

A **visa** to work in the USA must be obtained through the Immigration and Naturalization Service (INS), a division of the USA Department of Justice. USA embassies or consulates abroad do not have the authority to grant work permits for a visa. In all cases, permission to work must be obtained in the USA by an employer who wishes to hire you. This can be a long and extensive procedure, requiring the employer to prove that there are no qualified *USA* workers available to do the work.

After your employment sponsor has been granted approval for you by the INS, it is up to you to apply for a nonimmigrant visa by completing a *Nonimmigrant Visa Application*. Be careful to answer honestly, as the INS maintains meticulous records and can easily check whether you have previously had a visa refused or canceled.

There are several kinds of visas that allow you to work in the United States. Some of these visas

### Non-Immigrant Visa

- The most common and easiest to obtain non-immigrant visa is the H-1B professional person's visa. If you have a college degree or higher and have a job offer from a U.S. company that will sponsor you, you can obtain an H-1B visa. The visa traditionally takes around 30 days to obtain, is valid for one to three years, is renewable, and requires that you work only for the sponsoring company. If you want to change jobs, you will need to obtain a new H-1B visa.
- If you come from a country that has a treaty of navigation with the U.S. - such as any country from the European Union - you can obtain an E-2 visa that allows you to start your own business in the U.S. The business must be well capitalized, with at least \$25,000, and not represent your only source of income. You can also obtain the E-2 visa in roughly 30 days. The H-1B and the E-2 visas are non-immigrant visas that can be converted to permanent residence visas.

### Work Visas

- There are several kinds of visas that allow you to work in the United States. Some of these visas are non-immigrant visas that are issued for fixed time periods and usually specific jobs, and the rest are permanent residence visas - green cards - that allow you work any job and become a U.S. citizen.
- There are also visas for people of unique abilities such as professional athletes and scientists.
- An investment visa allows you to invest \$500,000 in a business in a rural area or \$1,000,000 in an urban area. The investment visa is a permanent residence visa.

### Sponsorship

- If you do not have a college degree or skills that are in demand, such as computer software engineering or nursing, you must have a job offer with a U.S. company that is willing to sponsor you for a labor certification. This process takes many years to complete but leaves you with a green card.

## Why Visas Are Denied

The immigration laws of the United States, in order to protect the health, welfare, and security of the U.S., prohibit the issuance of a visa to certain applicants. Examples of applicants who must be refused visas are those who:

- Have a communicable disease, or have a dangerous physical or mental disorder.
- Have committed serious criminal act.
- Are terrorists, subversives, members of a totalitarian party, or former Nazi war criminals.
- Have used illegal means to enter the U.S.

### **Department, the employer then files the following with the Immigration and Naturalization Service**

- A INS Form I-129, Petition for a Nonimmigrant Worker, along with a \$110 filing fee
- A INS Form I-129W, which allows the INS to record statistical information as required by the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA)
- A fee, as required under the ACWIA: \$1000 now, \$500 before December 17, 2000
- The approved labor attestation from the Labor Department
- Proof of the alien's academic qualifications and professional experience
- A letter from the sponsoring company describing its business and the job it intends to fill with the H-1B visa recipient, why the alien is particularly qualified, and including a statement that the company will pay the costs of the alien's return trip abroad if employment is terminated before the visa authorization period expires.
- Once the company receives approval from the INS, the prospective H-1B visa holder should then apply for the visa at the nearest U.S. consulate by filing:
  - An optional Form 156, Nonimmigrant Visa Application
  - A passport photograph
  - The original H-1B approval notice receipt issued to the company by the INS