



# EB3

Module I  
PERM Stage and  
General Aspects of the  
Immigration Process

Ramon Rocha

# EB-3

# Complete Guide

Employment-Based Visa

Module I

**PERM Phase and General Aspects of the Immigration Process**

Ramon Rocha

January 2026

2nd Edition (English)

# Table of Contents

About the Author .....	6
Preface .....	7
Legal Notice .....	9
Chapter 1: Introduction to the EB-3 Visa .....	10
Definition and Purpose of the EB-3 .....	13
1. Professional Workers .....	14
2. Skilled Workers.....	15
3. Unskilled/Other Workers .....	16
EB-3 Process.....	17
EB-3 Benefits for the Worker and Family .....	19
Long-Term Perspective and Contribution to the Country .....	20
Eligibility and Criteria .....	20
General Requirements for All EB-3 Subcategories .....	23
Chapter 2: Prevailing Wage Determination (PWD) .....	25
2.1. The Foundation of the Process: Prevailing Wage Determination .....	25
2.2. The Employer's Role.....	26
2.2.1. Occupational Classification (SOC Code) in the PERM Process.....	26
2.2.2. General Rules for Job Duties and Requirements .....	30
2.3. Form ETA-9141 Online .....	31
2.3.1. Purpose of Form ETA-9141 .....	31
Chapter 3: Job Posting .....	33

3.1. Purpose of Job Posting .....	33
3.2. Disclosure Requirements .....	33
Chapter 4: Labor Certification (LC) .....	35
4.1. What Is Labor Certification? .....	35
4.2. Stages of the Labor Certification Process .....	37
4.4. Completion of Form ETA-9089 .....	38
Chapter 5: Pathways to Permanent Residency .....	39
5.1. Adjustment of Status .....	40
5.2. Consular Processing .....	41
5.3: Visa X Admission Class x Immigration Status .....	41
1. Visa.....	41
2. Admission Class.....	42
3. Immigration Status.....	43
5.4. CSPA for Employment-based Immigrant Visas (EB).....	44
5.5: Visa Bulletin and Priority Date .....	45
1. Visa Bulletin: .....	45
2. Priority Date:.....	49
5.6: Processing Fees and Associated Costs.....	50
How to pay USCIS filing fees .....	51
Chapter 6: Questions & Answers .....	52
Chapter 7: Final Message .....	53

Copyright © 2026 by Ramon Rocha.

All rights reserved. No part of this book may be used or reproduced in any manner whatsoever without written permission except in the case of brief quotations embodied in critical articles and reviews.

For more information or to schedule an event, contact:

[ramon\\_rocha@hotmail.com](mailto:ramon_rocha@hotmail.com)

ISBN:

Second Edition: JANUARY 2026

Revision: 05JAN2026

## About the Author



With a career marked by diverse and enriching experiences, I bring a background that reflects not only my academic training but also my worldview and approach to challenges. I graduated in Systems Analysis from Universidade Mackenzie in São Paulo in 2000, and sought to broaden my horizons with a Professional MBA in Systems Engineering, complemented by studies in Business and Marketing in the United States.

My journey in the U.S. began in 2018, when I decided to explore the opportunities and cultural richness of this country. This transformative experience led me to change my status from tourist to F-1 student, immersing myself intensely in language learning and understanding the local culture.

Before that, in Brazil, I had the privilege of working as a journalist and editor of a website specialized in event coverage. This experience not only refined my communication skills but also awakened in me a passion for writing. In parallel, I built a solid career in technology, working at renowned companies in the states of São Paulo and Minas Gerais, where I worked as a specialist and contributed my technical knowledge.

As an administrator, I faced varied challenges, always guided by a commitment to excellence. I am driven by constructive perfectionism and deeply believe that knowledge only has value when shared. It is this belief that inspires me to leave a meaningful legacy for future generations.

With this vision in mind, I present this guide as a reflection of my journey and my desire to help others navigate the complex process of legalization in the United States through employment-based visas. I hope this material will be a useful and enlightening resource for those seeking to turn dreams into reality in this country full of possibilities.

# Preface

Dear Reader,

It is with great satisfaction that I present this comprehensive guide on the EB-3 visa process. During my own immigration journey in the United States, I faced challenges that required perseverance, resilience, and a constant desire to learn and understand every detail. Like many who embark on this path, I encountered a scarcity of precise and organized information, which led me to seek, compile, and structure each step of the process. The result of this effort is the content you will find in this guide.

Due to the complexity and extent of the topic, this guide has been divided into two modules, each focused on specific aspects of the EB-3 process:

## **Module I: PERM Phase and General Aspects of the Immigration Process**

In this first module, we will cover the initial stages of the EB-3 process, including:

- **PERM Phase:** A complete overview of the labor certification process required for most employment-based visas.
- **General Matters Related to the Process:**
  - **Visa Bulletin:** How to interpret priority dates and understand visa availability.
  - **CSPA (Child Status Protection Act):** Rules to protect the eligibility of dependent children.
  - **Adjustment of Status vs. Consular Process:** A comparative analysis of the two options to obtain the Green Card.
  - **Immigration Fees:** An overview of the costs involved in the process.
  - **Frequently Asked Questions:** To clarify common doubts and provide practical guidance..

## Module II: Immigrant Petition and Related Forms

The second module will be dedicated to the immigrant petition phase and the forms necessary to complete the process, whether through adjustment of status or consular processing. This module will include:

- **Form I-140:** Immigrant Petition for Alien Worker.
- **Form I-485:** Application to Register Permanent Residence or Adjust Status.
- **Required Documentation:** Evidence and specific requirements for each category.
- **Other Relevant Forms::**
  - Employment Authorization (Form I-765).
  - Advance Parole/Travel Document (Form I-131), among others.

This guide was prepared to be a practical and reliable source for those who wish not only to obtain permanent residence in the United States but also to deeply understand the steps necessary to achieve this goal. With a clear and detailed approach, you will find useful information to navigate the complex decisions that arise along the way.

Immigration is a unique journey for each individual. This guide is not just a compilation of information, but a tool designed to support you in every phase of the process. I recommend always seeking qualified professional guidance to ensure your applications are successful.

May this guide be a reliable companion as you tread your path toward permanent residence in the United States.

I wish you success in every step of this journey!

Best regards,

Ramon Rocha

## Legal Notice

The author of this guide is not an immigration attorney and does not provide legal advice. All content in this book is intended solely to provide general guidance on the EB-3 visa process and should not be construed as specific legal advice for individual situations.

Readers are advised to use this guide as a resource to understand the EB-3 immigration process and to assist in preparing their own petitions or reviewing processes prepared by others. However, in case of doubts or needs that are not clarified in this guide, or if specific legal advice is needed for your situation, it is recommended to consult a United States-licensed immigration attorney.

This guide does not establish an attorney-client relationship between the author and the reader, and the author assumes no responsibility for any loss or damage resulting from the use of this guide or reliance on its content.

# Chapter 1: Introduction to the EB-3 Visa

Welcome to the first chapter of our ebook "EB-3 – Complete Guide". In this introductory chapter, we will dive into the world of the EB-3 visa, understand its purpose, and highlight the benefits it offers.

Before delving into details about the EB-3 process, it is important to clarify some fundamental points.

## ***Explanatory Note on the Use of the Term "Visa"***

*Throughout this book, the term "EB-3 visa" is used in a didactic and accessible manner to facilitate the reader's understanding. Technically, the EB-3 is not a specific visa, but rather an employment-based preference category that may result in obtaining lawful permanent resident status (Green Card) through adjustment of status in the United States or consular processing abroad. Whenever the expression "EB-3 visa" is mentioned, it should be understood as a reference to the overall immigration process and EB-3 legal classification, unless the context specifically indicates the issuance of an immigrant visa by the consulate.*

In the EB-3 visa application process, **any employer in the United States** – understood as a U.S. employer – **may sponsor a foreign worker**, provided it meets certain legal and administrative requirements. A U.S. employer is an entity (company, organization, or, in specific and atypical cases, individual) that has an EIN (Employer Identification Number), complies with U.S. labor and tax laws, and can hire the worker for permanent, full-time employment. These requirements include:

- **Legally Active:** The employer must be a duly registered and operating company or organization in the U.S., with an active EIN and the ability to issue payroll in compliance with U.S. labor laws. Situations involving U.S. citizens or lawful permanent residents as individual employers (e.g., domestic workers such as nannies or caregivers) are legally possible but rare and subject to specific labor/tax requirements.

- **Sponsorship by Individual (Domestic Workers)**
  - Although the EB-3 process is predominantly used by companies, the legislation allows an individual (U.S. citizen or lawful permanent resident) to act as employer for domestic functions, such as nannies, elderly caregivers, or housekeepers. However, it is essential to be aware of the following:
    - **Extreme Scrutiny:** This type of sponsorship faces a much more rigorous level of review by the Department of Labor (DOL) and USCIS. The government applies frequent audits to ensure that the job is not merely a personal convenience, but a real need for permanent, full-time work.
    - **Personal Financial Capacity:** Unlike a company, which presents profits and revenue, the individual employer must prove, through personal income tax returns (Form 1040), that they have sufficient net income to pay the foreign worker's full salary without compromising their own family's support.
    - **Bona Fide Job:** The employer must demonstrate that the job is legitimate and that there was a real recruitment effort in the U.S. Domestic functions are frequently subject to questions about the availability of U.S. workers, making the Labor Certification (PERM) phase considerably more complex.
    - **Family Relationship:** USCIS and DOL do not prohibit, but subject to rigorous review, sponsorship of close relatives for domestic functions. If there is any degree of relationship, the burden of proof that the job is open to any qualified U.S. worker increases exponentially.
  
- **Financial Capacity:** The employer must prove it has financial stability to pay the foreign worker's salary, as determined by the U.S. Department of Labor (DOL).

- **Justification of Need:** It is necessary to demonstrate that there are no qualified workers available in the U.S. to fill the offered position. This is done through the labor certification (PERM) process, which requires efforts to recruit local workers before hiring foreigners.
- **Compliance with USCIS and DOL Requirements:** The employer must follow all legal procedures, including obtaining labor certification and filing the I-140 petition with USCIS.

The immigration status of the owner is not, by itself, determinative, as long as the employing entity is legally established and in compliance with applicable laws.

This means that both small and large companies, or even individual employers, can participate in the process as long as they meet the necessary criteria and have job openings that fit the specifications of each EB-3 subcategory.

The process presumes an employer that fully complies with U.S. labor, tax, and immigration laws. If there are significant violations (for example, systematic hiring of unauthorized workers or failure to meet labor obligations), this may result in investigations, fines, and other penalties by agencies such as DHS and DOL.

#### **Potential Risks:**

- **Investigations for labor/immigration violations:** DHS may investigate employers for irregular practices, such as hiring workers without legal authorization or noncompliance with labor laws. Confirmed violations lead to fines, future sponsorship bans, or other legal penalties.
- **Data Exposure During the Process:** USCIS/DOL may request detailed financial records, employment histories, and payroll, revealing any tax or labor law noncompliance.

- **Fraud or False Statements:** Fraudulent information on PERM or I-140 results in denials, revocations, and possible serious immigration consequences, substantial fines, and, in severe cases, criminal proceedings with risk of imprisonment. Although USCIS prioritizes review of the worker's eligibility and offered position, any irregularity detected in the employer may trigger significant legal consequences.

Additionally, it is essential for the employer to take care when selecting the beneficiary(ies). When the beneficiary is a family member of the owner or someone in a controlling position in the company, DOL and USCIS typically scrutinize the case much more rigorously to verify if there is a bona fide job opportunity and if the recruitment process was not directed. In these cases, the likelihood of Requests for Evidence, audits, and even denials increases significantly unless there is robust documentation demonstrating that the job is real, open to U.S. workers, and the process was conducted impartially.

This information aims to help employers and beneficiaries understand the practical and legal aspects that govern the filing of an EB-3 petition. Transparency and authenticity in intentions are essential for a successful process free of complications.

## DEFINITION AND PURPOSE OF THE EB-3

The EB-3 is an **employment-based immigration category (Employment-Based Third Preference)** from the United States, created to **allow employers to sponsor foreign workers** — skilled or unskilled — for permanent positions. The central purpose of the EB-3 is **to meet specific needs of the U.S. labor market** when, after the formal recruitment process required by labor certification, no qualified, available, and willing U.S. workers are found to fill the offered position, thereby allowing the hiring of professionals from other nationalities to fulfill this concrete need.

Unlike other visa categories, the EB-3 does **not require the worker to have extraordinary or advanced abilities**. Instead, it focuses on three specific worker profiles: **professionals, skilled workers, and other workers**. This characteristic makes the EB-3 a broad and accessible category for many people around the world.

### **EB-3 Subcategories: Legal Structure and Regulatory Criteria**

The EB-3 category, known as Employment-Based Third Preference, was established by U.S. immigration legislation to allow employers to sponsor foreign workers in occupations that do not fit into higher preference categories. This category is divided into three subgroups — professionals, skilled workers, and other workers — each with specific requirements defined by federal regulations and administrative guidance.

In general, eligibility for any EB-3 subcategory requires the employer to obtain a permanent labor certification (PERM) from the Department of Labor, demonstrating that there are no qualified, available, and willing U.S. workers to occupy the position, and that hiring the alien will not adversely affect wages and working conditions in the local market. After PERM approval, the employer must file the appropriate immigrant petition, typically via Form I-140.

#### **1. Professional Workers**

The professional's subcategory is intended for workers whose duties require, as a minimum entry requirement, a baccalaureate degree or foreign equivalent. Legislation and regulations make clear that the academic degree must be a real requirement of the occupation and not merely an employer preference.

The applicant must prove possession of a degree equivalent to a baccalaureate degree in the United States, generally through an educational credential evaluation. An important point established in regulatory interpretation is that professional experience cannot be used to substitute for the formal baccalaureate degree requirement when the position specifically requires that degree.

**Legal Note:**

The definition of professionals is provided in 8 CFR § 204.5(l)(2) - [https://www.ecfr.gov/current/title-8/part-204/section-204.5#p-204.5\(l\)\(2\)](https://www.ecfr.gov/current/title-8/part-204/section-204.5#p-204.5(l)(2)) , which establishes that "professional" means a member of the professions who requires at least a baccalaureate degree as a minimum for entry into the occupation. Additional guidance can be found in the USCIS Policy Manual, Volume 6, Part E - <https://www.uscis.gov/policy-manual/volume-6-part-e> , which addresses employment-based categories.

**2. Skilled Workers**

The skilled workers subcategory covers individuals whose duties require at least two years of relevant training or experience, provided the work is not temporary or seasonal in nature. The regulatory focus is on the objective demonstration that the position requires specific skills and that the beneficiary possesses such qualifications.

Proof is normally provided through letters from previous employers, employment records, training certificates, or comparable documentation. The employer must clearly define the requirements in the labor certification process, and the worker must demonstrate that they met them as of the priority date.

Examples include electricians, welders, specialized technicians, cooks with experience, mechanics, and other technical professionals whose work depends on substantial training.

**Legal Note:**

The criteria for skilled workers are also described in 8 CFR § 204.5(l)(2), which defines "skilled worker" as one capable of performing work that requires at least two years of training or experience. The USCIS Policy Manual reinforces that the experience must be relevant and documented.

### 3. Unskilled/Other Workers

The subcategory of other workers — frequently called unskilled workers — applies to positions that require less than two years of training or experience and that are permanent, that is, not temporary or seasonal. Despite the reduced level of formal qualification, the procedural requirements remain rigorous.

The worker must demonstrate capacity to perform the offered functions, while the employer must fully comply with the PERM process requirements and demonstrate the permanent need for the position.

Examples include general helpers, cleaning workers, production assistants, caregivers, and basic functions in sectors such as agriculture, hospitality, and services.

**Legal Note:**

The definition of "other worker" is found in 8 CFR § 204.5(l)(2), which describes workers capable of performing unskilled work that requires less than two years of training or experience. The USCIS Policy Manual clarifies that this subcategory is subject to specific numerical limits, often resulting in longer waiting times.

#### **Important Regulatory Considerations**

Regardless of the subcategory, the regulation requires that the beneficiary meet all position requirements as of the priority date established by the labor certification application. Additionally, the employer must demonstrate financial ability to pay the offered wage from that date until the worker obtains permanent residence.

**Legal Note:**

These requirements are provided in 8 CFR § 204.5(g)(2) (ability to pay) and in detailed guidance in the USCIS Policy Manual, Volume 6, Part E.

## EB-3 Process

For a beneficiary to obtain EB-3 classification, the process is generally composed of the following steps:

### 1. Labor Certification (PERM):

- **Purpose:** The employer must demonstrate to the U.S. Department of Labor that there are no qualified or available U.S. workers for the offered position.
- **Job Advertisement Process:** As part of PERM, the employer must advertise the position for U.S. workers, generally in newspapers and online job platforms, and keep a record of all applicants, documenting why they were or were not considered qualified for the position.
- **Documentation:** The employer submits a detailed description of the job, position requirements, and the recruitment process conducted.
- **Benefit for the Beneficiary:** By proving that the position truly requires a foreign worker, the PERM increases the likelihood that the EB-3 case will be approved.

### 2. Immigrant Petition (Form I-140):

- **What It Is:** Form I-140 is a formal petition filed by the employer with USCIS so that the worker may be classified as an immigrant based on the offered employment.
- **Approval Criteria:** To be approved, the I-140 petition must show that the employer is financially able to pay the offered wage and that the beneficiary possesses the required qualifications.
- **Ability to Pay:** To have the petition approved, the employer must demonstrate ability to pay the offered wage from the priority date until the worker obtains permanent residence, in accordance with 8 CFR 204.5(g)(2) - [https://www.ecfr.gov/current/title-8/part-204/section-204.5#p-204.5\(g\)\(2\)](https://www.ecfr.gov/current/title-8/part-204/section-204.5#p-204.5(g)(2)).
  - **Primary Evidence:** USCIS requires copies of federal tax returns, audited financial statements, or annual reports.

- **Supplementary Evidence:** Documents such as bank statements, paystubs, and unaudited profit and loss statements may be used only as supplemental evidence.
- **Totality of the Circumstances:** In cases where tax return numbers are not straightforward, USCIS may apply a “totality of the circumstances” analysis, evaluating factors such as the company’s history, number of employees, and overall business profile (Matter of Sonegawa).
- **Processing Time and Cost:** Adjudication of Form I-140 may take several months, but there is an optional premium processing service (for an additional fee) that expedites the decision to approximately 15 calendar days.

### 3. Adjustment of Status or Consular Processing:

- **Adjustment of Status:** If the beneficiary is already in the United States in a valid nonimmigrant status (such as a student or temporary worker), they may file for adjustment of status to obtain permanent residence without leaving the country, typically via Form I-485.
- **Consular Processing:** If the beneficiary is outside the United States, they must complete consular processing, attending an interview at a U.S. consulate or embassy in their country of residence for final immigrant visa issuance.
- **Additional Documentation:** In both scenarios, the worker must submit documents such as a valid passport, police clearance certificates, medical examination results, and proof of the approved I-140 petition.

## EB-3 Benefits for the Worker and Family

Obtaining the EB-3 provides a series of fundamental benefits, ensuring stability not only for the worker but also for their immediate family (spouse and unmarried children under 21 years of age). Among these benefits, the following stand out:

- **Permanent Green Card:** The worker and dependents receive lawful permanent resident status, allowing them to live and work legally anywhere in the United States indefinitely.
- **Freedom of Movement and Employment Intention (Portability):** One of the greatest benefits of the EB-3 is obtaining permanent residence, but it is vital to understand the "intent" rules governing this benefit:
  - **Good Faith Intent:** The EB-3 is based on a future job offer. This means that, at the time the Green Card is approved, USCIS presumes that both the employer and worker have the genuine intent to establish the employment relationship.
  - **Retention Rule:** Although the law does not specify an exact number of days, case law and immigration practice suggest that the worker remain with the petitioning employer for a reasonable period (recommended six months to one year) after Green Card issuance.
  - **Risks of Early Departure:** Leaving the job days or weeks after receiving the Green Card may be interpreted by the government as "intent fraud." If USCIS determines that you never intended to work for that sponsor, this may result in serious future issues, including denial of your naturalization application (U.S. citizenship) or, in extreme cases, revocation of residence.
  - **AC21 Portability:** For applicants whose adjustment of status (I-485) application has been pending for more than 180 days, AC21 law allows changing employers before final approval, provided the new position is in the "same or similar" occupational classification as the original.

- **Path to Naturalization:** After five years of continuous residence in the United States (counted from the Green Card issuance date), the worker and family members may apply for U.S. citizenship, provided they meet other requirements for physical presence and good moral character.
- **Access to Education and Health:** As lawful permanent residents, family members have access to the U.S. public education system and may utilize health insurance plans and benefits available to residents, ensuring full integration into American society.

### Long-Term Perspective and Contribution to the Country

In addition to resolving individual and family issues, the EB-3 also plays a fundamental role in the U.S. economy:

- **Sustainable Workforce:** The EB-3 enables essential sectors, such as agriculture, construction, healthcare, and technology, to operate stably and sustainably, particularly in areas and states with labor shortages.
- **Positive Impact on Local Communities:** By integrating into communities, workers and their families contribute to the local economy through consumption and investment, strengthening both the economy and the country's social fabric.

### Eligibility and Criteria

Eligibility for the EB-3 visa is based on three subcategories, each with specific criteria. They are intended for three types of applicants: professional workers (Professionals), skilled workers (Skilled Workers), and other workers (Other Workers). To be considered eligible, the applicant must meet the specific requirements of one of these categories, in addition to the general criteria imposed by the U.S. Citizenship and Immigration Services (USCIS).

### 1. Subcategory 1: Professionals

This subcategory is intended for applicants who possess a baccalaureate degree (or foreign equivalent) in a specific field and will occupy a position that mandatorily requires that level of education. The requirements for this category include:

- **Baccalaureate Degree or Equivalent:** The applicant must present a bachelor's university degree. In the case of degrees obtained outside the U.S., a credential evaluation attesting to equivalence is indispensable.
- **Technical Note:** For this subcategory, USCIS requires a single degree. Unlike other visas (such as H-1B), in EB-3 Professional, the absence of a degree cannot be substituted by years of professional experience. If the applicant does not possess the complete academic degree, they must be classified in the Skilled Workers subcategory.
- **Profession Requiring a Baccalaureate Degree:** The offered occupation must require a baccalaureate degree as the minimum entry requirement into the labor market. Examples include engineering, accounting, architecture, and education. The employer must demonstrate that the job duties are complex enough to require that level of academic knowledge.
- **Proof of Academic Qualifications:** In addition to the degree, the applicant must provide the complete academic transcript and relevant certificates. It is essential that the foreign degree be evaluated as a "single degree" equivalent to the U.S. baccalaureate to avoid denials at the I-140 petition stage.

## 2. Subcategory 2: Skilled Workers

The skilled workers subcategory is directed to applicants who possess proven skills and experience in the offered occupation. The main requirements for this subcategory include:

- **Professional Experience of at Least Two Years:** The applicant must prove, through documents such as employment contracts, recommendation letters, and employment records, that they have at least two years of practical experience in the occupation in question. The experience must be directly relevant to the offered job and cannot be combined with experience from other areas.
- **Adequate Training:** In some cases, formal training or participation in technical courses may be accepted as partial substitutes for practical experience, provided the applicant can prove completion of at least two years of intensive training directly related to the job.
- **Occupation Requirements:** The job position must be considered by the Department of Labor as a position requiring specific skills, experience, or training, such as in occupations for technicians, mechanics, or electricians. This means the position cannot be filled by an unskilled worker.

## 3. Subcategory 3: Other Workers (Unskilled Workers)

This subcategory is intended for applicants who will occupy positions requiring less than two years of experience, training, or education. Often, these positions are filled by workers in areas such as construction, cleaning, and service industries. The requirements for this category are:

- **Job Position Requiring Basic Skills:** The work must be full-time and permanent, requiring less than two years of experience or training. The position goes through the same U.S. worker shortage criterion through labor certification (PERM). Examples of occupations may include positions in cleaning services, food service, and basic construction.
- **Proof of Limited Experience or Training:** Although the applicant does not need two years of experience, they must still meet any minimum requirements established by the employer or job description.
- **Higher Competition Due to Annual Visa Limit:** The number of visas granted annually for the "Other Workers" subcategory is limited, resulting in a potentially longer waiting list.

### General Requirements for All EB-3 Subcategories

Regardless of the subcategory, all EB-3 applicants must meet certain general requirements:

- **Permanent Job Offer from a U.S. Employer:** The first requirement for EB-3 is a formal job offer from a U.S. company or entity committing to employ the foreign beneficiary on a permanent basis. The job offer must be for a full-time position, and the employer must demonstrate financial ability to hire the beneficiary.
- **Labor Certification (Labor Certification or PERM):** This certification is issued by the U.S. Department of Labor and proves that the employer made a significant effort to hire U.S. workers for the position without success. To obtain PERM certification, the employer must complete a specific recruitment process that includes publishing job advertisements and interviewing local applicants.
- **Filing Form I-140:** After obtaining PERM, the employer must file Form I-140 (Immigrant Petition for Alien Worker) with USCIS. This petition formalizes the employer's request to employ the foreign worker and details the position, offered wage, and beneficiary's qualifications.

- **Medical and Character Requirements:** The applicant must undergo a medical examination to ensure they do not have health conditions posing a public health risk to the United States. Note that the validity of this examination depends on the chosen processing route:
  - **Adjustment of Status (in the U.S.):** Form I-693, signed by a Civil Surgeon on or after November 1, 2023, has indefinite validity per current USCIS policy.
  - **Consular Processing (outside the U.S.):** The medical exam performed by panel physicians is generally valid for six months (shorter for certain conditions like tuberculosis). The applicant must enter the United States before expiration; otherwise, the exam must be completely redone.

Additionally, the applicant must meet character requirements by proving absence of serious criminal history. Any prior unlawful presence or immigration fraud must be carefully analyzed, as it may require waivers.

- **Admissibility and Other Legal Requirements:** To be eligible for EB-3, the applicant must be "admissible" under U.S. immigration law. Certain criminal convictions, fraud, status violations, or unlawful presence may render the person inadmissible, although waivers may be available in specific cases. Adjudication is done on a case-by-case basis.

## Chapter 2: Prevailing Wage Determination (PWD)

The EB-3 process begins with a series of administrative steps that are essential to ensure the petition meets all U.S. legal and regulatory requirements. In this chapter, we will focus on one of the most important and initial steps: the Prevailing Wage Determination (PWD).

### 2.1. THE FOUNDATION OF THE PROCESS: PREVAILING WAGE DETERMINATION

Before anything else, it is crucial to understand what PWD is and why it is a pillar in the EB-3 process. The Prevailing Wage Determination is the official determination of the minimum wage that must be paid to the foreign worker for the offered position. This determination is made by the U.S. Department of Labor (DOL) based on a careful analysis of several factors, including:

- **Job Location:** States, cities, or regions may have very different costs of living and wages.
- **Job Responsibilities:** The complexity and demands of the position directly influence the wage.
- **Applicant's Qualifications:** Experience, education, and specific skills may impact the applicable wage range.

The purpose of the PWD is to protect both U.S. workers and foreign workers, ensuring that the offered employment respects local wage standards and avoids distortions in the labor market.

## 2.2. THE EMPLOYER'S ROLE

The employer plays a central role in this initial stage. They must:

1. **Identify the Position:** Ensure the job fits EB-3 criteria, whether as an unskilled, skilled, or professional worker.
2. **Occupational Classification (SOC Code):** The employer proposes an SOC Code on ETA Form 9141 based on a detailed description of the duties (job responsibilities). DOL determines the final SOC based on those duties, which may accept the suggestion or assign/change it to a code that accurately reflects the occupation. Inadequate descriptions/SOC can lead DOL to reclassify the position (e.g., from skilled to other worker), affecting wage, EB-3 category, and the entire subsequent PERM process.
3. **Describe the Job:** Provide a detailed description of responsibilities, minimum qualifications, and job location.
4. **Request the PWD:** Submit Form ETA-9141 to the National Prevailing Wage Center (NPWC), officially initiating the wage analysis.

This stage not only helps establish the foundation of the process but also demonstrates to DOL that the employer is committed to legal and regulatory requirements.

### 2.2.1. Occupational Classification (SOC Code) in the PERM Process

The correct selection of the Standard Occupational Classification (SOC) Code is an essential step in the labor certification (PERM) process, as it plays a determining role in job categorization, prevailing wage determination, and compliance with legal requirements. Below, we explain in detail how the SOC Code impacts the process and the necessary precautions to avoid legal problems.

## What is the SOC Code?

The **SOC Code** is a standardized occupational classification system used by the U.S. Department of Labor (DOL) to categorize job openings based on:

- Duties and responsibilities of the position.
- Required educational level.
- Necessary skills and experience.

Each code is unique and corresponds to a specific occupation, allowing DOL and employers to have a common language for describing offered positions. This standardization helps ensure consistency in job analysis and prevailing wage determination.

## Importance of Correct SOC Code Selection

Selecting the appropriate SOC Code is crucial for several reasons:

### 1. Prevailing Wage Determination (PWD):

- The SOC Code directly influences the prevailing wage calculation, as each occupation has specific wage ranges based on job location, skill level, and required experience.
- An incorrect code may result in an inadequate wage, compromising the employer's legal compliance with DOL requirements.

### 2. Job Classification:

- The SOC Code determines whether the position will be categorized as Skilled Worker, Professional, or Other Worker. For example:
  - An error in job description may cause a skilled position (Skilled) to be classified as unskilled (Other Worker), causing delays due to limited visa availability for the Other Workers category.
- This can also negatively impact the offered wage, as different categories have distinct wage requirements.

**3. Compliance with Legal Requirements:**

- Wrong SOC Code selection may lead to Requests for Evidence (RFEs) or even denial of PERM certification or I-140 petition.
- Additionally, inconsistencies between the SOC Code and job description may trigger DOL audits.

**4. Impact on Timelines:**

- If the selected code does not accurately reflect the responsibilities or required qualifications, DOL may reinterpret the position, resulting in significant processing delays.

**How SOC Code Selection Works?**

The employer must provide a detailed job description to DOL during the PWD request (Form ETA-9141). Based on this information:

- The employer proposes an SOC Code they believe is appropriate.
- DOL reviews the description and may accept or change the suggested code to ensure it aligns with the described responsibilities.

This interaction reinforces the importance of a precise and detailed job description to avoid undesired adjustments by DOL.

**Practical Example: Impact of Wrong Choice**

Imagine an employer wants to hire a foreign worker for a legal assistant (paralegal) position requiring at least two years of experience. If the employer selects an inadequate SOC Code, such as one related to general administrative functions, DOL may:

- Classify the position as unskilled (Other Worker), lowering the determined prevailing wage.
- Cause delays due to the need for corrections or even deny PERM certification.

Additionally, if reclassified as Other Worker, this may impact Visa Bulletin availability (<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>), as this category typically faces greater backlogs due to high demand and limited visas.

### **Precautions When Choosing the SOC Code**

To avoid problems, employers should follow these practices:

1. **Detailed Job Description:**
  - Include clear information about daily responsibilities, minimum qualifications (education and experience), and specific skills required.
2. **Consultation with Specialists:**
  - Work with immigration attorneys to ensure the selected SOC Code accurately reflects the offered position.
3. **Consistency in Documents:**
  - Ensure all information provided to DOL is consistent with recruitment advertisements and other documents submitted during the PERM process.

### **Conclusion**

The SOC Code is much more than a simple classification; it is fundamental to ensure legal compliance, determine fair wages, and avoid delays in the EB-3 process. Although the employer has freedom to suggest an initial code, any error or inconsistency can trigger significant problems. Therefore, attention to detail and proper legal support are indispensable for correctly selecting the SOC Code and advancing without complications in the subsequent PERM process stages.

## 2.2.2. General Rules for Job Duties and Requirements

The PERM labor certification process for the EB-3 category requires employers to carefully define **job duties, requirements, and terms of employment** in strict accordance with U.S. Department of Labor (DOL) regulations. Below is a clear and detailed explanation of the main aspects related to **job duties, restrictive requirements, and business necessity**.

### 1. Normal Requirements:

- The job requirements must be those normally required for the occupation, as defined in the **DOL's O\*NET database** (<https://www.onetonline.org>), which specifies **Specific Vocational Preparation (SVP)** levels for each occupation.
- Requirements that exceed the SVP level assigned to the occupation must be justified as arising from a business necessity.

### 2. Business Necessity Justification:

- The employer must demonstrate that the job duties and requirements:
  - Have a reasonable relationship to the occupation in the context of the employer's business operations.
  - Are essential to perform the job duties in a reasonable and efficient manner.
- The justification may include evidence such as industry standards, internal hiring practices, or specific operational needs.

**Specific Vocational Preparation (SVP)**, is a system used by the U.S. Department of Labor (DOL) to classify occupational requirements of a position based on the time required for an individual to acquire the skills, knowledge, and training necessary to adequately perform a job duty. This system plays a crucial role in the PERM labor certification process, particularly in defining the minimum requirements for a position.

## What is SVP?

**SVP (Specific Vocational Preparation)** is a detailed classification that groups occupations based on the range of time required to achieve adequate job performance, as defined in DOL's O\*NET database. It considers:

- **Education:** Required academic level.
- **Work Experience:** Time accumulated in related functions.
- **Training:** Specific skills acquired for the position.

Occupations are categorized into Job Zones in O\*NET, each with a minimum and maximum time range allowed for learning and vocational preparation. DOL adds up employer-stated education + experience and verifies if it falls within the occupation's SVP range.

 **learn more in the full book**

## 2.3. FORM ETA-9141 ONLINE

The Form ETA-9141 is the first official document submitted to the U.S. Department of Labor (DOL) in the PERM labor certification process for EB-3 visas. It determines the prevailing wage for the offered position, ensuring foreign worker hiring does not adversely affect U.S. workers' wages and conditions.

This chapter covers its purpose, requirements, and steps for completing and submitting the ETA-9141.

### 2.3.1. Purpose of Form ETA-9141

The primary goal of Form ETA-9141 is to request DOL's determination of the prevailing wage for the offered position. This wage is calculated based on:

- **Detailed Position Description:** Includes daily responsibilities, specific duties, and minimum qualifications.
- **Geographic Location:** Prevailing wage varies by work region, factoring local cost of living and labor market conditions.

- **Occupational Classification (SOC Code):** A code categorizing the occupation by job nature and requirements.

The prevailing wage determination protects both U.S. and foreign workers by ensuring employers pay fair, competitive wages.

 **learn more in the full book**

## Chapter 3: Job Posting

After the prevailing wage determination phase in the process of hiring foreign workers under the EB-3 visa, the next step is job posting. This step is essential to ensure that the employer is complying with legal requirements and promoting fair opportunities for local workers.

### 3.1. PURPOSE OF JOB POSTING

The main purpose of the posting is to demonstrate that the employer has made reasonable efforts to recruit U.S. workers for the position and that hiring a foreign worker will not adversely affect the wages and working conditions of employees in the United States who hold similar positions.

### 3.2. DISCLOSURE REQUIREMENTS

To comply with the Department of Labor (DOL) requirements, the employer must follow strict rules during the disclosure process:

#### 1. **Job Description:**

- The advertisement must contain detailed information about the position, including:
  1. Job title.
  2. Description of responsibilities and duties.
  3. Mandatory requirements (skills, experience, qualifications) and desirable ones.
  4. Salary offered (which must meet or exceed the prevailing wage).
  5. Benefits offered.
  6. Work location.
- The description must include clear and objective details about the position, such as tasks, responsibilities, work location, schedule, and salary.
- All education, experience, skills, and certification requirements must be specified.
- Requirements must not be overly restrictive or tailored to favor a specific candidate.

2. **Prevailing Wage:**

- The offered salary must comply with the prevailing wage determined in the previous step.
- The employer must ensure that the salary is not below the standard set by the DOL.

3. **Disclosure Methods:**

- Disclosure must be made through various media to ensure wide visibility of the position.



**learn more in the full book**

## Chapter 4: Labor Certification (LC)

Labor Certification (LC) is one of the most important steps in the process of hiring foreign workers to work in the United States. This process, also known as PERM (Program Electronic Review Management), is required in various employment-based visa categories, such as EB-2 and EB-3. Its purpose is to protect the local labor market by ensuring that no qualified and available U.S. workers exist for the position before considering foreign candidates.

### 4.1. WHAT IS LABOR CERTIFICATION?

Labor Certification is a process conducted by the U.S. Department of Labor (DOL) that authorizes U.S. employers to hire foreign workers for permanent positions. It is a prerequisite for employment-based immigrant petitions, such as Form I-140.

#### Main Objectives

1. Protect the local labor market:
  - Certification ensures that no qualified, willing, or available U.S. workers exist to fill the position.
  - The employer must demonstrate that reasonable efforts were made to recruit local workers before resorting to hiring a foreigner.
  
2. Ensure fair wages:
  - The salary offered to the foreign worker must be equal to or higher than the prevailing wage, determined by the DOL based on the location and qualifications required for the position.
  
3. Promote fair employment practices:
  - Hiring the foreign worker must not adversely affect the working conditions or wages of U.S. workers who hold similar positions.

## How Labor Certification Works?

Labor certification is part of the PERM (Program Electronic Review Management) process, which is the electronic system used by the DOL to review and process applications. The employer must follow a rigorous set of rules and procedures to demonstrate compliance with U.S. labor regulations.

## Fundamental Elements of Labor Certification

- **Job definition:** The employer must specify the job title, responsibilities, minimum requirements (education, experience, and skills), and offered salary.
- **Recruitment:** Before hiring a foreign worker, the employer must make significant efforts to recruit qualified local workers.
- **Submission to DOL:** After completing recruitment without finding qualified candidates, the employer submits Form ETA-9089 to the DOL for review.

## Importance of Labor Certification

Labor certification is a safeguard for the American labor market. It ensures that:

1. Local workers have priority in employment opportunities.
2. There is no discrimination against U.S. workers in the hiring process.
3. The foreign worker will be hired under fair conditions compatible with market standards.

## Who Needs Labor Certification?

Labor certification is required for all cases in the EB-3 category (skilled workers, professionals, and other workers), and for most cases in the EB-2 category (workers with advanced degrees or exceptional ability). Certain specific categories, such as EB-1 (extraordinary ability, certain researchers/professors, and certain executives) and national interest waiver petitions (EB-2 NIW), do not require PERM labor certification.

## 4.2. STAGES OF THE LABOR CERTIFICATION PROCESS

1. **Prevailing Wage Determination:** Before starting the labor certification process, the employer must obtain the Prevailing Wage for the position. This ensures that the foreign worker will receive a wage compatible with the local market.
2. **Job Posting:** The position must be advertised through various means to demonstrate that the employer made a genuine effort to hire U.S. workers. This includes:
  - Advertisements in newspapers of general circulation for two consecutive Sundays.
  - Internal posting on the company bulletin board.
  - Three additional recruitment methods (for professional positions), such as specialized websites or job fairs.
3. **Completion of Form ETA-9089:** This form is used to request the LC. It must be completed with detailed information about the employer, the position, the job requirements, and the recruitment efforts conducted.
4. **Application Submission:** After completing the above steps, the employer submits the ETA-9089 electronically through the DOL's PERM system.

 **learn more in the full book**

#### 4.4. COMPLETION OF FORM ETA-9089

**Form ETA-9089** is the central document of the PERM process, submitted to DOL after recruitment completion to request Labor Certification for the EB-3 visa. It consolidates all information about the employer, job vacancy, recruitment conducted, and results, serving as the basis for DOL analysis and subsequent I-140 petition to USCIS.

Its main purpose is to formalize the certification request, proving no qualified/available U.S. workers for the vacancy, all recruitment requirements strictly met, and the offer is genuine, permanent, and at prevailing wage.

DOL uses the form to verify compliance with 20 CFR 656.17, issuing Final Determination (approved, denied, or audited).



**learn more in the full book**

## Chapter 5: Pathways to Permanent Residency

Permanent residency in the United States, better known as a **Green Card**, is the status that allows a foreigner to live and work legally in the country indefinitely. Not only does this status grant broad rights, such as the ability to reside permanently in the U.S., work without visa restrictions, and travel outside the country with greater ease, but it also provides the ability to apply for U.S. citizenship after meeting the time and eligibility requirements. For many immigrants, a green card represents a dream come true and an essential step toward achieving stability and security in their lives in the United States. Among the most common categories are:

- **Family Bond:** Available to spouses, children, parents, or other close relatives of U.S. citizens or permanent residents.
- **Employment:** Intended for skilled workers, skilled professionals, or investors who meet the specific criteria of the employment-based immigration categories.
- **Asylum or Refuge:** For those seeking protection in the U.S. due to persecution in their home countries based on race, religion, national origin, political opinion, or membership of a specific social group.
- **Other Special Categories:** Include humanitarian programs, Diversity Visa, and more.

Regardless of the category you choose, the process to obtain a Green Card follows two main methods:

1. **Adjustment of Status:** Aimed at individuals who are already physically present in the United States in a valid immigration status and wish to change their status to permanent resident without having to leave the country. This process is conducted by the United States Citizenship and Immigration Services (USCIS) and offers a practical alternative for those who are already living in the U.S. territory.

2. **Consular Process:** Indicated for those who are outside the United States or prefer to carry out the procedure through an American embassy or consulate abroad. In this case, the U.S. Department of State is responsible for conducting the process until the immigrant visa is issued.

Both methods have their specific advantages and challenges, depending on the applicant's situation. Adjustment of Status is often chosen by those who are already in the U.S. and want to avoid international travel during the process. The Consular Process is the only option available for those who are outside the country or do not meet the requirements to adjust their status within the U.S. In this chapter, we will explore in detail how these two paths to obtaining permanent residency work. We will start with the **Adjustment of Status**, covering its main characteristics, requirements, and general procedures. Next, we will discuss the **Consular Process**, explaining how it applies to those who need to conduct their application outside of the United States. This overview will allow you to understand the steps involved in each method and help you make the best choice, according to your needs/immigration situation.

## 5.1. ADJUSTMENT OF STATUS

Adjustment of Status is the process by which an individual who is already physically present in the United States can apply to change their immigration status\* to that of a permanent resident (Green Card), without the need to return to their home country for consular processing. An application for Adjustment of Status, formalized through Form **I-485**, can be filed in two ways:



**learn more in the full book**

## 5.2. CONSULAR PROCESSING

Consular processing is the procedure for applying for an immigrant visa (Green Card) through a U.S. diplomatic mission abroad.

The choice between immigration pathways depends on the applicant's physical location. If you are outside the United States, your case must proceed through consular processing, meaning the final stage will be conducted by the U.S. Embassy or Consulate with jurisdiction over your place of legal residence.

Unlike Adjustment of Status (AOS), which allows the applicant to remain in the U.S. while awaiting a decision, consular processing requires the applicant to remain abroad until the immigrant visa is formally approved and issued in the passport.

 **learn more in the full book**

## 5.3: VISA X ADMISSION CLASS X IMMIGRATION STATUS

### 1. Visa

#### What is it?

A visa is an authorization issued by a U.S. embassy or consulate abroad that allows the holder to travel to a U.S. port of entry (airport, land border, etc.) and request admission from a CBP officer. It acts as an "entry key" and, by itself, does not guarantee automatic admission into the United States.

#### Key characteristics:

- The visa is stamped or attached to the passport.
- It indicates the category (e.g., F-1 for students, B-2 for tourists) and the validity period for use.

- There are two main types:
  1. **Non-Immigrant Visas:** For temporary stays (e.g., B1/B2, F-1, H-1B, O-1).
  2. **Immigrant Visas:** Intended for those with an approved permanent residence petition (e.g., EB-3 based visas via consular processing).

**Important:**

A visa is only required **to enter** (or re-enter) the U.S. Once inside, your legal status in the country governs your stay, not the visa stamp in your passport.

**2. Admission Class**

**What is it?**

The admission class is the specific legal category under which an individual is admitted to the U.S. at the moment they cross the border. It is determined by a CBP (Customs and Border Protection) officer based on the visa presented and the declared intent.

**Key characteristics:**

- It is recorded on **Form I-94** (Arrival/Departure Record), which is now mostly electronic.
- The I-94 specifies the category (e.g., F-1) and the authorized length of stay (specific date or "D/S" – Duration of Status).

**Difference from a visa:**

The visa allows you to request entry; the admission class sets the rules for your stay.

### 3. Immigration Status

#### What is it?

Immigration status refers to a foreign national's legal condition while remaining in the U.S. It determines what you are allowed or not allowed to do (work, study, travel).

#### Key characteristics:

- Status must be maintained according to the conditions of the admission class. For example, if you enter on a B-2 (tourist) visa and start working, you violate your status—even if your tourist visa in the passport is still valid for 10 years.
- **Maintaining Status:** It is the immigrant's responsibility to follow the rules (e.g., an F-1 student must maintain full-time enrollment). Losing status can result in inadmissibility and difficulties in future Green Card applications.

#### Summary of Differences

Aspect	Visa	Port of Entry Classification	Immigration Status
<b>Definition</b>	Key to travel to the U.S.	Category at entry	Legal condition inside the U.S.
<b>Issued by</b>	U.S. Consulate/Embassy (DOS)	CBP Officer at the border	USCIS or CBP
<b>Purpose</b>	Request admission	Define rules at entry	Regulate stay
<b>Example</b>	F-1 stamp in passport	F-1 admission on I-94	Active F-1 while studying



**learn more in the full book**

## 5.4. CSPA FOR EMPLOYMENT-BASED IMMIGRANT VISAS (EB)

If you are an employment-based (EB) preference applicant, such as in the case of EB-3, the Child Status Protection Act (CSPA) is the legal mechanism that allows children of principal applicants who turn 21 while the process is pending to still immigrate as dependents (“children” for immigration purposes).

To qualify, you must calculate your CSPA age by subtracting the number of days your petition was pending (USCIS processing time) from your actual age on the date an immigrant visa becomes available to you. It is a mandatory condition that the child remains unmarried at the time of obtaining the Green Card in order to retain eligibility.

**The formula for calculating CSPA age is:**

Age at the time the visa becomes available – Pending time = CSPA age

**Example:**

You are 21 years and 4 months old when USCIS considers an immigrant visa available for you. Your I-140 petition was pending for exactly 6 months.

The CSPA age calculation will be:

*21 years and 4 months – 6 months = 20 years and 10 months.*

### **Visa availability date**

Determining when a visa is considered available is the most critical step, and it underwent an important update in February 2023 (currently in effect). The visa availability date is considered the later of these two dates:

- **The date the petition (I-140 or I-130) was approved;** or
- **The first day of the month when the visa becomes available,** as shown in the U.S. Department of State (DOS) Visa Bulletin.



**learn more in the full book**

## 5.5: VISA BULLETIN AND PRIORITY DATE

In this section, we will explain what the Visa Bulletin is and how it directly influences your immigration process. We will address the importance of the Priority Date and how to determine the exact moment when you will be able to move forward with Adjustment of Status or a consular interview.

### Access the official and updated Visa Bulletin:

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

### 1. Visa Bulletin:

The Visa Bulletin is a monthly publication issued by the U.S. Department of State. Because Congress imposes annual limits on the number of Green Cards issued, this document serves to organize the “waiting line.” It informs the availability of visa numbers for categories such as EB-3.

The bulletin is divided into employment-based categories and geographic areas. For Brazilians, the column to be observed is generally “**All Chargeability Areas Except Those Listed**,” unless the applicant was born in countries with specific backlogs (such as China or India).

We will work with the two fundamental tables for your process:

**Table A – Final Action Dates:** this is the final date on which your Green Card application may be processed.

**For the Adjustment of Status (AOS) process:** this is the date from which your Green Card application may be processed and, once approved, your Green Card issued.

USCIS determines that the date in Table A must be used for adjustment of status applications; however, when it determines that there are more visas than applicants, it will indicate in a given month the use of Table B (Dates for Filing) for this purpose.

It is important to always verify which table must be used on the website:  
<https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin>

**For the Consular Process:** this is the date from which your interview may be scheduled, provided that your case is “**Documentarily Qualified**” (DQ), which is a classification given to cases in which the National Visa Center (NVC) has received all required information and documents.

### Example of Table A in the January 2026 Visa Bulletin

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	01FEB23	01FEB23	C	C
2nd	01APR24	01SEP21	15JUL13	01APR24	01APR24
3rd	22APR23	01MAY21	15NOV13	22APR23	22APR23
Other Workers	01SEP21	08DEC18	15NOV13	01SEP21	01SEP21
4th	01JAN21	01JAN21	01JAN21	01JAN21	01JAN21
Certain Religious Workers	01JAN21	01JAN21	01JAN21	01JAN21	01JAN21
5th Unreserved (including C5, T5, I5, R5, NU, RU)	C	15AUG16	01MAY22	C	C
5th Set Aside: Rural (20%, including NR, RR)	C	C	C	C	C
5th Set Aside: High Unemployment (10%, including NH, RH)	C	C	C	C	C
5th Set Aside: Infrastructure (2%, including RI)	C	C	C	C	C

Note, in this example, that the cut-off date for EB-2, which is an employment-based, second-preference visa, is **01APR24**. That is, only EB-2 cases with a pending Form I-485 and whose Form I-140 has a priority date earlier than **April 1, 2024**, and is duly approved, in the case of adjustment of status, may have their Green Card application adjudicated. Likewise, only cases that are “DQ,” whose Form I-140 has a priority date earlier than **April 1, 2024**, and is duly approved, for consular cases, may have their interview scheduled.

When USCIS determines Table A as the reference instead of Table B, the same logic and rule apply to the filing of Form I-485 and/or Forms I-765 and I-131 (which may only be filed together with the I-485 or afterward, as long as there is a pending I-485, upon payment of the required fees).

**Table B – Dates for Filing:** this is the opening date that allows you to submit your Green Card application, together with the I-140, or after its approval, if it was not possible to file earlier.

For the **Adjustment of Status (AOS)** process, this is the date that defines when you may submit your Form I-485 to USCIS. The major benefit of this table is allowing the applicant to file the residency application (and obtain the benefits of EAD and Advance Parole) months or even years before a visa is actually available for final approval (Table A).

**However, there is a crucial rule:** USCIS decides monthly whether it will accept Table B for new filings. If the agency determines that the volume of pending applications is already high enough, it may indicate that only Table A will be accepted for filings in that month.

It is important to always verify which table must be used on the website: <https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin>

For the **Consular Process**, in theory, this would be the date on which the NVC (National Visa Center) would open your case for fee payment and document submission. In practice, the NVC has been more flexible, often initiating processing as soon as the I-140 is approved, regardless of Table B, so that the applicant reaches “**Documentarily Qualified**” (DQ) status as early as possible.

**The Objective of This Flexibility:** Since the process of collecting and reviewing documents (certificates, exams, etc.) may take months, the NVC prefers that you are already “ready in line” (DQ). Thus, at the exact moment your priority date becomes current in **Table A (Final Action Dates)**, they only need to schedule the interview, without losing time on documentary bureaucracy.

**Example of Table B in the January 2026 Visa Bulletin**

<b>Employment-based</b>	<b>All Chargeability Areas Except Those Listed</b>	<b>CHINA-mainland born</b>	<b>INDIA</b>	<b>MEXICO</b>	<b>PHILIPPINES</b>
1st	C	01AUG23	01AUG23	C	C
2nd	15OCT24	01JAN22	01DEC13	15OCT24	15OCT24
3rd	01JUL23	01JAN22	15AUG14	01JUL23	01JUL23
Other Workers	01DEC21	01OCT19	15AUG14	01DEC21	01DEC21
4th	15MAR21	15MAR21	15MAR21	15MAR21	15MAR21
Certain Religious Workers	15MAR21	15MAR21	15MAR21	15MAR21	15MAR21
5th Unreserved (including C5, T5, I5, R5)	C	22AUG16	01MAY24	C	C
5th Set Aside: (Rural: NR, RR - 20%)	C	C	C	C	C
5th Set Aside: (High Unemployment: NH, RH - 10%)	C	C	C	C	C
5th Set Aside: (Infrastructure: RI - 2%)	C	C	C	C	C

Note, in this example, that the cut-off date for EB-2, which is an employment-based, second-preference visa, is **15OCT24**. That is, only cases whose Form I-140 has a priority date earlier than **October 15, 2024**, provided it has not been denied, in the case of adjustment of status, may have their Form I-485 filed. At this time, you may also choose to file **Forms I-765 (Employment Authorization)** and **I-131 (Travel Document)**.

It is important to note that, under current rules, **these forms have separate filing fees** and are no longer fee-exempt when filed with the I-485. Concurrent filing continues to be recommended only to save processing time and to ensure work and travel benefits while the Green Card is being adjudicated.

As stated earlier, by the “rule,” although this is not what we are seeing in “practice,” this would be the reference date for the NVC to accept fee payments and the submission of your documents for a case whose I-140 has a priority date earlier than **October 15, 2024**, and is duly approved, for consular cases; and after approval of your documents, your case would become “DQ.” Some cases may receive notice of this rule to wait for availability before submitting documents, o

**2. Priority Date:**

The Priority Date is a crucial date associated with each employment-based immigration petition. This date is established when the petition is filed with USCIS or when USCIS approves the petition, depending on the category and the demand for visas.

For employment-based processes that have a “sponsor,” such as EB-3, the priority date is the date on which your Labor Certification (LC) is filed with the DOL. This date appears in the header of your Form I-140 filing receipt (Form I-797C).

For employment-based processes that do not have a “sponsor,” such as EB-2 NIW, your priority date is the filing date of your Form I-140. To verify this date accurately, check the header of the receipt sent by USCIS (Form I-797C), where it states “Priority Date.”

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**Form I-797C, Notice of Action**

---

**THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.**

NOTICE TYPE Receipt	NOTICE DATE January 12, 2018
CASE TYPE I-130, Petition for Alien Relative	USCIS ALIEN NUMBER
<b>PRIORITY DATE</b> <b>January 10, 2018</b>	PAGE 1 of 1
RECEIVED DATE January 10, 2018	DATE OF BIRTH
PREFERENCE CLASSIFICATION 201 B INA SPOUSE OF USC	PAYMENT INFORMATION:

- **Current Status (Current):** If the date in the Visa Bulletin table is listed as “C” for “Current,” it means that visa numbers are available for all petitions with priority dates earlier than that date.

- **Retrogression:** If the priority date moves backward, there may be a delay in the processing of petitions. This can occur due to high demand in a particular category or due to annual visa limitations. When this happens, the cut-off date is published in the Visa Bulletin.

## learn more in the full book

### **Regular Monitoring:**

Applicants should regularly monitor the Visa Bulletin to check whether their Priority Date has become “Current” or whether any retrogression has occurred. This helps determine the appropriate time to move forward in the process.

It is always recommended to consult official USCIS and Department of State sources for the most up-to-date information. Changes may occur, and regular monitoring is essential to ensure that you are aware of the status of your case.

## **5.6: PROCESSING FEES AND ASSOCIATED COSTS**

In this section, we will provide detailed information about the processing fees associated with your immigration petition. You will understand how much it costs to submit the petition, schedule interviews, and what additional fees may arise during the process.

USCIS periodically adjusts its fees. Since the major adjustment that occurred in 2024, the costs have become more specific by form and category. The most up-to-date information on form fees can be found on the official All Forms page - <https://www.uscis.gov/forms/all-forms>.

You can use the **USCIS Fee Calculator** (<https://www.uscis.gov/feecalculator>) to determine the exact filing and biometric services fees for any form processed by the agency.

For a complete list of all fees, consult the **USCIS Fee Schedule (G-1055)**: <https://www.uscis.gov/g-1055>

In addition to mandatory government fees (USCIS and Department of State), an immigration process involves various other costs that need to be factored into your budget:

- **Attorney fees**, if you hire a specialized law firm;
- **Mentoring fees**, if you opt for strategic guidance;
- **Medical exams and vaccinations** (performed by consular- or USCIS-approved physicians);
- **Travel and/or lodging expenses** (especially for the consular interview stage);
- **Certified translations**, as it is recommended not to do your own translations—even if fluent—to ensure document impartiality and acceptance;
- **Educational Credential Evaluations (Equivalency)**, to prove that your Brazilian diplomas equate to the required U.S. degree levels.

### **How to pay USCIS filing fees**

The way you pay your filing fees (including biometric services fees and other fees) will depend on your location and method of submission.



**learn more in the full book**

## Chapter 6: Questions & Answers

The EB-3 visa is one of the main categories of employment-based immigration in the United States, with three subcategories: **Skilled Workers**, **Professionals**, and **Other Workers**. Below, we address the main questions about the process, differences and similarities between the subcategories.

### 1. What is the EB-3 Visa?

The EB-3 visa is an employment-based immigration category that allows foreign workers to obtain permanent residency in the U.S. It is divided into three subcategories:

- **Skilled Workers:** Requires at least two years of experience or training in the specific field.
- **Professionals:** Requires a bachelor's degree or equivalent.
- **Other Workers:** For roles that require less than two years of experience or training and are not temporary or seasonal.

### 2. What are the general requirements for EB-3?

- A permanent, full-time job offer in the U.S.
- U.S. Department of Labor-approved labor certification (PERM) proving that there are no U.S. skilled workers available for the position.
- Fulfilment of the specific requirements of the chosen subcategory.



**learn more in the full book**

## Chapter 7: Final Message

The end of this guide highlights the ongoing commitment to the applicant's journey towards the EB-3 visa. This process can be challenging, but with dedication, a thorough understanding of the requirements and the right guidance, it becomes an achievable journey. Pursuing EB-3 is not only a pathway to permanent residency in the United States, but also an opportunity to contribute significantly to the country through in-demand occupations.

As we conclude this guide, we reinforce the importance of seeking specialized legal advice to ensure that each step is taken in accordance with specific regulations and requirements. Each case is unique, and the assistance of experienced professionals can be a key differentiator in the success of the process.

We encourage readers to explore more resources, deepen their understanding of EB-3 and, if any questions arise, seek clarification from qualified professionals. This is a crucial chapter in your lives, and I am confident that, with perseverance and knowledge, you will achieve your goals.

Don't trust "professionals" who give you guarantees of approval, even for a category whose approval rate is quite high, a lot can happen during the process and no one is free of problems! Be wary of promises of "unrealistic" deadlines. These should be the first warning signs that something might be wrong. This guide was created precisely for this purpose, i.e. to provide you with comprehensive information so that you can study the process, analyze the requirements for approval, compare them with your reality and possibilities and make the best decision.

Being eligible for EB-3 alone doesn't guarantee you anything! You need much more than that: you need to present a solid, well-founded petition that meets the criteria established by the US immigration authorities.

Remember that EB-3 has specific and objective requirements, but it still requires attention to detail. The process involves steps such as labor certification and proving that you meet the qualifications required for the sponsored occupation. That's why it's essential to understand the process, its requirements and to work together with your employer and specialized consultants to ensure a robust application.

Another important point! If you are applying from inside the USA, never abandon your immigration status. No matter how much they tell you to do so, believe me: you may regret it bitterly if you encounter barriers to the approval of your application. In very rare cases, a lost status is reversed. Don't be overconfident and always take care of your status! Remember: applying for an adjustment of status does NOT guarantee you legal status, but only authorized permanence while it is pending. Therefore, if you need to reapply for a new process and you have previously abandoned your status, you will be ineligible for a new adjustment of status.

Always seek out a reliable immigration attorney licensed in the US (always require a BAR) for further information or questions about your immigration status.

Thank you for choosing this guide as part of your journey and I wish all applicants success in their efforts to achieve the EB-3 visa and, consequently, a new phase in their lives in the United States.

Good luck!

Ramon Rocha

**GET YOUR COMPLETE BOOK NOW AND HAVE IT ALL  
THE INFORMATION ABOUT THE EB-3 PROCESS IN YOUR HANDS.**

**MODULE I - PERM phase and general aspects of the immigration process**

**AMAZON - EBOOK – KINDLE**

<https://amzn.to/4dylL6H> - Amazon US

**AMAZON - PRINTED BOOK**

<https://amzn.to/4lYsngz> (paperback) - Amazon US

<https://amzn.to/3PsCMFn> (Hardcover) - Amazon US

**EBOOK – HOTMART**

<https://go.hotmart.com/E105102093T?dp=1>

**WANT TO KNOW THE BOOK?**

**Download here a free version**

<https://www.agenteusa.com/eb3-modulo-i-ptb-free>

**MY EBOOKS**

<https://www.agenteusa.com/ebooks>