As an employer, you may need to hire foreign labor when a U.S. citizen is not available. First, you will need to consider whether you intend to employ the individual permanently or temporarily. Offering an noncitizen a permanent position could provide the basis for that individual to become a permanent resident, a process which will require that the individual file an additional application and satisfy separate requirements.

Foreign workers may obtain permanent residence (a Green Card) if they are able to establish that they have unique skills, or are being offered a job in the United States that will not displace a U.S. worker or have an adverse effect on wages and working conditions of U.S. workers who are similarly employed. This latter determination is made by the Department of Labor and is demonstrated by obtaining a labor certification.

Permanent worker visas are broken into five preference categories. For a description of the preference categories, see the Permanent Workers page.

A U.S. employer who is “sponsoring” or petitioning for a permanent foreign worker may be required to obtain a labor certification from the Department of Labor (DOL) verifying that there are an insufficient number of available, qualified, and willing U.S. workers to fill the position, and that the employment will not have an adverse effect on the wages and working conditions of similarly situated U.S. workers. For more information, see the Permanent Labor Certification page.

For information on how you can obtain a Green Card, see the Green Card for Employment-Based Immigrants page

There are several temporary (nonimmigrant) categories which allow noncitizens to work in the United States. For a list of these nonimmigrant categories of temporary workers, as well as information on the petitioning process, see the Temporary Workers page.

Some nonimmigrant categories require that a U.S. employer obtain a certification of labor condition application from the Department of Labor. That application requires the employer to state (“attest”) that it will comply with the following requirements:

* The employer must pay a wage that is no less than the wage paid to similarly qualified workers or, if greater, the prevailing wage for the position in the geographic area.
* The employer must provide working conditions that will not adversely affect other similarly employed workers.
* The employer must attest that there is no strike or lockout at the place of business of the prospective temporary worker.
* The employer must give notice to the bargaining representative or post a notice at the place of business that a labor condition application has been filed with the DOL.

All U.S. employers must verify the employment eligibility and identity of all employees hired to work in the United States after Nov. 6, 1986, by completing an Employment Eligibility Verification form (Form I-9) for all employees, including U.S. citizens. Employers who hire or continue to employ individuals knowing that they are not authorized to be employed in the United States may face civil and criminal penalties.

* General employer information:  800-357-2099
* Employment Authorization
* VIBE Program
* M-274, Handbook for Employers Instructions for Completing Form I-9

Other USCIS Links

* I-9 Central
* Green Card Through a Job
* Employment Authorization Document

Non-USCIS Links

* U.S. Department of Labor: Foreign Labor
* IRS: Tax Withholding on Foreign Persons
* IRS: Taxation of Nonresident Aliens
* IRS: Taxation of Resident Aliens
* IRS: Tax Information and Responsibilities for New Immigrants to the United States