Immigrant pathways offer opportunities to work in the United States for a range of reasons on a more permanent basis. They provide lawful permanent residence (Green Card) which can eventually lead to U.S. citizenship.

The lawful permanent resident process involves at least two steps, depending on the employment-based immigrant visa classification sought.  An immigrant petition must be filed with USCIS and then, if you are in the United States and eligible, you may file an adjustment of status application with USCIS without departing the United States, or you may file an immigrant visa application with the U.S. Department of State (DOS) outside the United States and go through consular processing.

An approved immigrant visa petition secures your priority date that will determine the order of immigrant visa availability. Your priority date is generally the date the immigrant visa petition was filed on your behalf. You may only file an adjustment of status application, or request a visa through a consulate, once an immigrant visa is immediately available. If an immigrant visa is immediately available when you or your sponsoring employer files the immigrant petition with USCIS, you may file your adjustment application at the same time. You are eligible to apply for employment authorization concurrently with your adjustment application and while your adjustment application is pending.

The availability of an immigrant visa will depend on the employment-based classification being sought and the immigrant’s country of chargeability (usually the country of birth).

The USCIS webpages on Visa Availability and Priority Dates and Consular Processing provide information about the DOS Visa Bulletin process and explain how DOS allocates immigrant visas and consular processing generally.

You may be eligible for the EB-1A extraordinary ability immigrant classification if you have extraordinary ability in the sciences, arts, education, business, or athletics as demonstrated by sustained national or international acclaim and recognized achievements in the field of expertise. In addition, you must show that you will continue working in your area of extraordinary ability and that your work will substantially benefit the United States in the future. Extraordinary ability means that your level of expertise indicates that you are one of the small percentage of individuals who have risen to the very top of your field. You may self-petition as an extraordinary ability individual, because a job offer is not required for this classification.

Requirement 1- You must be able to establish that you have extraordinary ability in your field.

The EB-1A extraordinary ability classification is for people who are recognized as being at the very top of their field and who are coming to (or remaining in) the United States to continue work in that field. To establish eligibility, you must demonstrate sustained national or international acclaim and that your achievements have been recognized in the field of expertise by showing that you:

* Have received a major internationally recognized award; or
* Meet at least 3 of the 10 requirements listed below and all your evidence, when evaluated together, shows that you are among the small percentage of individuals that have risen to the very top of your field.

If you have not received a major internationally recognized award, you must answer yes and submit evidence for at least 3 of the 10 questions below:

* Have you received any lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor?
* Are you a member of associations that require outstanding achievements of their members as judged by recognized national or international experts?
* Is there published material in professional or major trade publications or major media about you which relates to your work in the field?
* Have you participated on a panel or individually as a judge of the work of others in the same or in an allied field of specialization?
* Have you made original scientific, scholarly or business-related contributions that are of major significance?
* Have you authored scholarly articles in professional journals or other major media?
* Has your work been displayed at artistic exhibitions or showcases?
* Have you played a leading or critical role for an organization with a distinguished reputation?
* Have you commanded a high salary or other remuneration for your services in comparison to others in your field?
* Have you enjoyed commercial successes in the performing arts?

Note: If the criteria discussed in this section do not readily apply to your occupation, you may submit comparable evidence to establish your eligibility. However, there is no comparable evidence for the one-time achievement of a major, internationally recognized award.

If you meet these minimum threshold requirements, USCIS will then evaluate all the evidence you submitted in its totality to determine whether you have sustained national or international acclaim and recognized achievements in your field of expertise and that you are one of the small percentage of individuals who have risen to the very top of your field.

The USCIS Policy Manual includes detailed guidance regarding how EB-1A eligibility is evaluated, including a discussion of considerations that are relevant to evaluating evidence under each of the above criteria and evaluating comparable evidence.

Requirement 2 – You must be able to establish that you are coming to (or remaining in) the United States to continue to work in your area of extraordinary ability and your entry will substantially benefit the United States.

Some of the evidence you may submit to meet this requirement includes, but is not limited to:

* Letters from current or prospective employers;
* Documents evidencing your prearranged commitments (such as contracts); and
* A statement detailing your plans on how you intend to continue working in your field in the United States.

The EB-2 immigrant visa category is for noncitizens who are either professionals with advanced degrees or individuals with exceptional ability in the sciences, arts, or business. This category generally requires a job offer and a labor certification issued by the U.S. Department of Labor (DOL) before an employer could move on to the next step of filing an immigrant visa petition with USCIS and (if approved) before a beneficiary could be issued an immigrant visa through adjustment or consular processing. Please visit DOL’s website to learn more about the labor certification process.

DOL regulations generally prohibit the issuance of labor certifications in self-employment scenarios. However, an entrepreneur seeking EB-2 classification and a National Interest Waiver (NIW) may self-petition and not be subject to the labor certification requirement. Accordingly, one option for entrepreneurs includes filing an EB-2 visa petition if they can qualify for an NIW, which exempts them from the job offer requirement and, thus, the labor certification requirement.

If you are requesting a NIW, you must first demonstrate that you are either a member of the professions holding an advanced degree or an individual of exceptional ability.

Advanced Degree Professionals

Requirement 1 – You must show that you have a U.S. advanced degree or foreign equivalent degree.

An "advanced degree” is an academic or professional degree above a bachelor’s degree. Some of the evidence you may submit to demonstrate that you have an advanced degree may include:

* Copies of official transcripts;
* Certified copies of the actual degree, diploma, certificate, or similar award;
* Any other official documentation from the school’s Office of the Registrar;
* An evaluation from an educational evaluation agency, if you obtained your degree outside the United States; and
* If you only have a U.S. bachelor’s degree (or foreign equivalent degree), letters from your current and/or prior employers showing at least 5 years of progressively responsible experience in your field after you received the degree.

The USCIS Policy Manual includes detailed guidance on how we determine eligibility for advanced degree professionals.

Requirement 2 – Your advanced degree must be related to the field in which you will be working.

Some of the evidence you may submit to demonstrate that your advanced degree relates to your field includes, but is not limited to:

* A letter from you or your prospective employer describing your current or proposed job;
* Documents describing your company and its work; and
* A copy of your company’s annual report, if one is issued.

Exceptional Ability

Requirement 1 – You must show that you have exceptional ability in the sciences, arts, or business.

To qualify for the EB-2 exceptional ability classification, you must show that you have exceptional ability in the sciences, arts, or business. The initial evidence must include at least three of the six types of evidence listed below. If you meet the minimum threshold requirements, USCIS will then evaluate all the evidence you submitted in its totality to determine whether you have a degree of expertise significantly above that normally encountered in the sciences, arts, or business. You must answer yes and submit evidence for at least three of the six questions below:

* Have you received a degree, diploma, certificate or similar award from a college, university, school or other institution, relating to the field of exceptional ability?
* Do you have at least 10 years of full-time experience in your field?
* If required, do you have a license or certification to practice in your profession or occupation?
* Have you or will you command a high salary or other remuneration for your services, which demonstrates your exceptional ability?
* Are you a member of professional associations?
* Have you been recognized for achievements and significant contributions to your industry or field?

Note: If any of the criteria discussed in this section do not readily apply to your occupation, you may submit comparable evidence to establish your eligibility.

If you meet these minimum threshold requirements, USCIS will then evaluate all the evidence you submitted in its totality to determine whether you have a degree of expertise significantly above that normally encountered in the sciences, arts, or business.

The USCIS Policy Manual includes detailed guidance on how we determine eligibility for exceptional ability classification.

Requirement 2 – You must show that you will substantially benefit prospectively the U.S. economy, U.S. cultural interests, U.S. educational interests, or U.S. welfare.

A prospective benefit is generally shown by documenting a past record of achievements and explaining how that indicates your future success.

Some of the evidence you may submit to demonstrate how you will substantially benefit the United States prospectively includes, but is not limited to:

* Documents showing how your past accomplishments benefit the United States as a whole and specifying which element(s) (national economy, cultural or educational interest, or welfare of the United States) your entrepreneurial enterprise will benefit;
* Copies of awards or any special recognition you may have received, with details about the criteria used to grant the award or recognition;
* Published reports about your successes;
* Letters from current or former employers documenting your prior work experience, to include information about your accomplishments and their significance, and how these accomplishments benefit the United States;
* Letters from experts in your field regarding your accomplishments and their significance, including how your work will prospectively benefit the United States; and
* Evidence of past achievements should be accompanied with documentation or explanations of how these accomplishments indicate future or continued success.

National Interest Waiver

USCIS may, as a matter of discretion, grant your request for a National Interest Waiver where the below requirements are met:

* Your proposed endeavor has both substantial merit and national importance.
* You are well-positioned to advance the proposed endeavor.
* On balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus the labor certification.

The USCIS Policy Manual includes detailed guidance on how we evaluate eligibility for national interest waivers based on the above requirements, and it also includes a discussion of specific evidentiary considerations for entrepreneurs. For example, there may be unique aspects of evidence submitted by an entrepreneurial petitioner undertaking a proposed endeavor, including through an entity based in the United States in which the petitioner typically possesses (or will possess) an ownership interest, and in which the petitioner maintains (or will maintain) an active and central role such that the petitioner’s knowledge, skills, or experience would significantly advance the proposed endeavor.

USCIS considers that entrepreneurs do not follow traditional career paths and start-ups vary in structure. In addition to the general guidance, the USCIS Policy Manual clarifies that as an entrepreneur petitioner, you may submit other types of evidence to establish that your endeavor has substantial merit and national importance, that you are well positioned to advance the endeavor, and that, on balance, it would be beneficial to waive the job offer and thus labor certification requirements.

Congress created the EB-5 program to stimulate the U.S. economy through job creation and capital investment by foreign investors. This section will focus on entrepreneurs investing in their own businesses. For information on investors pooling their investments through the Regional Center Program, see About the EB-5 Visa Classification.

What investment is required?

You must invest in a new commercial enterprise established after Nov. 29, 1990. You must invest $1.05 million unless the enterprise is doing business in a targeted employment area, which is one that has a high unemployment rate or is in a rural area. In that case the minimum investment is $800,000. You must establish the lawful source of your invested capital.

What job creation is required?

You must establish that the new commercial enterprise will create full-time positions for at least 10 qualifying employees.

Are there any requirements after I become a permanent resident?

Immigrant investors are admitted as lawful permanent residents on a conditional basis. Within ninety days before the two-year anniversary of obtaining conditional lawful permanent resident status, you must apply to remove the conditions on your status. For more information on removing conditions, see EB-5 Immigrant Investor Process.