

Engineer's Guide to US Visas

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Gather a group of foreigners together in San Francisco, and the topic of conversation invariably turns to visas and immigration. For many of us just getting to America is a feat in itself. Overcoming the regulation, hurdles and bureaucracy that encompasses the US visa system is a shared and painful experience we can all relate to.

Five years ago, when I was working back in England, I wanted nothing more than to emigrate and join a tech startup in San Francisco. The trouble was I had no qualifications, no degrees and no connections. It's only through a great degree of persistence, determination, and the support of some wonderful people that I'm living out in SF.

At that time I would have given anything to have had more information about the US visa system. Unfortunately, there's not much out there — especially any geared towards engineers. The aim of this guide is to fill some of that knowledge gap, and help other aspiring people reach the

states. This guide specifically focuses on employees; I'll be writing a more founder centric one in the future.

Education

There's no sugar coating it; having a degree in computer science, or a closely related field, is really going to help you with getting a US work visa. The system is setup in a one-size-fits-all manner which, while understandable, definitely causes problems in our industry. It can leave engineers in the nonsensical position of having an excellent job offer, but not being able to fulfill the education requirements to obtain a work permit.

People in our field have a hodge podge of different backgrounds, and it's not uncommon for a competent software engineer to have either studied a completely irrelevant degree, or to not have attended higher education at all. That said, while having a computer science degree will help, don't despair if you're not in that position — there are other ways to qualify.

Representation

You will need legal representation. Usually the company you join will organize this, but in case you're looking for recommended immigration attorneys in San Francisco I've listed some at the end of the article. You should get advice from a lawyer before making any decisions. None of this article is to be construed as legal or financial advice.

Companies

Most tech companies I've encountered are interested in sponsoring visas if they can afford to. The demand for engineers in the US is such that the local talent can't satisfy it.

A visa can cost companies anywhere between \$2,500 to \$10,000 in legal and USCIS fees to sponsor. Compared to an engineer's salary, this isn't usually a problem for companies — especially if they've raised some outside capital.

What is a problem to companies though, is the amount of time it takes to prepare and process a visa. I find that usually any objections to sponsoring a visa boil down to the time costs, rather than anything else. This is especially true for H-1Bs, which can take the best part of a year to process depending on when you apply.

Interviewing

If you're a remote candidate, companies will often apply a higher barrier of entry for phone interviews before they move you to an on-site. This is understandable since they're the ones footing the bill to fly you out and put you up in a hotel. Unfortunately, as a candidate, this might decrease your chances of an offer.

It's for this reason I suggest coming out to SF on your own accord, staying for a short while, and lining up a bunch of interviews with all the companies

you're interested in. The other advantages of this approach is that after an interview or two you'll get used to the **general format** and probably perform better. If you do get multiple offers, you'll be in a much better negotiating position.

Once a company is interested in hiring you, it's time to look at what kind of visa you qualify for.

Visa types

There are various different types of visas, and which you apply for depends on your education, nationality and specific circumstances. A few visas can be self-sponsored, but most of them need to be sponsored by a company in the US. In other words, you have to have a job offer to get the visa.

Some visas are **dual intent** (meaning you can have intent to stay permanently), and some of them are only meant to be temporary. This is an important distinction to make, and will affect your ability to get a green card in the future.

If you're not on a dual intent visa then you may be asked to prove that you have significant ties to your home country, and no intent to reside in the US permanently or apply for a green card.

The main visa types are:

- **E-3 visa for Australians**

- TN visa for Canadians and Mexicans
 - H-1B visa for degree holders
 - L-1 visas for inter-company transfers
 - J-1 visa for internships
 - F-1 visa for students
 - O-1 visa for extraordinary ability
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E-3 visa for Australians

Australians with a Bachelor's degree (in the relevant field) can qualify for the E-3 visa which, compared to other visas, is incredibly straight forward. You'll have to apply outside the US at one of their embassies in Australia.

The caveat to this visa, is that it isn't dual-intent. This means you can't apply for permanent residency via a green card whilst on it.

Dual intent	No
Sponsorship	US Company
Requirements	Specialty occupation (i.e. software engineering), a Bachelor's degree and Australian citizenship
Duration	Indefinitely renewable (in two-year increments)

Processing time Weeks

Spouses

May work under the **E-3D visa**

TN visa for Canadians and Mexicans

Canadians and Mexicans with Bachelor's degree in the relevant field (i.e. computer science) can qualify for the **TN visa**.

If you qualify, it's usually a fairly straight-forward visa to get. In the past you'd have to turn up at the border with all your documentation and hope for the best — they'd make the decision on the spot. Fortunately this policy has recently changed, so you can now apply for TN visas in advance.

The USCIS has a **white list** of acceptable professions under the TN visa. While programmers aren't included, software engineers are. If you don't have a degree, but you are an engineer, you may have luck going with the 'Management Consultant' route. Five years of 'equivalent work experience' can also help you obtain this visa category.

While the TN visa is similar to the H-1B, it isn't subject to an annual cap and therefore may be easier for Canadians to get. The important difference is that the T1 isn't dual intent, and you therefore can't apply for a green card while on it.

TN visas are specific to the company, and can't be transferred without re-applying. TNs aren't technically renewed after three years — you essentially

have to re-apply for a new one. This lends a degree of unpredictability to this visa as it could get rejected any time you renew it; especially if it appears you are not in the US on a temporary basis anymore.

Dual intent	No
Sponsorship	US Company
Requirements	Specialty occupation (i.e. software engineering), a Bachelor's degree in computer science and Canadian or Mexican citizenship
Duration	Technically indefinitely renewable (in three-year increments). In practice, it's not so easy.
Processing time	Weeks
Spouses	May enter, but not work , under the TD-1 or TD-2

There are a **bunch** of **great guides** which explain the process in more detail.

H-1B visa

The H-1B is the classic visa that many foreigners apply for. If you hold a degree and you're not Canadian or Australian, it's likely that your company's lawyer will suggest this one.

If you do not have a degree, than you may still be able to qualify if you have 12 years of work experience in a field related to the H-1B position.

A H1-B visa only lasts 6 years, and can't be renewed. However, H1-Bs are renewable yearly beyond the 6th year if your Green Card request is being processed.

The biggest drawback with this visa is the annual quota of 65,000, which invariable gets used extremely quickly. There are an additional 20,000 lots reserved for Master's degree holders. The USCIS renews the quota on the 1st of April, the floodgates open, and it's a mad scramble to get your application in. In 2013, the whole year's cap was reached in just 5 days. The kicker is, if you're lucky enough to get approved you can't actually move to the US and start work until October 1st that year.

If your job doesn't fit into that time-frame, tough luck. As you can imagine this is inviable for many startups, and they will simply refuse to sponsor H-1Bs.

If you're a citizen of Singapore or Chile then you can apply for the H-1B1 visa; a derivation of the H1-B that doesn't have the quota problems.

Dual intent	Yes
Sponsorship	US Company
Requirements	Specialty occupation (i.e. software engineering) and a Bachelor's degree, or 12 years

	experience
Duration	3 years, extendable to a maximum of 6 years
Processing time	Many months
Spouses	May enter, but not work , under the H-4

L-1 visa for inter-company transfers

If you've worked for the company in a foreign subsidiary for at least one year in the preceding three years, you may be eligible for a L-1 visa. When the H-1B cap is reached, large companies like Google often look to L-1s instead, moving new employees to their Canadian offices for a year to make them eligible.

The foreign subsidiary must be related to its US counterpart in one of four ways: parent and subsidiary, branch and headquarters, sister companies owned by a mutual parent, or 'affiliates'.

It's a fairly straightforward visa to get if you qualify, and has the added bonus of being dual intent.

Dual intent	Yes
Sponsorship	US Company
Requirements	You've worked at the company for at least a year prior

Duration	Depends on the country you're from. Usually from two to five years. With extensions, the maximum stay is seven years.
Processing time	2-3 months
Spouses	May enter and work under the <u>L-2</u> visa

J-1 visa for internships

Many major tech companies and startups have internship programs designed for sponsoring **J-1 visas**. This is a temporary visa designed for exchange students to come to the US and enroll in an internship program. It's not uncommon for software engineers to use this route, especially if they've just graduated, as this visa is easy to obtain and relatively flexible.

You can get a J-1 for an internship or training period if you match one of the three categories:

- Students (college/university)
- Recent graduates
- People with five years or more work experience

There's slightly different variations of the visa depending on which category applies to you. It's worth pointing out that this visa is not intended for ordinary employment, but rather just for training.

A third party, called a sponsoring organization, is also required to file the visa. Two good examples of these are [CIEE](#) and [Cultural Vistas](#), but a complete list of J-1 sponsors is available on the [State department's website](#). They will review your application and grant the DS-2019 document which permits you to intern.

There's no limits to how many J-1's a person can have during their lifetime. You can get an extension to them, as long as that extension is within the maximum time limit. You can't transfer J-1s between companies, you have to re-apply. Once your J-1 expires, then you'll need to stay in your home country for two-years unless you receive an [exemption](#) (relatively straightforward in the tech sector).

Dual intent	No
Sponsorship	US Company plus sponsoring organization
Requirements	Student, recent graduates, or five years of work experience.
Duration	Maximum of one year (depending on profession)
Processing time	1-2 months
Spouses	May enter and work under the J-2 visa

For more information about the J-1, refer to [Jori's excellent write-up](#).

F-1 visa for students

Students at US schools on **F-1 visas** may apply for **Optional Practical Training** (OPT), and be authorized to work for a year in a industry related to their area of study. You can extend this OPT by an additional 17 months if you're getting a Bachelors in engineering.

The F-1 is a good choice if you're just getting started in the technology sector, and potentially a stepping stone to more permanent visas like the H-1B. Your university should be able to provide you with more information about this visa.

Dual intent	No
Sponsorship	N/A
Requirements	Students or recent graduates of a US university
Duration	One year. Extendable by an additional 17 months
Processing time	Weeks
Spouses	May enter, but not work , under the F-2 visa

O-1 visa for extraordinary ability

The O-1 visa is for exceptional candidates, usually reserved for people who have had significant impact upon their industry. The full title, I kid you not, is

aliens of extraordinary ability.

The O-1 is increasingly popular, especially with candidates who can't qualify for other visas because they don't have a degree. It's a pretty tough visa to get though, and you need to fulfill at least 3 of the **8 criteria**. I've paraphrased some of them below:

- Published material about you in major publications or media
- Judging the work of others, either individually or on a panel
- Original contributions of major significance to the field
- Authorship of scholarly articles in major publications or media
- Performance of a leading or critical role in distinguished organizations
- High salary in relation to others in the field

Receiving press coverage, publishing a book, raising investment, or demonstrating significant contributions to your industry can all help your case. As well as the evidence, you have to get 8 to 10 prominent and accomplished people to write letters petitioning your case.

If you do qualify, it's a great visa to get. It's flexible, indefinitely renewable, easily transferable and potentially a stepping stone to the EB1 green card.

Dual intent	Yes
Sponsorship	US Company
Requirements	Meet at least 3 out of the <u>listed criteria</u>
Duration	3 years, indefinitely renewable
Processing time	1-2 months
Spouses	May enter, but not work , under the <u>O-3 visa</u>

Spouses

Unfortunately with many visa types, while spouses are let into the country as your dependents, they are not authorized to work. Some visas allow them to study, but there are some restrictions on that too.

For married folks, a huge question is what will the spouse do. Volunteer, start their own business, work remotely for a company back home or do consulting via a home company are some of the options. Many choose this time to have their kids who, if born inside the US, will receive US citizenship.

Expedited processing

You can pay *premium processing* for most of these visas, and while it's usually a few thousand dollars more, it's absolutely worth the price in terms

of your time. You'll get an answer from the USCIS in the order of weeks, rather than months or years.

Green card

A green card, or permanent residency, lets you live and work in the US on a permanent basis. In practice, it holds many of the same benefits of being a citizen (apart from being able to vote).

While you're seeking your employment based green card, you will be lumped into three categories:

- EB-1: workers of extraordinary ability
- EB-2: PhDs / masters / 5 plus years experience in field
- EB-3: Bachelors degree / less than 5 years experience

Within the EB-1 category, there are three sub-categories: EB-1A workers with extraordinary ability; EB-1B outstanding professors and researchers; and EB-1C multinational executives and managers. If you're on the O1, then the EB-1A category is the most natural transition to a green card (although the requirements are much more stringent). If you're on a L-1A inter-company transfer visa then the EB-1C path to a green card is the most straightforward.

Many of the dual-intent visas, such as the H-1B, are a stepping stone to getting a green card. It's unlikely that you'll qualify for a green card off the

but though without spending some time in the US on a working visa. As such, green cards are beyond the scope of this article.

Diversity Visa Program

The **Diversity Visa Program**, or Green Card Lottery, is a visa designed to diversify the immigrant population in the US. Visa quotas are allotted to countries based on how many immigrants they sent to the US in the previous. If a country has sent more than 50,000 immigrations in the last five years, they're not eligible for this visa.

Most of Europe, except the United Kingdom, is eligible. Australia and New Zealand are also eligible. If you come from a territory that's eligible, than this is a good way to potentially get a green card quicker. Visas are handed out to a random drawing of applicants. The higher the quota of your country, the greater your chances. Spouses can apply separately to double your chances.

If you lose in the lottery, they'll refund the fees. One caveat to bear in mind is that applying for this visa shows *intent*, which may disqualify you for visas in the future which aren't dual intent, such as the B-1 & B-2 visitor visas.

Once you have a visa

You've got your visa, moved to the US, and you're about to start your job. What other things do you need to know?

To get paid you'll need a social security number (SSN), which you can apply for at your local Social Security office. Wait at least 10 days after you've entered the country to apply for this; the various departments involved need a little time to sync up, and applying too soon can significantly delay your application.

Getting a bank account is fairly straightforward, and most don't require a SSN. You should get this as soon as you can, because without one it's pretty impossible to do anything else.

Next you'll probably want a phone. Unfortunately, chances are you haven't got any US credit history, and most phone companies will refuse to let you sign up to a contract without a hefty deposit. Get used to this; you'll probably have to pay a few more month's rent as deposit when renting a place too.

Recommended lawyers

The following immigration attorneys I've either had to the pleasure of working with, or they've been highly recommended by friends. Needless to say they're all excellent.

- **Chris Wright**
- **Christine Troy**
- **Kelly McCown**

- [Olivia Lee of Minami Tamaki LLP](#)

Conclusion

Make no doubt about it — getting a US visa is extraordinary difficult, even for really qualified individuals who are going to contribute a lot to the country in terms of engineering and taxes. However, in my experience, it's absolutely worth it. Moving here was the best thing I ever did. It's an incredible country, and the opportunities here in tech are second to none.

If you're planning on starting a company, rather than getting a work visa, things are going to be even more tricky. I'm planning on writing another article focused towards entrepreneurs in the near future. For now, the USCIS has a [good guide](#). Good luck!

As with all information on the internet, take this with a pinch of salt and get advice from a immigration attorney before making any decisions. None of this article is to be construed as legal or financial advice.



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