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PLAYBOOK

Navigating Global Talent Immigration for Tough Tech Founders, Researchers, and Stakeholders



Talent Mobility Fund



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The Tough Tech community, comprised of scientists, researchers, founders, proto-founders, investors, and other stakeholders addressing the world's most pressing issues, should never be held back by a lack of understanding of available immigration pathways or of how outside financing may open or close them. While this playbook is not a substitute for speaking with an immigration attorney about your specific situation, we hope it builds familiarity with the U.S. immigration system and encourages the Tough Tech community to consider immigration early in the company-building process.

Who This is For

This playbook is for international researchers, PhD students, postdocs, proto-founders, and stakeholders exploring or actively pursuing the commercialization of a Tough Tech innovation in the United States, particularly those navigating the intersection of visa status, early company formation, and raising capital.

How to Use This Guide

This playbook is designed for those new to U.S. immigration and as a reference guide. Find the information most relevant to where you are in your founder journey, from your PhD or postdoc through incorporating, hiring, and fundraising.

About the Authors

Talent Mobility Fund is a program of Renaissance Philanthropy dedicated to maximizing the ability of international scientists, engineers, and other highly skilled professionals to work and thrive in the United States through existing immigration pathways. Learn more at talentmobility.fund.

The Engine is a nonprofit incubator and accelerator dedicated to providing early-stage Tough Tech companies with the critical infrastructure, programs, and ecosystem they need to thrive. Our mission is to support and accelerate tough Tech companies solving the world's most challenging programs, as they move from research breakthrough to commercial impact. Learn more at engine.xyz.

Part 1: Why Immigration Is a Tough Tech Challenge

1.1 The Global Nature of Tough Tech Talent

Talent acquisition and retention are inherently global. Tough Tech founders routinely prioritize identifying, onboarding, and retaining the best hire for a role based on skill set, not nationality.

Tough Tech's long development timelines and span across multiple technical verticals mean the relevant talent pool is constantly shifting, both in composition and geography. A skill set that is scarce in the United States today may only be accessible abroad, and the expertise a company needs can evolve as the technology matures. Companies need to stay nimble and ready to engage talent wherever it is, rather than assuming the right hire will be available close to home.

This is especially true in the United States due to: (a) the significant share of PhD candidates, postdoctoral researchers, and other highly skilled professionals at U.S. institutions who come from abroad; and (b) the unmatched access to capital in the United States.

Because Tough Tech companies are working on some of the world's largest and most technically demanding problems from human health to climate and energy, global talent access becomes essential as a company advances toward pilots and scale-up. Founders should understand this early and plan roughly 18 months ahead of

anticipated scale-up, identifying the relevant talent and starting the immigration process well before the need becomes urgent.
Finding and employing foreign nationals in the United States almost always involves engagement with U.S. immigration law, where unfamiliarity with the system can discourage some Tough Tech founders from establishing their companies in the United States, let alone hiring international talent who may require visa support or raising seed investment.

1.2 When Immigration Becomes a Bottleneck

Blueprint by The Engine™, a technology translation program for researchers and proto-founders, and resident companies at The Engine's Cambridge incubator have experienced firsthand how U.S. immigration issues can delay corporate formation, inhibit the hiring of critical personnel, or stall fundraising. Immigration professionals representing entrepreneurial clients affirm the same.

Each of these stages (founding, hiring, raising capital, and scaling operations) triggers different immigration considerations, meaning delays at one stage can have compounding effects on the next.

These effects include founders relocating companies abroad, key hires withdrawing offers rather than navigating visa delays, and investors hesitating to commit when immigration questions remain unresolved.

1.3 Common Misconceptions About Entrepreneurial Immigration Pathways

Many U.S. immigration attorneys, as well as universities and their international student offices, may have limited experience with entrepreneurial avenues available to F-1 or J-1 visa holders. As a result, advisors often default to “no” when “it depends” is the more accurate answer.

For example, misconceptions regarding F-1 self-employment, the scope of pre-completion or post-completion Optional Practical Training (“OPT”), or a J-1 visa’s transferability, may stymie founders’ efforts and narrow the options they pursue..

Because many investors' first introduction to the U.S. immigration system comes from international students or scholars who lack a complete understanding of their immigration options, these early setbacks can needlessly limit, or even prohibit, founders from securing capital.

Part 2: Know Your Status, A Founder's Immigration Baseline

2.1 Core Concepts Every Proto-Founder Should Understand

1. Founders should understand the distinctions between key immigration concepts, including status, visa, immigrant, nonimmigrant, petitioner, beneficiary, and applicant (see Appendix A: Glossary of Key Terms).

2. As Tough Tech founders move from researcher to founder to employer, they typically shift from one of these categories to another, making it essential for founders, employers, and investors to understand the distinctions at each stage.

3. Developing and executing an immigration strategy takes time. Tough Tech founders and their teams should build immigration planning into their company timeline from the start.

2.2 How Timelines Shape Options

International students and scholars often do not fully understand either (i) the time constraints they face or (ii) the activities they may engage in at a particular stage of their immigration path. Where a foreign national is in their immigration journey can determine whether their idea becomes a company at all.

During a Degree or Academic Program in the United States:
The earlier international students and scholars begin strategizing, the better, with the caveat that productive work, even if unpaid, is normally restricted until a later stage.

During OPT or J-1 Academic Training:
Pre-completion OPT, post-completion OPT (including STEM OPT extensions), and pre- and post-completion J-1 Academic Training each offer different degrees of freedom to engage in founder activities. Post-completion OPT and Academic Training generally offer more; pre-completion OPT and STEM OPT extensions generally offer less. Using these stages well can position a new company to make the most of available immigration pathways.

Postdocs transitioning to a startup

Waiting until this point to develop an immigration strategy can severely limit available options and may require creativity and/or compromise.

Incorporated but not yet funded

If the company was founded without considering immigration pathways, founders may need to take remedial steps before pursuing visa sponsorship or fundraising. Investors should also perform their own due diligence in these situations before investing in a company whose founders or key personnel may have difficulty securing a visa or status in the United States.

Immigration timelines also intersect directly with fundraising dynamics. Venture capital investors (VCs) tend to move quickly, driven by competition for promising deals, and have limited capacity for a secondary process like an immigration timeline to resolve before moving forward. The more definitive and well-planned a founder's immigration timeline, the less risk it presents during fundraising, making early immigration planning not just a legal matter but a fundraising advantage.

2.3 When to Seek Immigration Counsel and How to Find It

As noted above, it is never too early to consult with an immigration attorney, so founders, critical employees, and investors can make well-informed plans.

Note:
Immigration attorneys are typically not corporate attorneys or financial advisors. Founders will likely need to work with other legal professionals who can fill in an immigration attorney's gaps in expertise, such as corporate formation and investment terms, with the immigration attorney on hand to affirm that a given strategy is sound from an immigration perspective.

The International Student Resource Center, a free public resource providing U.S. immigration information and support for international students and scholars, offers a referral list of immigration attorneys at internationalstudent.us/attorneys.

2.4 Free Immigration Information, Resources, and Help Desk

International students and scholars can typically access free and low-cost resources through their institution's international student office. The International Student Resource Center also offers a confidential Help Desk staffed by experienced immigration experts, available at no cost to students, scholars, and their host institutions. Note that the Help Desk provides guidance, not legal advice. Learn more at internationalstudent.us/help-desk.

Part 3: Nonimmigrant Visa Pathways: What's Actually Available to You

3.1 An Overview of Pathways, Matched to Your Situation

Get to know the range of nonimmigrant visa classifications and understand their costs and benefits:

O-1A: Extraordinary ability

H-1B / Concurrent H-1B: Specialty occupation employment
J-1 Research Scholar: Exchange visitor research roles
F-1/ OPT/ STEM OPT: Student and post-graduation work authorization
E-3, H-1B1, TN: Country-specific options (Australia, Chile and Singapore, Canada and Mexico)
E-1 / E-2: Treaty traders and investors
L-1: Intracompany transfers
B-1: Business visitors engaged in certain exploratory or preliminary activities

Founders may also consider immigrant pathways such as **EB-5** (immigrant investor). See Appendix C: Immigrant Visa Matrix.

Key Considerations:

1. The foreign national's position in their immigration timeline
2. Their nationality or nationalities
3. Whether the classification requires an employer-employee relationship or qualifying wage
4. Costs, including legal and government filing fees, and any travel or personal investment required
5. Whether the founder can take on outside investors without jeopardizing their immigration status

3.2 The Underutilized Pathways Most Founders Miss

The J-1 Research Scholar Opportunity

The J-1 Research Scholar category offers several underappreciated advantages for Tough Tech founders looking to hire international research talent:

1. Portability across employers. The up-to-five-year work authorization window belongs to the individual, not the sponsoring institution, meaning a postdoc who began their J-1 Research Scholar appointment at a university can transfer the

remaining balance of that five-year window to a private-sector host, including a startup, without leaving the country or restarting the visa process;

2. Flexible sponsorship structure. Because the sponsor and the employer don't have to be the same entity, a startup doesn't need to become a Department of State-designated sponsor itself; it can host a J-1 Research Scholar through an existing "umbrella" nonprofit sponsor, while the startup simply funds and directs the work;

3. Contrary to popular belief, transferring J-1 Research Scholar sponsorship between host organizations is not overly onerous;

4. Changes to the U.S. Department of State's Exchange Visitors Skills List in December 2024 relieve foreign nationals from more than 30 countries from the two-year home residency requirement (also known as 212(e)).

Moreover, employers, including startups, can hire nearly anyone for a research role under the J-1 Research Scholar category, giving Tough Tech founders and key personnel the ability to secure top talent.

Similarly, obtaining a J-1 Research Scholar visa is often a faster and more cost-effective pathway than alternative visa categories such as the H-1B.

As this use of the visa is relatively novel in the startup context, it may require Tough Tech founders to advocate for themselves and/or other J-1 Research Scholar hires.

F-1 / OPT / STEM OPT

F-1 students without work authorization may still find and even possess an ownership stake in a startup so long as they do not actively participate in the company's day-to-day operations.

While still enrolled, F-1 students may gain work experience through Curricular Practical Training ("CPT"), which must be an integral part of their degree program and is authorized by their DSO for a specific employer. Some schools may permit CPT with a student's own startup, but it can be difficult to arrange, particularly since the Student

and Exchange Visitor Program's ("SEVP") August 2026 guidance tightened when CPT qualifies.

Twelve months or more of full-time CPT eliminates eligibility for OPT (part-time CPT does not count towards this limit), so students should weigh CPT against their longer-term OPT plans.

For initial post-completion OPT (up to one year), self-employment is allowed and entrepreneurial activity, even if unpaid, can count towards fulfilling the OPT holder's employment requirements.

The baseline assessment for the first year of OPT is whether the role is within the F-1 student's field of study.

STEM OPT (for an additional 2 years) must be paid, supervision/evaluation consistent with a training plan must take place, and the employer must be enrolled in E-Verify.

Use OPT time strategically to incorporate and build before needing employer sponsorship.

O-1A: The Extraordinary Ability Visa

Despite its name, the O-1A does not require Nobel Prize-level accomplishment. USCIS evaluates candidates against a list of eight criteria (e.g., publications, citations, media coverage, judging/peer review, original contributions of major significance) and requires meeting at least three.

For Tough Tech founders with a research background, published papers, competitive grants, patents, or recognized technical contributions, this bar is often more attainable than founders assume.

No self-petitioning, but also no wage requirement, and it's amenable to founder/owners.

Foreign national students can begin building their O-1A case well before they need it. Publishing, presenting at conferences, securing grant funding, and taking on

peer-review or advisory roles during their studies or postdoc can all directly build the record needed later.

Common documentation: proof of publications, citations, grants, advisory roles, peer review, media coverage, etc.

H-1B: Friendlier to Founders

While still customarily subject to the H-1B Lottery and unable to self-petition (i.e., file a petition for yourself as both the Petitioner and Beneficiary), updated regulations provide more leniency for founders/owners to possess the requisite employer-employee relationship.

Employers still need to fulfill the wage requirements through regularly paid, guaranteed salary, not through speculative bonuses/commissions or equity in the employer.

Concurrent H-1B: Simultaneous Cap-Exempt and Cap-Subject Employment

Certain employers are not subject to (i.e., they are cap-exempt from) the yearly H-1B Lottery and therefore may submit an H-1B petition for a foreign national at any time of year. Examples include universities, teaching hospitals, nonprofit research organizations, and even for-profit companies that station a worker at a cap-exempt institution.

If an individual is employed by a cap-exempt entity, it is possible for a cap-subject entity to request a concurrent H-1B on the individual's behalf. The cap-exempt employment may be full-time or part-time, with the cap-subject employment logically corresponding (i.e., an H-1B holder cannot hold two full-time jobs; at least one of them must be part-time). For instance, a postdoc researcher may hold concurrent H-1B status with a university (cap-exempt) and a startup (cap-subject).

H-1B holders must maintain cap-exempt employment; if the cap-exempt employment ceases (voluntarily or involuntarily), the concurrent H-1B with the cap-subject entity becomes inoperative.

E-3, H-1B1, TN: Country-Specific Options

Nationals of Australia (E-3), Chile and Singapore (H-1B1), or Canada and Mexico (TN) have access to these visa classifications thanks to free trade agreements with the United States.

Each visa type has specific requirements that create costs and benefits to weigh, but it is worth exploring the E-3, H-1B1, or TN if the foreign national is a national of one of these countries.

The spouses of E-3 visa holders (E-3D) are granted blanket work authorization once they arrive in the United States. They could start their own company, work for someone else's startup, or become a barista at the local coffee shop, so long as the E-3 visa holder maintains their qualifying employment.

E-1/E-2: Treaty Traders and Investors

This option is only available to nationals of countries with which the United States has a bilateral agreement pertaining to one or both of these classifications.

E-1 is for Treaty Traders, E-2 for Treaty Investors; at least 50% of ownership must lie with a national of the treaty country.

If certified as E-1 or E-2, the company may hire key personnel of the same nationality. Taking on additional investment may upset the 50% ownership balance, which would invalidate the E-1/E-2 designation and render all E-1/E-2 workers out of status, so must be very careful when fundraising when ownership is a part of the investment equation.

L-1: Intracompany Transfers

The L-1 visa is for managers/executives (L-1A) or specialized knowledge workers (L-1B) who have at least 1 year of such experience abroad working for a related company and will enter the United States to work for a related company in a similar capacity.

Available to parents-subsidiaries, branches, affiliates, and other qualifying corporate relationships where there is an entity abroad and an entity in the United States. The spouses of L-1 visa holders (L-2) also receive unfettered work authorization once they enter the United States.

L-1A is also available for setting up a new office (or joining an office that has been doing business for less than 1 year), for an initial 1-year period, during which the foreign national founder, executive, or other manager may perform otherwise non-qualifying duties to help get the U.S. business off the ground. After the first year, the L-1A worker must operate as a true executive/manager.

L-1A typically offers a straightforward path to a green card by way of the EB-1C green card process for Multinational Managers and Executives.

3.3 Pathways for Hiring as a Founder

A Tough Tech founder must be aware of how their nonimmigrant visa/status limits or empowers them to work for their company or sponsor other foreign national workers.

Besides going through the H-1B Lottery, researchers and entrepreneurs may also access the H-1B Program by working for a cap-exempt entity (e.g., university or nonprofit research organization) and a cap-subject entity (e.g., start-up, small business, public corporation, etc.) concurrently, as well as by physically working at a cap-exempt entity, even if the cap-exempt entity is not the employer (e.g., working for a start-up that is housed at an on-campus incubator).

Equally, Tough Tech founders and investors should remember that the J-1 Research Scholar category is a viable way to bring global research talent and perspective onto a team, not just a personal status a candidate happens to hold, and unlike the H-1B, it carries no cap-exempt/cap-subject distinction or lottery risk. That said, the J-1 is not a standard work visa: it is a cultural exchange program that requires the exchange visitor to demonstrate an intent to return home after their program ends.

If necessary, startups may utilize an Employer of Record (EOR) as a bridge while the company builds the capacity to sponsor foreign workers on their own.

Part 4: The Founder's Journey: Immigration at Each Stage

4.1 Pre-Incorporation

It is essential that foreign nationals ensure that any pre-incorporation entrepreneurial activities are consistent with their current nonimmigrant status.

If the foreign national has made a scientific breakthrough on campus and wants to consider incorporation to build a product that they will bring to market, they must strategically consult their Principal Investigator (PI), Technology Licensing Office (TLO), and Designated School Official, in the correct order.

These conversations should hopefully educate the foreign national regarding what their institution may and may not restrict.

4.2 Corporate Formation

Possessing a stake in a company or in a piece of intellectual property may be permissible under a foreign national's current immigration status, but best to discuss with a Designated School Official (DSO) (if holding F-1 status), Responsible Officer (RO) (if holding J-1 status), and/or immigration attorney to affirm passive ownership has not/will not become active participation in the venture/technology's development.

Incorporating and beginning to do business may require a Tough Tech founder to obtain a new nonimmigrant visa classification that grants them the ability to work for the new enterprise.

Working without such authorization may create immediate immigration-related consequences.

4.3 Initial Fundraising

Foreign nationals should be open and honest with potential investors regarding their immigration status. Before executing a term sheet, investors normally perform their own due diligence to verify that the foreign national possesses the authorization to engage in the work they represent that they will do for the company.

In certain scenarios, foreign nationals may even consider promoting their immigration status, as possessing an O-1A may demonstrate to a potential investor the foreign national's elevated talent, outstanding achievements, and/or recognition in their field of expertise.

4.4 Building-Out the First Team

Tough Tech founders, principals, and investors should identify similarly situated researchers and other key personnel in their academic and/or professional networks.

For pre-revenue companies, hiring foreign workers in visa classifications with stringent prevailing wage requirements (i.e., H-1B, H-1B1, and E-3) may prove difficult, whereas other visa classifications that lack such a requirement could be better suited to a pre-revenue company's budget.

Understanding and being able to leverage U.S. immigration to serve the company's needs always presents a competitive advantage, but even more so in exceedingly sophisticated areas of endeavor that boast small and global talent pools.

Part 5: Resources, Support & Next Steps

5.1 The International Student Resource Center

- ➔ Free and timely information and resources for international students and postdocs, including FAQs (internationalstudent.us/faqs), visa guides (internationalstudent.us/guides), a newsletter (internationalstudent.us/subscribe), and a Help Desk (internationalstudent.us/help-desk) staffed by immigration experts
- ➔ In-depth resources for student founders, including *Understanding International Student Employment and Non-Study Activities in F-1 Status*, which explains where the line falls between permissible entrepreneurial activity and unauthorized employment
- ➔ *Exploring Entrepreneurial Opportunities for International Students*, a webinar recording, co-hosted with Interstride, in which a panel of immigration professionals walks through real-world examples and regulatory interpretations

5.2 The Engine & Blueprint

- ➔ How Blueprint's eight-week program integrates immigration awareness across the founder curriculum
- ➔
- ➔ The Blueprint showcase: where immigration pathway resources meet fellowship programs (Activate, NSF I-Corps, etc.).
- ➔
- ➔ How The Engine residents can access ongoing immigration support as they hire and grow.

5.3 For Regional Ecosystems (NSF Regional Innovation Engines)

- ➔ Immigration fluency as an economic development tool: attracting and retaining talent in emerging Tough Tech hubs.
- ➔ H-1B cap-exempt status and J-1 as tools for regional engine institutions.
- ➔ Lessons from The Engine's model for nascent ecosystems in Michigan, North Carolina, and beyond.

Appendices

A. **Glossary of Key Terms and Abbreviations**

B. **Quick-Reference Decision Tree: Which Pathway Is Right for Me?**

C. **Visa Comparison Matrix (description, timeline, self-employment eligibility, costs)**

D. **Sample Immigration Timelines**

E. **Sample Questions to Ask Your University DSO or Immigration Office**

F. **Sample Language for Framing an O-1A for Tough Tech Founders**

G. **Key Contacts: The Engine, The International Student Resource Center, Immigration Counsel Resources**

APPENDIX A

Glossary of Playbook Abbreviations and Key Terms

Abbreviations

- ➔ ACWIA: American Competitiveness and Workforce Improvement Act
- ➔ ARO: Alternate Responsible Officer
- ➔ CPT: Curricular Practical Training
- ➔ DOS: U.S. Department of State
- ➔ DSO: Designated School Official
- ➔ EOR: Employer of Record
- ➔ IV: Immigrant Visa
- ➔ NIW: National Interest Waiver
- ➔ OPT: Optional Practical Training
- ➔ PERM: Permanent Labor Certification
- ➔ PI: Principal Investigator
- ➔ RO: Responsible Officer
- ➔ SEVIS: Student and Exchange Visitor Information System
- ➔ TLO: Technology Licensing Office
- ➔ USCIS: U.S. Citizenship and Immigration Services

Key Terms

Academic Training: Work authorization available to J-1 exchange visitors (such as research scholars and students) that allows them to gain practical experience directly related to their program, either during or after their program ends, subject to approval by their program sponsor.

Applicant: The person seeking an immigration benefit for themself.

Beneficiary: The person on whose behalf the Petitioner is seeking the immigration benefit.

Curricular Practical Training (CPT): Work authorization for F-1 students that allows training considered an integral part of an established curriculum, authorized by the student's DSO for a specific employer while the student is still enrolled.

E-3D: The dependent spouse classification for E-3 visa holders. E-3D spouses receive broad work authorization upon arrival in the United States and are not limited to working for their spouse's E-3 employer.

Employer of Record (EOR): A third-party organization that formally employs a worker on a company's behalf, handling payroll, benefits, and compliance with employment and immigration laws, while the company directs the worker's day-to-day work. Startups sometimes use an EOR as a bridge solution to legally employ a foreign national before the startup itself is able to sponsor visas directly.

E-Verify

A federal electronic system that employers use to confirm a worker's eligibility to work in the United States. Enrollment in E-Verify is a requirement for employers seeking to employ F-1 students under a STEM OPT extension.

Exchange Visitor Skills List

A list maintained by the U.S. Department of State identifying fields of specialized knowledge or skill, by country, that may subject certain J-1 exchange visitors to the Two-Year Home Residency Requirement (see below).

Immigrant Intent: Certain visa classifications (H-1B, L-1) permit holders to pursue a green card, or to act on their intent to immigrate to the United States.

Immigrant Status/Visa: This status/visa is for individuals seeking to adjust their status within the United States to, or applying from abroad to enter as, a U.S. Lawful Permanent Resident, i.e., a green card holder who, eventually, may apply for U.S. Citizenship.

L-2: The dependent spouse classification for L-1 visa holders. L-2 spouses receive broad work authorization upon arrival in the United States.

Nonimmigrant Intent: Required for several visa classifications (F-1, J-1, E, TN, H-1B1), at the time of seeking a visa, admission to the U.S., applying for F-1 OPT / STEM OPT, or applying for a change of status, the foreign national may not intend to abandon their

residence abroad and intends to depart the United States at the conclusion of their anticipated period of stay.

Nonimmigrant Status/Visa: These statuses/visas are for temporary periods and specific purposes, some of which allow work, and others (e.g., F-1 and J-1) require nonimmigrant intent (see below) and therefore make it more difficult to pursue a green card. And even if a nonimmigrant status/visa permits a foreign national to seek a green card, acquiring a green card is its own, separate process.

Optional Practical Training (OPT): Temporary work authorization available to F-1 students, either before (pre-completion) or after (post-completion) finishing their academic program, allowing employment directly related to their field of study.

Petitioner: The person or entity (e.g., a U.S. employer) requesting an immigration benefit on behalf of someone else.

Premium Processing: An optional, additional fee paid to USCIS in exchange for an expedited adjudication timeline (typically 15 to 45 business days, depending on the petition type) rather than standard processing times.

Priority Date: The date that establishes an applicant's place in line for an immigrant visa, generally the date a petition is properly filed. The Visa Bulletin (see below) is used to determine when a given priority date becomes current and an applicant may proceed with the next step of the green card process.

Self-Petition: An immigration petition filed by the beneficiary on their own behalf, without requiring a separate employer or sponsor to act as Petitioner. Categories such as O-1A (through a separate legal entity), EB-1A, and EB-2 NIW allow self-petitioning, in contrast with categories that require employer sponsorship.

STEM OPT: A 24-month extension of post-completion OPT available to eligible F-1 students with a degree in a qualifying STEM field, subject to additional requirements including employer enrollment in E-Verify, a formal training plan, and paid employment.

Two-Year Home Residency Requirement (section 212(e)): A requirement applicable to certain J-1 exchange visitors, based on factors including program funding, field of study, and country of origin, obligating the exchange visitor to return to their home

country for two years before becoming eligible for certain other visa classifications or a green card, unless a waiver is obtained.

Status: The classification one has within the United States, including when that classification expires and the activities in which you are permitted to engage; save certain exceptions (see below), foreign nationals maintaining their status may extend and/or change said status while in the United States.

Visa: Requested at a U.S. Consulate abroad and tied to a specific classification, a visa permits a foreign national to travel to the United States and seek admission in that classification – at which point they have "status."

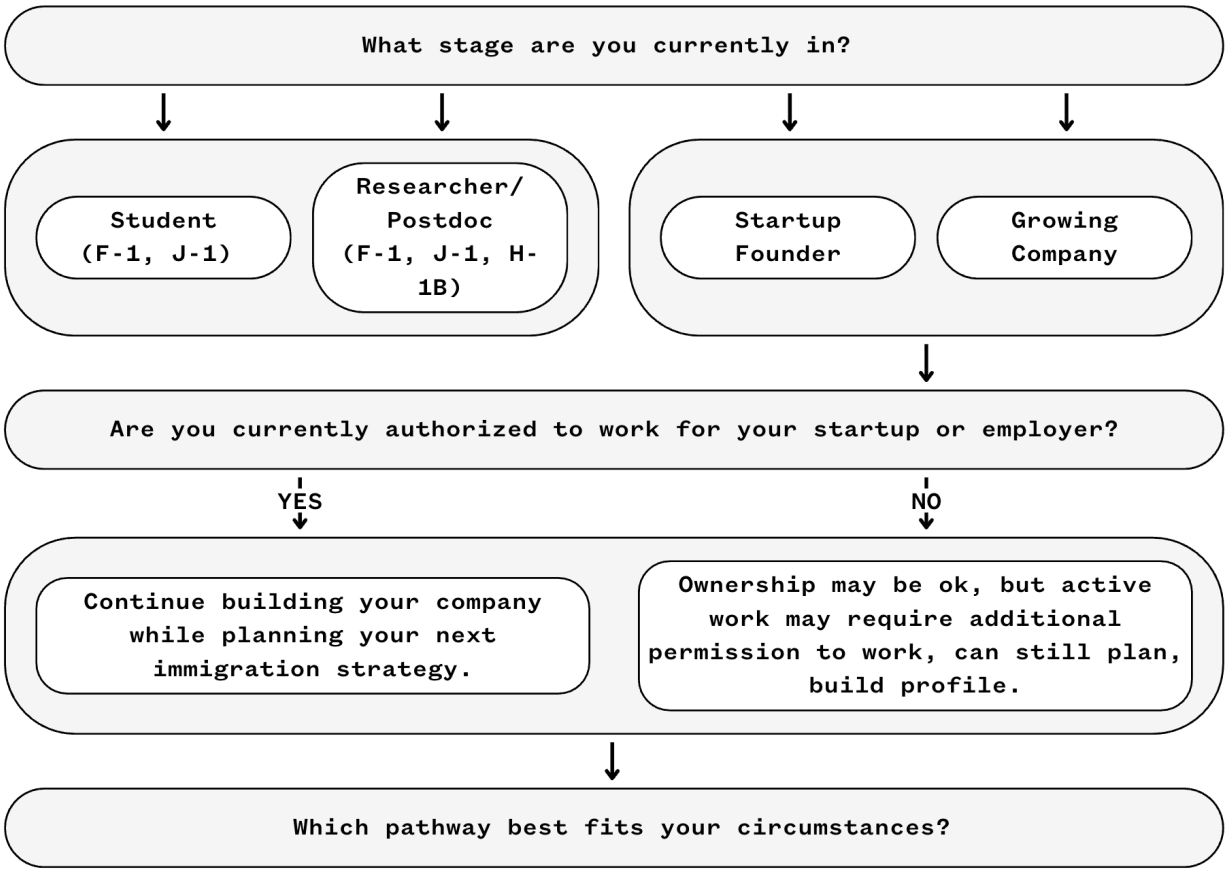
Note:
Canadian and Bahamians are largely visa-exempt.

Note:
Foreign nationals from countries that participate in the Visa Waiver Program may obtain Electronic System Travel Authorization (ESTA) and enter the United States as a B-1 Visitor for Business for up to 90 days at a time but without the ability to change or extend that status.

Visa Bulletin: A monthly publication by the U.S. Department of State indicating which priority dates are currently eligible to proceed with green card applications, organized by immigrant visa category and country of chargeability.

APPENDIX B

Quick-Reference Decision Tree: Which Pathway Is Right for Me?



Key Considerations for Tough Tech Founders When Selecting a Pathway

- ➔ How far in advance of my current status' expiration am I making my plan?
- ➔ Can I legally perform the work I intend to do/have represented to third-parties, including but not limited to potential and/or existing investors?
- ➔ What, if any, are the consequences of taking-on outside investors?
- ➔ Does the pathway require an employer-employee relationship?
- ➔ Does the pathway require a guaranteed salary?
- ➔ How well do my personal immigration-related goals align with my company's long-term goals, and visa-versa?

APPENDIX C

Nonimmigrant Visa Matrix

Visa	Best For	Typical Timeline	Can You Run Your Own Company?
F-1	Students	Weeks–months	Limited
O-1 A	Extraordinary ability	1–4 months	Yes, with structure
E-2	Treaty-country investors	1–4 months	Yes
TN	Canadian/Mexican professionals	Days–weeks	No

F-1: Academic Student

Who it's for: Academic students
Timeline: Weeks–months, depending mainly on school admission, I-20/SEVIS processing and visa appointment availability
Self-employment: Limited. Work is limited to on-campus jobs (up to 20 hours a week while school is in session), CPT and OPT. Pre- and post-completion OPT allow work directly related to the student's major, and self-employment may be possible during OPT if it meets that standard. STEM OPT is much more restrictive and requires an E-Verify employer and a bona fide employer-employee relationship.
Fees: $185 visa fee + $350 SEVIS I-901 fee generally. OPT requires a separate Form I-765 fee (470 online / $520 paper).

J-1: Exchange Visitor

Who it's for: Participants in approved exchange programs, including students, trainees, interns, research scholars, specialists and professors
Timeline: Weeks–months, depending on the program sponsor and consular processing
Self-employment: Generally no. Work is limited to the activities the sponsor authorizes on the DS-2019, which typically excludes self-employment. The main flexibility is for research scholars whose sponsor approves a company as a research host.

Fees: $185 visa fee + generally $220 SEVIS I-901 fee. Some government-sponsored programs are exempt from the visa and/or SEVIS fees.

H-1B: Specialty Occupation

Who it's for: Professionals employed in a specialty occupation
Timeline: 7+ months for cap-subject cases due to registration, selection and fiscal-year timing. Much faster if cap-exempt or previously counted against the cap.
Self-employment: Limited and structured. A beneficiary may hold a controlling interest in the petitioning company, but in that case H-1B validity is limited to 18 months initially and for the first extension.
Fees: $215 registration if cap-subject + generally $780/730$ I-129 depending on filing method, plus ACWIA fee of $750/1,500, $500 fraud fee and $600/300/$0 Asylum Program Fee. Premium processing is $2,965.

O-1A: Extraordinary Ability

Who it's for: Individuals with extraordinary ability or achievement
Timeline: 1–4 months. Premium processing available within 15 business days.
Self-employment: Yes, with proper structure. A separate legal entity owned by the beneficiary can petition, as long as it remains a legitimate petitioner/employer. Traditionally self-employed beneficiaries, such as freelancers, can also file through a Petitioner-Agent.
Fees: $1,055I - 129($530 for small employers/nonprofits) + $600/300/$0 Asylum Program Fee. Premium processing is $2,965. Department of State (DOS) visa fee is $205.

L-1A: Intracompany Executive or Manager

Who it's for: Executives and managers transferring within a company, including to open a new U.S. office
Timeline: 1–4 months. Premium processing available within 15 business days.
Self-employment: Yes, in an entrepreneurial sense, but not ordinary self-employment. A founder/owner may establish and work for a qualifying U.S. entity if the foreign/U.S.

corporate relationship and other L-1 requirements are met, including at least 1 year of continuous employment abroad with the qualifying foreign entity. New-office cases have additional requirements and initially receive up to one year.
Fees: $1,385 I-129 + $600/300/$0 Asylum Program Fee, plus $500 fraud fee for initial L-1. Premium processing is $2,965. Additional fees may apply to certain large H/L employers. $205 DOS visa fee.

L-1B: Intracompany Specialized Knowledge

Who it's for: Employees with specialized knowledge transferring within a company
Timeline: 1–4 months. Premium processing available within 15 business days.
Self-employment: Limited. Can work for the petitioning organization or related entities, but cannot simply operate an unrelated personal business.
Fees: Same basic I-129/L fees as L-1A.

E-3: Australian Specialty Occupation

Who it's for: Australian professionals in a specialty occupation
Timeline: Weeks–3 months, depending on visa appointment availability and processing
Self-employment: Generally no. Employment must conform to the sponsoring employer and position.
Fees: $315 DOS visa fee. If filing an I-129, $1,015 + applicable fees. Premium processing is $2,965.

H-1B1: Chilean and Singaporean Specialty Occupation

Who it's for: Chilean and Singaporean professionals in a specialty occupation
Timeline: Weeks–3 months, depending on visa appointment availability and processing
Self-employment: Generally no. H-1B1 is employer-based, so self-employment is ordinarily not permitted.
Fees: If filing an I-129, $780 (paper)/730 (online) for regular petitioners or $460 for small employers/nonprofits, + $600/300/$0 Asylum Program Fee, plus ACWIA fee of $750/1,500 depending on workforce size. $205 DOS visa fee.

TN: USMCA Professional

Who it's for: Canadian and Mexican citizens in qualifying professions under the U.S.-Mexico-Canada Agreement (USMCA)
Timeline: Days–weeks to prepare straightforward cases. Consular cases depend on appointment availability.
Self-employment: No. TN is tied to qualifying professional employment and does not authorize independent self-employment.
Fees: Canadian applicants generally have no visa requirement. Mexican applicants pay a $185 DOS visa fee plus a visa issuance fee. If filing a USCIS I-129, $1,015 + applicable fees. Premium processing available.

E-1: Treaty Trader

Who it's for: Nationals of treaty countries carrying on substantial trade between the U.S. and their treaty country
Timeline: 1–4 months, potentially faster at some consular posts
Self-employment: Yes, potentially. The investor/owner can work for the qualifying treaty enterprise, subject to nationality, ownership/control and treaty-trade requirements.
Fees: $315 DOS visa fee. If filing an I-129 with USCIS, $1,015[1] + applicable fees. Premium processing is $2,965.

E-2: Treaty Investor

Who it's for: Nationals of treaty countries making a substantial investment in a U.S. enterprise they develop and direct
Timeline: 1–4 months typical planning range. Consular processing varies considerably by consulate.
Self-employment: Yes, and one of the clearest routes for entrepreneurs. The investor may own and direct the enterprise, which must be at least 50% owned by nationals of the same treaty country.
Fees: $315 DOS visa fee. If filing an I-129 in the U.S., $1,015 + applicable fees.

Premium processing is $2,965. Investment capital is separate, and there is no fixed statutory minimum investment.

Immigrant Visa Matrix

At a Glance

Visa	Best For	Typical Timeline	Can You Run Your Own Company?
EB-1A	Extraordinary ability	~1–3+ yrs	Yes, self-petition
EB-1B	Outstanding professors and researchers	~1–3+ yrs	Generally no
EB-1C	Multinational managers and executives	~1–3+ yrs	Possible, but employer must petition
EB-2 NIW	Advanced degree or exceptional ability, national interest	~1–3+ yrs	Yes, self-petition
EB-2 PERM	Advanced degree or exceptional ability, with job offer	~2–4+ yrs	Generally no
EB-3	Professionals and skilled workers	~2–5+ yrs	Generally no
EB-5	Immigrant investors	~1.5–4+ yrs	Yes

EB-1A: Extraordinary Ability

Who it's for: Individuals with sustained national or international acclaim
Timeline: ~1–3+ years
Self-employment: Yes. Self-petition, with no job offer or PERM Labor Certification required. May pursue work in one's field of extraordinary ability.
Fees: $715 I-140 + $300 Asylum Program Fee if self-petitioning. Premium processing is $2,965. I-485 generally $1,440, or $345 immigrant visa processing fee.

EB-1B: Outstanding Professors and Researchers

Who it's for: Internationally recognized professors and researchers with a qualifying U.S. academic or research position. Requires at least 3 years of qualifying teaching or research experience and at least 2 regulatory criteria.
Timeline: ~1–3+ years
Self-employment: Generally no. The category is employer-sponsored, requires a qualifying permanent job offer, and is not a self-petition category.
Fees: $715 I-140 + $600 Asylum Program Fee for a regular employer. Premium processing is $2,965. I-485 generally $1,440 if available, or $345 immigrant visa processing fee.

EB-1C: Multinational Manager or Executive

Who it's for: Qualifying multinational managers and executives transferring to a related U.S. entity
Timeline: ~1–3+ years

Self-employment: No self-petition. The beneficiary may own or control businesses within an appropriate multinational structure, but the U.S. employer must petition.
Fees: $715 I-140 + $600 Asylum Program Fee. Premium processing is $2,965.[3] I-485 generally $1,440, or $345 for an immigrant visa through consular processing.

EB-2 NIW: National Interest Waiver

Who it's for: Individuals with an advanced degree or exceptional ability who meet the national interest waiver standard
Timeline: ~1–3+ years
Self-employment: Yes. Self-petition, with no PERM Labor Certification or job offer required. Particularly relevant to qualifying entrepreneurs and independent professionals.
Fees: $715 I-140 + $300 Asylum Program Fee. Premium processing is $2,965. I-485 generally $1,440, or $345 for an immigrant visa through consular processing.

EB-2 PERM: Advanced Degree or Exceptional Ability with Job Offer

Who it's for: Advanced-degree professionals or individuals of exceptional ability with a permanent U.S. job offer. PERM Labor Certification required.
Timeline: ~2–4+ years
Self-employment: Generally no. An employer-sponsored position is required, and beneficiary-owned companies raise bona fide job and control issues.
Fees: $715 I-140 + $600/300/$0 Asylum Program Fee. Premium processing is $2,965. I-485 generally $1,440, or $345 for an immigrant visa through consular processing.

EB-3: Professional or Skilled Worker

Who it's for: Professionals and skilled workers in a permanent employer-sponsored position
Timeline: ~2–5+ years
Self-employment: Generally no. Traditional EB-3 requires employer sponsorship.
Fees: $715 I-140 + $600 Asylum Program Fee. Premium processing is $2,965. I-485 generally $1,440, or $345 immigrant visa through consular processing.

EB-5: Immigrant Investor

Who it's for: Investors making a qualifying investment that creates at least 10 qualifying full-time jobs
Timeline: ~1.5–4+ years
Self-employment: Yes. The investor may operate a qualifying business or use a regional-center structure.
Fees: $800K Targeted Employment Area / $1.05M standard investment + USCIS fees. Regional-center projects may have additional project-level fees.

APPENDIX D

Sample Progression for F-1 H-1B EB-1A

At a Glance

F-1 Student (Years 0–2/4) → OPT (Years 2–5) → H-1B (Years 3–8+) → EB-1A Petition (Around Years 5–8) → Green Card (Approximately Years 6–10+)

1. **F-1 Student**

   Years 0–2/4

   The student enters F-1 status and completes a bachelor's, master's, Ph.D. or other qualifying program.

2. **Post-Completion OPT**

   Years 2–5

   The student obtains up to 12 months of post-completion OPT. A qualifying STEM graduate may obtain an additional 24-month STEM OPT extension, for up to 36 months total. These options are available at each level of U.S. education.

3. **H-1B Registration**

   During final OPT year

   The employer registers the student for the H-1B cap and, if selected, files the H-1B petition. The annual cap and selection process can make this a critical timing point.

4. **H-1B Status**

   Years 3–8+

   The student transitions to H-1B employment. H-1B generally permits up to six years, subject to extensions and applicable exceptions.

5. **Build the EB-1A Record**

   Years 4–8+

   During H-1B employment, the individual develops the record needed for EB-1A. Depending on the field, this includes publications, citations, judging, awards,

memberships, original contributions, leading or critical roles, media coverage, compensation and other evidence.

6. **File the EB-1A I-140**
   Around Years 5–8
   The beneficiary self-petitions for EB-1A. No employer sponsorship or PERM Labor Certification is required

7. **EB-1A I-140 Adjudication**
   ~2 weeks to several months
   Premium processing is available for EB-1A. The current premium processing period for an EB-1A I-140 is 15 business days, and the current premium fee is $2,965.

8. **Adjustment of Status or Consular Processing**
   ~6–18+ months after priority date is current
   If the applicant is in the U.S. and an immigrant visa number is available, the applicant may file and complete the I-485 process. Otherwise, the applicant may process the immigrant visa at a U.S. consulate abroad. Timing depends heavily on Visa Bulletin availability and USCIS processing

9. **Green Card**
   Approximately Years 6–10+
   The applicant becomes a lawful permanent resident once the immigrant visa or adjustment process is approved.

Sample Progression for J-1 O-1A EB-2 NIW

At a Glance
J-1 Exchange Program (Years 0–2/5+) → O-1A (Years 2–6+) → EB-2 NIW Petition (~Years 3–6+) → Green Card (Approximately Years 4–8+)

1. **J-1 Exchange Program**
   Years 0–2/5+
   The individual takes part in an approved J-1 program, such as research, teaching, training or another qualifying exchange activity.

2. **Determine Whether the 2-Year Home Residency Requirement Applies**
   During J-1
   Analyze funding, the field and Skills List, and program type. Graduate medical education or training, certain government-funded programs and certain Skills List programs can trigger the 2-year home residency requirement (commonly known as section 212(e)).

3. **Build the O-1A Record**
   Years 1–4+
   The individual develops evidence of extraordinary ability in science, education, business or athletics. As applicable, this includes publications, citations, judging, awards, original contributions, leading or critical roles, media coverage and high remuneration.

4. **Transition from J-1 to O-1A**
   ~1–4 months once eligible
   A U.S. employer or agent files the O-1A petition. A beneficiary cannot self-petition, but a separate legal entity owned by the beneficiary can petition on the beneficiary's behalf.

5. **Obtain a 2-Year Home Residency Waiver, If Necessary**
   Several months or more
   If the individual is subject to the 2-year home residency requirement, pursue an appropriate waiver. DOS currently estimates 6–10 weeks for its waiver recommendation process, followed by USCIS adjudication.

6. **O-1A Status**
   Years 2–6+
   The individual works in their area of extraordinary ability. O-1A can be particularly useful for someone developing an independent professional or entrepreneurial career, and USCIS specifically recognizes work for a business the O-1 beneficiary owns.

7. **Build the EB-2 National Interest Waiver (NIW) Record**
   Years 2–6+
   Build evidence around the proposed endeavor, the individual's qualifications and the national interest case. The O-1A period can provide substantial evidence of

professional accomplishments, but O-1A approval does not itself establish NIW eligibility.

8. **File the EB-2 NIW I-140**
   ~Years 3–6+
   The individual self-petitions for EB-2 NIW. No employer-sponsored job offer or PERM Labor Certification is required.

9. **I-140 Adjudication**
   Weeks to months
   Premium processing is available, with a decision within 45 business days of submission. The NIW petition is adjudicated separately from the O-1A petition.

10. **Adjustment of Status or Immigrant Visa**
    After a visa number becomes available
    If the individual is in the U.S., they file or continue with adjustment of status (I-485) when eligible. Timing depends heavily on the Visa Bulletin and country of chargeability.

11. **Green Card**
    Approximately Years 4–8+
    The individual obtains lawful permanent residence once adjustment of status or the immigrant visa process is approved.

APPENDIX E

Questions to Ask Your University DSO or Immigration Office

Your university's international office is often the best first stop for understanding how your immigration status affects your plans to start a company. Who you speak with depends on your status: your Designated School Official (DSO) if you hold F-1 status, your Responsible Officer (RO) or Alternate Responsible Officer (ARO) if you hold J-1 status, or the office that manages your university's H-1B petitions if you hold H-1B status. The questions below are intended to help guide that conversation.

For All International Students and Scholars

1. What are the key dates for my current status, including my program end date, grace period, and any practical training application windows I should be aware of? How far in advance should I begin planning my next steps?
2. Which founder-related activities may I pursue under my current status, such as incorporating, holding equity, building a prototype, or meeting with potential investors, and which activities would be considered activities requiring work authorization?
3. If I join an accelerator, fellowship, or pitch competition that offers a stipend, prize money, or equity, how would my participation be viewed under my current status?
4. Are there any external resources for questions regarding business formation and tax planning?

For F-1 Students

5. Could I work for my own startup through pre- or post-completion OPT? How might pre-completion OPT now affect my post-completion OPT eligibility later? What risks or challenges should I be aware of with the different options?
6. If I work for my own startup on post-completion OPT, how do I report that employment, and what records should I keep to show that the work relates to my field of study and meets OPT's employment requirements?

7. What would my startup need to have in place for me to qualify for a STEM OPT extension, such as E-Verify enrollment, compensation, and resources to provide appropriate supervision and training, and how do these requirements apply if I am also a founder or owner?
8. Similarly, are there things I should think about in setting up the business that would help make it possible for the business to eventually sponsor me for an H-1B work visa?

For J-1 Exchange Visitors

9. How much Academic Training am I eligible for before or after completing my program, and under what circumstances could a startup serve as my training site?
10. If I am a J-1 Research Scholar, could the university transfer the remaining time in my J-1 program to a startup, or could another organization, such as an umbrella sponsor, sponsor my research at the startup? What requirements would apply to either option?
11. Am I subject to the two-year home residency requirement, and how might the December 2024 changes to the Exchange Visitor Skills List affect my situation?
12. [If you are subject / have applied / received waiver recommendation] How does a waiver recommendation impact my ability to transfer to a startup or umbrella sponsor?

For H-1B Holders

13. Does university policy permit me to work for my own startup while keeping my university position, for example, through a concurrent H-1B petition filed by my startup?
14. Does university policy permit me to work for my own startup while keeping my university position, for example, through a concurrent H-1B petition filed by my startup?

Note:

DSOs, ROs, and university immigration staff can explain your program's rules and your university's policies, but they typically cannot provide legal advice, and the answer to many of these questions may be "it depends" based on your individual circumstances.

If you are planning to move toward active work for your startup, you should consider working with an experienced immigration attorney, and should connect with your DSO/RO/ARO on your institution's specific requirements as your activities evolve. See Section 2.3 and Appendix G for more on finding and working with immigration counsel.

APPENDIX F

Understanding the O-1A Criteria

The O-1A visa is for individuals with extraordinary ability in the sciences, education, business, or athletics. U.S. Citizenship and Immigration Services ("USCIS") defines extraordinary ability as a level of expertise indicating that a person is one of the small percentage who have risen to the very top of their field. This appendix breaks down the criteria USCIS uses to evaluate that standard (see Section 3.2).

How USCIS Evaluates an O-1A Petition

Step 1: Meeting the evidentiary criteria. The petition must show either (a) receipt of a major, internationally recognized award, such as a Nobel Prize, or (b) evidence that satisfies *at least three* of the eight criteria below.

Step 2: Final merits determination. Meeting three criteria gets you in the door, but it doesn't decide the case. USCIS then looks at all of the evidence together to decide whether the individual has demonstrated that they have sustained national or international acclaim and is among the small percentage at the very top of their field.

The Eight Criteria

1. **Awards:** Receipt of nationally or internationally recognized prizes or awards for excellence in the field.
2. **Memberships:** Membership in associations in the field that require outstanding achievements of their members, as judged by recognized national or international experts. Associations that require only dues, a degree, or years of experience generally do not qualify.

3. **Published material about the individual:** Articles or other coverage by others about the individual and their work, published in professional or major trade publications or major media.
4. **Judging:** Serving, on a panel or individually, as a judge of others' work in the same or an allied field, such as peer review.
5. **Original contributions of major significance:** Original scientific, scholarly, or business-related contributions that have had major significance in the field. The work must not only be new; it must have meaningfully influenced the field.
6. **Scholarly articles:** Authorship of scholarly articles in the field, published in professional journals or other major media.
7. **Critical or essential role:** Employment in a critical or essential capacity for organizations or establishments that have a distinguished reputation.
8. **High salary:** Having commanded, or being set to command, a high salary or other significant compensation compared to others in the field, as shown by contracts or other reliable evidence.

Note:

If a criterion does not readily apply to the individual's occupation, the petitioner may submit comparable evidence, along with an explanation of why the criterion does not apply and why the alternative evidence is comparable.

APPENDIX G

Key Contacts

The organizations and individuals below can help you go further with the topics covered in this Playbook. For guidance on your specific situation, you may wish to speak with an experienced immigration attorney

The Engine

If you would like to learn more about The Engine or explore opportunities to support its work, please contact:
Frances Robinson, Director of Philanthropy, frances@engine.xyz
Ian Johnston, VP of Tech Translation & Ecosystem Development, ian@engine.xyz

Talent Mobility Fund

If you would like to learn more about how the Talent Mobility Fund helps international scientists, engineers, and other highly skilled professionals work and thrive in the United States, or explore opportunities for collaboration, please contact:

Diane Rish, Deputy Director, diane.rish@Renphil.org

International Student Resource Center

- If you are an international student or scholar, or an immigration professional who supports them, and have an immigration-related question, contact the ISRC's Help Desk, a free, confidential resource staffed by immigration experts and designed specifically to support international students, scholars, and the institutions that host them.
- If you would like to learn more about the International Student Resource Center's work or explore opportunities for collaboration, please contact:
    - Robin Catmur-Smith, Managing Director, Robin@internationalstudent.us

Immigration Counsel

If you would like to contact an experienced immigration attorney to discuss your situation, you may wish to consider reaching out to:

Jonathan Grode, U.S. Managing Partner, Green & Spiegel, jgrode@gands-us.com

For more options, the ISRC maintains a referral list of experienced immigration attorneys.

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[1]*Note, I-129 fees provided are for larger employers (more than 25 U.S. employees). I-129 fees for smaller employers (25 or fewer U.S. employees) and nonprofits are less and can be found at: https://www.uscis.gov/g-1055. USCIS fees are always subject to change.*

[2] *Please note that an Immigrant Visa must be available for a foreign worker to apply for U.S. Lawful Permanent Residence. The U.S. Department of State will only make a fixed number of Immigrant Visas available for each Preference Category, and every country may only make up, at most, a certain percentage of the Immigrant Visas issued each year. And with the volume of applicants from certain countries far exceeding the number of Immigrant Visa available, it may take several years for applicants to be able to apply for their U.S. Lawful Permanent Residence.*

Please also note that foreign workers are chargeable (i.e., they count towards a country's quota) to the country in which they were born, regardless of current citizenship. Thanks to cross-chargeability, a foreign worker may count under the country to which their spouse is chargeable. Thus, an EB-1A beneficiary born in India who is married to a foreign national born in different country, for example Japan, the beneficiary may apply for U.S. Lawful Permanent Residence – along with their Japanese spouse – as if they themselves were born in Japan.

[3]*Please note that the Premium Processing period for EB-1C and EB-2 NIW Petitions is 45 business days.*