Canadians or Mexicans
- Examples: Agriculturist; Animal Breeder; Animal Scientist; Apiculturist; Biochemist; Biologist; Chemist; Dairy Scientist; Entomologist; Horticulturist; Plant Breeder; Poultry Scientist; Soil Scientist; Engineers; Forester; Landscape Architect; Range Manager/Range Conservationist; Sylviculturist (including Forestry Specialist); Scientific Technician/Technologist; Veterinarian; Zoologist
- Most positions require a bachelors degree (there are a few exceptions)
- Job offer must match one of the above categories
- Can renew in 3-year increments.
- Temporary visa, but have seen instances of someone working 20+ years on TN

Procedure, Compliance, Obligations

- Canada: Take documents to border and make application with CBP
- Mexico: Schedule visa appointment at consulate or embassy. Pay fees and get visa. Use visa to enter the United States.
- There aren't really any abnormal employer obligations here. Make sure you file their I-9 and treat them like your other employees
- Spouse doesn't have option to work

F-1

Visa Basics

- Student visa
- Students can work for employers related to their field of study using:
 - CPT while they are in school
 - OPT for 1 year after graduation
 - STEM OPT for 2 more years after graduation if they have a stem degree

Procedure, Compliance, Obligations

- Position should be related to their field of study
- STEM OPT: meet with student several times to check on progress
- Work full-time
- Be e-verified for STEM OPT

J-1 Trainee or Exchange Visitor

Visa Basics

- For those receiving training or conducting research based on their field of expertise or education
- More expensive
- Must work with an exchange sponsor
- Spouse can work with Employment Authorization Document (EAD)

Procedure, Compliance, Obligations

- Department of State manages this program. Consult sponsoring agency who provide needed forms for filling out. After receiving DS-2019 from Department of State, file for visa at embassy or consulate
- There are actually quite a few rules for this program that are clearly explained by the program sponsors

H-1B

Visa Basics

- Specialty occupation visa meaning the position should require a bachelor's degree or it's equivalent and the person applying for the job should have a bachelor's degree or it's equivalent
- Good for 3 years at a time for up to 6 years maximum
- H-1B lottery runs each year in April. Employers can submit employees into the lottery. Lottery is currently cheap to register. If selected there are additional fees that depend on employer size
- Some employers are exempt from cap if nonprofit, government, or university (likely not the case for most employers)

Procedure, Compliance, Obligations

- File in cap, get selected, file petition, if approved they can start work on October 1
- Must pay wage determined by Department of Labor
- Must pay for their travel to their home country if you lay them off or fire them

H-1B1

Visa Basics

- Specialty occupation visa meaning the position should require a bachelor's degree or it's equivalent and the person applying for the job should have a bachelor's degree or it's equivalent
- Good for 1 year at a time. Must renew visa each year

Procedure, Compliance, Obligations

- File for visa at the consulate or embassy in Chile or Singapore
- Must pay wage determined by Department of Labor
- Must pay for their travel to their home country if you lay them off or fire them
- Governed by same rules as H-1B

E-3

Visa Basics

- Specialty occupation visa meaning the position should require a bachelor's degree or it's equivalent and the person applying for the job should have a bachelor's degree or it's equivalent
- Good for 2 years at a time

Procedure, Compliance, Obligations

- File for visa at the embassy or consulate in Australia or with USCIS. Get visa and enter the U.S. to work
- Must pay wage determined by Department of Labor
- Must pay for their travel to their home country if you lay them off or fire them
- Governed by similar rules as H-1B

H-2A

Visa Basics

- For low-skilled temporary Agricultural workers
- Demonstrate need for foreign workers
 - Prove the need for seasonal employees through certification process with Department of Labor
- Seasonal period (less than 9 or so months). Can be extended for up to 3 years (then they need to wait one year but then can return)
- Workers from designated countries

Procedure, Compliance, Obligations

- File Labor Certification with Department of Labor
 - Once complete, file I-129 petition with USCIS
- We don't have time to talk about all the obligations and procedures but there are rules regarding
 - Travel to job and worksites
 - Termination, no shows, abscondment, early completion of work
 - Housing
 - Must work number of hours specified in contract
 - See also: [H-2A Temporary Agricultural Program | U.S. Department of Labor \(dol.gov\)](https://www.dol.gov/eis/whd/immigration/h2a.html)

H-2B

Visa Basics

- For low-skilled temporary non-Agricultural workers
- Demonstrate need for foreign workers
 - Prove the need for seasonal employees through certification process with Department of Labor
- Temporary seasonal, peak load, or one-time need (less than 9 or 10 months). Can be extended for up to 3 years (then they need to wait one year but then can return)
- Has a cap but government usually increases
- Workers from designated countries

Procedure, Compliance, Obligations

- File Labor Certification with Department of Labor
 - Once complete, file I-129 petition with USCIS
- We don't have time to talk about all the obligations and procedures but there are rules regarding
 - Pay wage
 - Provide accurate information about details of work
 - Travel to job and worksites
 - Termination, no shows, abscondment, early completion of work
 - Housing
 - Must work number of hours specified in contract

L-1A and L-1B

Visa Basics

- L-1A enables a U.S. employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States
- L-1B enables a U.S. employer to transfer a professional employee with specialized knowledge relating to the organization's interests from one of its affiliated foreign offices to one of its offices in the United States
- Employee should be working for 1 continuous year in past 3 for employer outside of the U.S.
- 3 year initial stay
- L-1B can extend up to 5 years
- L-1A can extend up to 7 years

Procedure, Compliance, Obligations

- Have qualifying relationship with foreign company
- Be doing business in United States
- Comply with employment and labor laws and pay them the wage you specify in their visa petition
- File application with USCIS then they take petition to embassy or consulate abroad

O-1A and O-1B

Visa Basics

- Not as commonly used due to high standards
- For individuals with an extraordinary ability in the sciences, education, business, or athletics
- Must meet 3 of 9 criteria that show they have extraordinary ability
- Valid for 3 years initially
- Can be extended in 1 year increments forever

Procedure, Compliance, Obligations

- File case with USCIS
- Treat them well and comply with employment and labor laws

B-1

Visa Basics

- Good for 1 to 6 months
- Can extend to 1 year
- The purpose of your trip is to enter the United States for business of a legitimate nature

Procedure, Compliance, Obligations

- Plan to remain for a specific limited period of time
- Sufficient funds to cover the expenses of the trip and your stay in the United States
- Employee has a residence outside the United States that you have no intention of abandoning, as well as other binding ties that will ensure your return abroad at the end of the visit
- You are otherwise admissible to the United States

Thanks! Contact Information



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