

How to get the fastest green card

With the right background, enough commitment, and a bit of luck, it is possible to functionally get a green card in under a year with the EB1. I recently went through the process, so I'm documenting how it works and sharing some lessons I've learned. My own journey started when I read a similar blog post by Julian Shapiro almost three years ago, so it's only fair to pay it forward.

I have a lot of feelings about the way immigration works in this country, but I'll be saving those for the next posts, where I'll go more in-depth about the price we all pay for the bad employment policy, and some ideas on how to fix it. If you'd like to get an email when that comes out, consider subscribing via email or RSS.

Before we get further, you should know I'm not a lawyer, though I've worked at length with three immigration law firms, have personally immigrated twice, and talk often with friends in similar situations. If you are seriously considering going through with an EB-1, I advise you to consult a lawyer.

What's the EB1?

Often referred to as the "extraordinary talent green card" or "Employment-based, first preference green card", the EB1 green card is very fast and does not require employer sponsorship. On the flip side, it is also the most effortful to get, due to the high bar one needs to meet. As a result, it's generally most interesting to professionally accomplished Indian or Chinese nationals who might otherwise have to wait up to ten years, or any person who wants to avoid being tied to a sponsoring employer.

Eligibility criteria

To qualify for an EB1 green card, applicants must satisfy at least three of the following ten criteria. Though this list might seem to suggest that only the Einsteins, DiCaprios or Biles of the world have a shot, the reality is that most decently successful and well-connected professional can reasonably build up the evidence given enough time and will. So here they are, summarized:

- Receiving big prizes or awards for excellence
- Being a part of associations that demand high achievement
- Being featured in professional or major trade media
- Judging the work of others
- Making major and original contributions to your field
- Writing articles in professional publications
- Being part of artistic exhibitions or showcases
- Performing a critical role in well-known organizations
- Commanding a high salary
- Being commercially successfully in the performing arts

For each of these criteria, applicants use a combination of letters from authoritative figures and objective documentary evidence, which is what the USCIS likes to call facts, to demonstrate their eligibility. It is also possible, though rare, to instead demonstrate a single major international achievement on the magnitude of a Nobel prize, Fields medal, Oscar, Grammy, etc.

Regardless, once the application is filed, an adjudicator at USCIS then evaluates the evidence in a two-step process: first ensuring that each criterion has been met, then evaluating the sum of all evidence against the bar for extraordinary achievement in a process called the final merits determination. At the end of the evaluation, they will issue either a pass, a request for evidence (RFE for short), or a denial (rare). The most common outcome is an RFE, where specific additional detail will be demanded from the applicant. Successfully meeting this request results in a pass. Failure results in a denial, though denials are not final, as applicants can refile as many times as they want.

For me, it took on the order of a few hundred hours to establish the necessary evidence, and then another hundred hours to document my achievements. It was by no means easy, but since the work of meeting these criteria is generally aligned with a successful career, the time spent was rarely wasted, even if I were to fail to get a green card.

My application

Though every application is unique, I'm sharing mine here so that it may act as a data point when you consider whether the EB1 is for you. For background, I am a Canadian citizen born in China. For the last six years, I've been a product designer working for tech companies in the San Francisco bay area. I submitted my application based on the following five criteria. While only three are necessary, most people submit an extra one or two just to be safe. For another good example, check out Julian's post.

Making major and original contributions to your field: My contribution to the field was the creation of a popular Figma plugin called Autoflow. At the time of application, it had been installed more than 250,000 times and was used by teams at large well-known companies. I was lucky to have met Dylan Field, the CEO of Figma, at an event at a time when they happened to be opening up the plugin program to alpha developers and managed to become one of the launch plugins six months later, leading to a ton of organic growth. The supporting evidence in my package included install and usage statistics, and a letter from the CEO of Figma speaking to its importance, and screenshots from blogs discussing the plugin.

Performing a critical role in well-known organizations: In my day job, I've led the design of several high-profile projects at Coinbase, most notably the rewrite and redesign of both mobile applications. We also included several projects I've been a small contributor to as a contractor at Google. The final evidence includes a letter from the CEO of Coinbase and letters from a product manager and design executive at Google.

Commanding a high salary: thanks to the recent Coinbase IPO and generally competitive bay area tech designer salaries, we were able to demonstrate that I was paid well above the average of my field by drawing comparisons to several salary aggregator websites like Glassdoor.

Judging the work of others: I judged five university hackathons. Two hackathon organizers issued letters detailing the merits on which the applicant was selected as a judge, as well as a list of other judges, which included executives of well-known companies, professors, and public figures. This criterion seems generally pretty easy to hit as it's worded fairly generously, though meeting the strict minimum as I did might not contribute as much to your final merits.

Writing articles in professional publications: I spoke in a mix of podcast, local, and online events, both individually and as part of a panel. Though the criteria technically asked for scholarly articles, we figured that if we can get a reputable academic (we got a VC and lecturer at the Stanford d.school) to say how the product design field shares professional findings in podcasts and talks instead of journals, that we can make my public appearances count.

Responding to RFEs and denials

Like many applicants in the post-2016 era, my application was met with an RFE, and then later a denial. It was devastating at first because the grounds on which I was denied seemed shaky at best. But we gathered more evidence, got even more letters covering USCIS's rejection, and were ultimately approved on what was substantially the same case, but with more robust documentation and a better-structured argument. I'm being intentionally brief here because the details were highly specific to my case but still wanted to bring this up to show that getting an RFE or a denial is not an insurmountable obstacle.

Timeline

The theoretical fastest possible timeline is something like this:

- 1 month to gather evidence and prepare the I-140, I-485, I-131, and I-765
- 0.5 months to hear back from USCIS
- 6-9 months to receive employment authorization documents & travel authorization

Once you have the latter two, you effectively have all the perks of a green card. However, in practice, few people seem to have such a smooth experience. Between RFEs, denials, and letter writers and lawyers dragging their feet, a more realistic timeline is around one to one and half years. Below is a more detailed account of the steps involved and their rough timeline as of October 2021.

Get supporting letters (2–4 months): The applicant builds evidence and gets support letters demonstrating how they meet at least three of the ten EB1 criteria. Outcome: Applicant has strong evidence and support letters.

Submit I-140 application (15 days approval): Evidence and supporting letters are mailed into USCIS, along with a filled-out form I-140. This is the official green card application. This usually takes 3–6 months. Applicants can pay \$1,500 for a 15-day response. This is called premium processing. Outcome: Greencard application is either accepted, RFE'd, or rejected

Respond to RFE (0–2 months): If your application receives a request for evidence, you have three months (?) to bring additional documents and/or objections. Approval time is 15 days if premium processing was purchased. Outcome: Greencard application is either accepted or rejected

Prepare and submit an I-485 adjustment of status (1 week to prepare 9-12 months to approve): If an application is accepted and if the applicant's country's date of filing is current, the applicant can now file a request to change their status to a permanent resident via form I-485. To get the green card faster, applicants can file the I-485 before their I-140 is accepted, with the risk of wasting money and effort should the latter be rejected. Approval time: Depends on which USCIS service center you applied with. Outcome: Receive greencard.

Apply for I-131 travel document and I-765 employment authorization (6-9 months) Because it can take a long time for an adjustment of status to get approved, people usually apply for travel documents and employment authorization at the same time. These are faster to get, and when combined, provide almost all the benefits of holding a green card while you wait for I-485 approval. Approval time: Depends on which USCIS service center you applied with. Outcome: Be able to travel freely and work for whoever you want

Conclusion

If this whole process sounds incredibly onerous and at times wholly at the mercy of a single capricious USCIS officer, it is because it is. However, for half of the world's population, the choice is between this and waiting up to ten years in the normal green card queue for India and China, without being able to change jobs, freelance, or start your own company.

And for those of you who have made it this far, and are wondering whether you should try, my experience has been that you'll find help everywhere – even from people who should have every right to be too busy. Immigration is an act of love – for a place, a community, and the ideals of a country. And when you share that with people, they'll want to rally behind you.

Additional learnings

- Generally it is better to put on a strong showing for fewer criteria, than trying to do more but less well.
- If you have a previously accepted I-140 from a lower preference (EB2 or EB3), you can use that date to accelerate your EB1 if your current is not.
- It helps to have access to famous people: senior executives, well-known professionals in your field, professors, public figures, etc. Cultivate these relationships early.
- If you don't already clearly meet these criteria, plan for one to two years to go meet them.
- Get your letters on official letterhead, even if it's not technically required. It can be a cause of RFE. In a pinch, a "personal" letterhead could do.
- If your EB1 is approved, this means you're almost guaranteed to also get approved for the O1 visa, which can be convenient if you need to work in the US while your green card is processing.
- For people who are very likely to agree to sign a letter, it is better to pre-write the letter for them before you even ask if they want to do it. This way, you can immediately give them something to sign once they agree, saving yourself the back and forth from your lead going cold while your legal team works on the letter. You'll be getting a lot of letters, so this adds up.
- On non-immigrant visas like the TN, it is inadvisable to leave the country from the day you submit your application until you get your travel authorization, even if your application is accepted. This could last anywhere from 6–8 months. You should plan for this.
- The country of the green card applicant is not based on their citizenship, but place of birth. A British citizen born in India is Indian from this perspective.
- Spouses also get a green card if you file together. Ideally, you are already married when the I-140 is filed, but in a pinch, a spouse can be added after the I-485 is submitted, and before the green card is officially issued.
- When challenging an RFE, it is best to also respond to the request, even if unreasonable, as a show of good faith.
- USCIS publishes a policy manual with a detailed explanation of how adjudicators should think about EB1 eligibility and references specific articles of law.
- One increasingly popular form of evidence is granting all the criteria, but denying the final merits. In anticipation of this, it is helpful to explicitly address this requirement in I-140 application.

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