

Article

Visa Options: Business Immigration

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Dallas Bar Association Headnotes

Although there is a visa named after almost every letter in the alphabet, employers needing to hire foreign national employees may nonetheless find it difficult to find a visa suitable for their company's needs. The following are a few scenarios in which employers may find themselves and the visa options available that may provide an appropriate solution.

Employer: U.S. company needs to hire a software developer to assist with everyday technical needs. The company identifies the perfect candidate, who is in need of authorization sponsorship.

Visa option: H-1B visas typically are available to foreign workers who will be employed in a specialty occupation requiring a Bachelor's or higher degree or its equivalent—which the applicant must already possess.

Employer: U.S. company with its parent company located in Switzerland seeking to transfer a manager currently employed by the parent company to its U.S. office for a temporary period to assist in management of the U.S. operations.

Visa option: L-1 visas are available to both executive/managerial and specialized knowledge (professional) workers with at least one year tenure with a foreign company related to a U.S. business. The U.S. company must be doing business in the U.S. and one other country, and the foreign employee must have been employed abroad in an executive or managerial position or in a position involving specialized knowledge.

Employer: Multinational company in France needs its French employees to receive temporary training of proprietary software developed at its U.S. affiliate office.

Visa option: H-3 visas allow trainees to receive training in any field of endeavor, other than graduate medical education or training, not available in the foreign national's home country. The U.S. employer must demonstrate that the foreign national will not be placed in a position which is in the normal operation of the business and in which U.S. citizens and resident workers are regularly employed; workers will not engage in productive employment unless such employment is incidental and necessary to the training; and the training will benefit the beneficiary in pursuing a career outside the U.S.

Employer: U.S. company would like to hire an engineer for its U.S. operations. Strong candidates are Canadian nationals.

Visa option: The TN category was created under the North American Free Trade Agreement (NAFTA) in order to simplify U.S. business and employment entries for Canadian and Mexican professionals. TN visas allow professionals engaged in designated occupations to work in the U.S.

Employer: Healthcare organization in the U.S. seeks to hire a well-renowned doctor from China specializing in neurosurgery.

Visa Option: O-1 visas are for foreign nationals of "extraordinary" ability in—and with national or international recognition for—the sciences, arts, education, business, or athletics. The beneficiary must demonstrate extraordinary ability by sustained national or international acclaim and must be coming temporarily to the U.S.

to continue work in the area of extraordinary ability and possess a level of expertise indicating that the person is one of a small percentage who has risen to the very top of the field of endeavor.

Employer: Austrian national helped start a company in the U.S. and invested a significant amount of capital in the business, now wishes to come to the U.S. to help direct the company.

Visa Option: E visas allow nationals of a country with which the U.S. maintains a treaty of commerce and navigation to go to the U.S. to carry on substantial trade, including trade in services or technology, principally between the U.S. and the treaty country; or to develop and direct the operations of an enterprise in which the national invested or is in the process of investing a substantial amount of capital.

Employer: Swedish company wishes to send one of its employees to work on a client project in the U.S. for a two month period. The 65,000 H-1B cap has been reached.

Visa Option: B-1 in lieu of H-1B visas allow foreign companies to place employees at a U.S. location for short-term projects to perform productive H-1B-caliber job duties without going through the administrative complexities and costs of obtaining an H-1B visa. The worker's salary must be paid by the foreign company, and the money cannot come from a U.S. source.

While it may seem that there are endless visa options available, immigration regulations are complex and visas have strict eligibility criteria. As such, companies should carefully craft their plan of action when considering sponsoring a foreign worker for employment, to ensure the most appropriate visa is selected.

The full article can also be viewed [here](#).

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