



Instructions for Petition for Alien Worker

Department of Homeland Security
U.S. Citizenship and Immigration Services (USCIS)

USCIS
Form I-140
OMB No. 1615-0015
Expires 01/31/2013

What is the Purpose of This Form?

Form I-140 is used to petition U.S. Citizenship and Immigration Services (USCIS) for an immigrant visa based on employment.

Who May File Form I-140?

A U.S. employer may file this petition for:

1. An outstanding professor or researcher with at least 3 years of experience in teaching or research in the academic area, who is recognized internationally as outstanding:
 - a. In a tenured or tenure-track position at a university or institution of higher education to teach in the academic area;
 - b. In a comparable position at a university or institution of higher education to conduct research in the area; or
 - c. In a comparable position to conduct research for a private employer that employs at least 3 persons in full-time research activities and which achieved documented accomplishments in an academic field.
2. An alien, who in the 3 years preceding the filing of this petition, has been employed in a primarily managerial or executive capacity for at least 1 year by a firm or corporation or other legal entity and who seeks to enter the United States to continue to render services to the same employer, or to a subsidiary or affiliate, in a capacity that is managerial or executive.
3. A member of the professions holding an advanced degree or an alien with exceptional ability in the sciences, arts, or business who will substantially benefit the national economy, cultural or educational interests, or welfare of the United States.
4. A skilled worker (requiring at least 2 years of specialized training or experience in the skill) to perform labor for which qualified workers are not available in the United States.
5. A member of the professions with a baccalaureate degree.
6. An unskilled worker (requiring less than 2 years of specialized training or experience) to perform labor for which qualified workers are not available in the United States.

In addition, any employer, person, or third party may file this petition, including the alien beneficiary of the petition, if the petition is being filed for:

1. An alien of extraordinary ability in the sciences, arts, education, business, or athletics demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field; or
2. A member of the professions holding an advanced degree or is claiming exceptional ability in the sciences, arts, or business, and is seeking an exemption of the requirement of a job offer in the national interest, generally known as a "National Interest Waiver" or "NIW."

General Instructions

Each petition must be properly signed and accompanied by the appropriate fee. (See "What Is the Filing Fee?" section of these instructions.) A photocopy of a signed petition or a typewritten name in place of a signature is not acceptable.

Evidence. You must submit all required initial evidence along with all the supporting documentation with your petition at the time of filing. If you are electronically filing this petition, you must follow the instructions provided on the USCIS Web site, www.uscis.gov.

Copies. Unless specifically required that an original document be filed with an application or petition, a legible photocopy may be submitted. Original documents submitted when not required may remain a part of the record, and will not automatically be returned to you.

Translations. Any document containing a foreign language submitted to USCIS must be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

How to Fill Out Form I-140

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.
3. Answer all questions fully and accurately. If an item is not applicable or the answer is "none," leave the space blank.

General Requirements

Initial Evidence

1. If you are filing for an alien of extraordinary ability in the sciences, arts, education, business, or athletics (Part 2. Petition Type, box 1.a. on the form):

You must attach evidence with your petition showing that the alien has sustained national or international acclaim and that the achievements have been recognized in the field of expertise.

- a. Evidence of a one-time achievement (i.e., a major internationally recognized award); or
- b. At least 3 of the following:
 1. Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
 2. Membership in associations in the field, which require outstanding achievements as judged by recognized national or international experts;
 3. Published material about the alien in professional or major trade publications or other major media;
 4. Participation on a panel or individually as a judge of the work of others in the field or an allied field;
 5. Original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
 6. Authorship of scholarly articles in the field in professional or major trade publications or other major media;
 7. Display of the alien's work at artistic exhibitions or showcases;
 8. Evidence that the alien has performed in a leading or critical role for organizations or establishments that have distinguished reputations;
 9. Evidence that the alien has commanded a high salary or other high remuneration for services; and
 10. Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.
- c. If the above standards do not readily apply to the alien's occupation, you may submit comparable evidence to establish the alien's eligibility; and
- d. Evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the alien detailing plans on how he or she intends to continue work in the United States.

2. A U.S. employer filing for an outstanding professor or researcher (Part 2, Petition Type, box 1.b. on the form) must file the petition with:

- a. Evidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition. Such evidence shall consist of at least 2 of the following:
 - 1. Receipt of major prizes or awards for outstanding achievement in the academic field;
 - 2. Membership in associations in the academic field that require outstanding achievements of their members;
 - 3. Published material in professional publications written by others about the alien's work in the academic field;
 - 4. Participation on a panel, or individually, as the judge of the work of others in the same or an allied academic field;
 - 5. Original scientific or scholarly research contributions to the academic field; or
 - 6. Authorship of scholarly books or articles in scholarly journals with international circulation in the academic field.
- b. Evidence the beneficiary has at least 3 years of experience in teaching and/or research in the academic field; and
- c. If you are a university or other institution of higher education, an offer of employment in the form of a letter indicating that you intend to employ the beneficiary in a tenured or tenure-track position as a teacher or in a permanent position as a researcher in the academic field; or
- d. If you are a private employer, an offer of employment in the form of a letter indicating that you intend to employ the beneficiary in a permanent research position in the academic field, and evidence that you employ at least 3 full-time researchers and have achieved documented accomplishments in the field.

3. A U.S. employer filing for a multinational executive or manager (Part 2, Petition Type, box 1.c. on the form) must file the petition with a statement which demonstrates that:

- a. If the worker is now employed outside the United States, he or she has been employed outside the United States for at least 1 year in the past 3 years in an executive or managerial capacity by the petitioner or by its parent, branch, subsidiary, or affiliate; or, if the worker is not already employed in the United States, he or she was employed outside the United States for at least 1 year in the 3 years preceding admission as a nonimmigrant in an executive or managerial capacity by the petitioner or by its parent branch, subsidiary, or affiliate;
- b. The prospective employer in the United States is the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity by which the alien was employed abroad;
- c. The prospective U.S. employer has been doing business for at least 1 year; and
- d. The alien is to be employed in the United States in a managerial or executive capacity. A description of the duties to be performed should be included.

4. A U.S. employer (or any person, employer, or third party requesting a National Interest Waiver) who is filing for a member of the professions with an advanced degree or a person with exceptional ability in the sciences, arts, or business (Part 2, Petition Type, box 1.d., for a petition filed by an employer with a Schedule A or individual labor certification, or box 1.i., for a petition that requests a National Interest Waiver, on the form) must file the petition with:

- a. A labor certification (see "**General Evidence**"), or a request for a waiver of a job offer because the employment is deemed to be in the national interest, with documentation provided to show that the beneficiary's presence in the United States would be in the national interest; and either:
 - 1. An official academic record showing that the alien has a U.S. advanced degree or an equivalent foreign degree, or an official academic record showing that the alien has a U.S. baccalaureate degree or an equivalent foreign degree and letters from current or former employers showing that the alien has at least 5 years of progressive post baccalaureate experience in the specialty; or
 - 2. At least 3 of the following:
 - (a) An official academic record showing that the alien has a degree, diploma, certificate, or similar award from an institution of learning relating to the area of exceptional ability;

- (b) Letters from current or former employers showing that the alien has at least 10 years of full-time experience in the occupation for which he or she is being sought;
- (c) A license to practice the profession or certification for a particular profession or occupation;
- (d) Evidence that the alien has commanded a salary, or other remuneration for services that demonstrates exceptional ability;
- (e) Evidence of membership in professional associations; or
- (f) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

3. If the above standards do not readily apply to the alien's occupation, you may submit comparable evidence to establish the alien's eligibility.

5. A U.S. employer filing for a professional (Part 2, Petition Type, box 1.e. on the form) must file the petition with:

- a. A labor certification (see "General Evidence" below);
- b. Evidence that the alien holds a U.S. baccalaureate degree or equivalent foreign degree; and
- c. Evidence that a baccalaureate degree is required for entry into the occupation.

6. A U.S. employer filing for a skilled worker (Part 2, Petition Type, box 1.f. on the form) must file the petition with:

- a. A labor certification (see "General Evidence") and;
- b. Evidence that the alien meets the educational, training, or experience and any other requirements of the labor certification (the minimum requirement is 2 years of training or experience).

7. A U.S. employer filing for an unskilled worker (Part 2, Petition Type, box 1.g. on the form) must file the petition with:

- a. A labor certification (see "General Evidence") and;
- b. Evidence that the beneficiary meets any education, training, or experience requirements required in the labor certification.

Amended Petitions

If this petition is being filed to amend a previously filed Form I-140 petition, then check the box in **Part 2, Petition Type, box 2.a.** of the Form I-140, entitled "To Amend a Previously Filed Petition" and fill in the receipt number of the previously filed petition in the space provided. This will assist USCIS in determining whether the petition may be accepted for filing and the location of the previously filed petition for case matching purposes.

Information on Spouse and All Children of the Person for Whom You Are Filing

Part 7, Information on Spouse and All Children of the Person for Whom You Are Filing, of Form I-140 requests information about the dependent spouse and children of the alien beneficiary of the petition to assist in visa processing and in order for USCIS to better determine the demand for employment-based immigrant visas at the time of filing of the Form I-140 petition.

NOTE: An annotation of a dependent's intention to either apply for adjustment of status or an immigrant visa abroad in **Part 7** of the Form I-140 is not binding, but should reflect the dependent's intent at the time of filing of the Form I-140 petition.

IRS Tax or Social Security Numbers

With the exception of the Alien of Extraordinary Ability (**Part 2, Petition Type, box 1.a.**) and National Interest Waiver (**Part 2, Petition Type, box 1.i.**) categories, all Form I-140 visa preference categories require a permanent job offer from a U.S. employer and Form I-140 must be filed by the U.S. employer. **All U.S. employers filing petitions in which a permanent job offer is required must have either an IRS Tax Number or a Social Security Number and must provide that 9 digit number in Part 1 of Form I-140, or Form I-140 will be rejected with a notice that it is deficient.**

General Evidence

1. Labor certification

Petitions for certain classifications must be filed with an **original** individual labor certification from the U.S. Department of Labor (DOL) or with documentation to establish that the alien qualifies for one of the shortage occupations designated in Group I or II of the DOL's Schedule A. If an individual labor certification is required, then the **original** individual labor certification must be submitted with the petition, unless the original labor certification has already been provided to USCIS in support of a different petition, or the petitioner selects "Yes" for **Question 8, Part 4.**, asking USCIS to request a duplicate original certification from the DOL.

A labor certification establishes that there are insufficient U.S. workers who are able, willing, qualified, and available to fill the position being offered to the alien at the time and place where the alien is to be employed, and that the employment of the alien, if qualified, will not adversely affect the wages and working conditions of similarly employed U.S. workers. Application for labor certification is currently made on Form ETA-9089. Labor certification applications filed before March 28, 2005, were filed on Form ETA-750. If the alien is to be employed in a Schedule A, Group I or II shortage occupation, then you may file a fully completed, uncertified Form ETA-9089 in duplicate with your petition for determination by USCIS that the alien belongs to the shortage occupation.

See 20 CFR 656 or the DOL Web site, <http://www.foreignlaborcert.doleta.gov>, for further information about obtaining an individual labor certification or about Schedule A, Group I or II shortage occupations.

Effective July 16, 2007, all labor certifications expire 180 days from the date of certification. Form I-140 petitions based on approved labor certifications must be received by USCIS before the 180 day validity period has elapsed. In instances where the ending date of the labor certification's validity period expires on a Saturday, Sunday, or legal holiday, petitions will be accepted with the labor certification on the next business day. Petitions filed with expired labor certifications filed after the next business day will be rejected.

2. Ability to Pay Wage

Petitions which require job offers must be accompanied by evidence that the prospective U.S. employer has the ability to pay the proffered wage. Such evidence shall be in the form of copies of annual reports, Federal tax returns, or audited financial statements.

In a case where the prospective U.S. employer employs 100 or more workers, a statement from a financial officer of the organization that establishes ability to pay the wage may be submitted. In appropriate cases, additional evidence, such as profit/loss statements, bank account records, or personnel records, may be submitted.

NOTE: The U.S. employer must show the ability to pay the proffered wage from the date of filing of the labor certification, or in cases where no labor certification is required, from the date of filing of the petition, also referred to as the priority date, until the alien beneficiary becomes a lawful permanent resident.

What Is the Filing Fee?

The filing fee for a Form I-140 is **\$580**.

Use the following guidelines when you prepare your check or money order for Form I-140:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; and
2. Make the check or money order payable to **U.S. Department of Homeland Security**.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

3. If you live outside the United States, Guam, or the U.S. Virgin Islands, contact the nearest U.S. Embassy or consulate for instructions on the method of payment.

Notice to Those Making Payment by Check

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to 2 times.

How to Check If the Fees Are Correct

The fee on this form is current as of the edition date appearing in the lower left corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit the USCIS Web site at www.uscis.gov, select "FORMS", and check the appropriate fee; or
2. Telephone the USCIS National Customer Service Center at **1-800-375-5283** and ask for the fee information.

Where To File?

Please see the USCIS Web site at www.uscis.gov/I-140 or call the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this benefit request.

E-Filing Form I-140

Certain Form I-140 filings may be electronically filed (e-filed) with USCIS. View the USCIS Web site at www.uscis.gov "FORMS", and click on the link "File my Application Online (E-filing)," for information on who is eligible to e-file this form. If you are e-filing Form I-140, it will automatically be routed to the appropriate Service Center, and you will receive a receipt indicating the location to which it was routed. For e-filed petitions, it is very important to review your filing receipt and receipt number and make specific note of the receiving location. All further communication, including submission of supporting documents, must be directed to the receiving location indicated on your e-filing receipt.

Premium Processing

If you are requesting Premium Processing Services for Form I-140, you **must** also file Form I-907, Request for Premium Processing Service. **Send Forms I-140 and I-907 together to the address listed in the Form I-907 filing instructions.** Do **NOT** send requests for Premium Processing to a USCIS Lockbox facility.

NOTE: Before you file Forms I-907 and I-140 together, you must first determine whether you can request Premium Processing for the requested classification. To determine if the classification for which you are filing is eligible for Premium Processing, go to www.uscis.gov, "FORMS".

Premium Processing Service for a Pending Form I-140 Petition

If you have **already** filed Form I-140 and you wish to request Premium Processing Service, file Form I-907 with the Service Center where your Form I-140 is pending. See Form I-907 filing instructions for further information. Do **NOT** send requests for Premium Processing to a USCIS Lockbox facility. You must include a copy of Form I-797C, Notice of Action, which shows your Form I-140 was accepted, or a copy of the transfer notice, if applicable, showing the location of Form I-140. To ensure that Form I-907 is matched up with the pending Form I-140, you **must** fully answer **questions 1 through 5** in **Part 2** of Form I-907. If this information is not provided, Form I-907 will be rejected.

Address Changes

If you have changed your address, you must inform USCIS of your new address. For information on filing a change of address go to the USCIS web site at www.uscis.gov/addresschange or contact the USCIS National Customer Service Center at 1-800-375-5283.

NOTE: Do not submit a change of address request to the USCIS Lockbox facilities because the USCIS Lockbox facilities do not process change of address requests.

Processing Information

Any Form I-140 that is not signed or accompanied by the correct fee will be rejected with a notice that Form I-140 is deficient. You may correct the deficiency and resubmit Form I-140. An application or petition is not considered properly filed until accepted by USCIS.

NOTE: If the petitioner is an individual, then that individual, or that individual's legal guardian if he or she is incompetent or under 14 years of age, must personally sign the petition. If the petitioner is a corporation or other legal entity, only an individual who is an officer or employee of the entity who has knowledge of the facts alleged in the petition, and who has authority to sign documents on behalf of the entity, may sign the petition.

Initial Processing

Once Form I-140 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your Form I-140.

Requests for More Information or Interview

We may request more information or evidence, or we may request that you appear at a USCIS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision

The decision on a Form I-140 involves a determination of whether you have established eligibility for the requested benefit. You will be notified of the decision in writing.

Meaning of Petition Approval

Approval of a petition means you have established that the person you are filling for is eligible for the requested classification. This is the first step towards permanent residence. However, this does not in itself grant permanent residence or employment authorization. You will be given information about the requirements for the person to receive an immigrant visa or to adjust status after your petition is approved.

Instructions for Industry and Occupation Codes

NAICS Code

The North American Industry Classification System (NAICS) code can be obtained from the U.S. Department of Commerce, U.S. Census Bureau at (www.census.gov/epcd/www/naics.html). Enter the code from left to right, 1 digit in each of the 6 boxes. If you use a code that is less than 6 digits, enter the code left to right and then add zeros in the remaining unoccupied boxes.

The code sequence 33466 would be entered as:

3	3	4	6	6	0
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The code sequence 5133 would be entered as:

5	1	3	3	0	0
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SOC Code

The Standard Occupational Classification (SOC) System codes can be obtained from the DOL, Bureau of Labor Statistics (<http://stats.bls.gov/soc/home.htm>). Enter the code from left to right, 1 digit in each of the 6 boxes. If you use a code which is less than 6 digits, enter the code left to right and then add zeros in the remaining unoccupied boxes.

The code sequence 19-1021 would be entered as:

1	9
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1	0	2	1
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The code sequence 15-100 would be entered as:

1	5
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1	0	0	0
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USCIS Forms and Information

You can get USCIS forms and immigration-related information on the USCIS Web site at www.uscis.gov. You may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by telephoning our USCIS National Customer Service Center at **1-800-375-5283**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through the USCIS Internet-based system, **InfoPass**. To access the system, visit the USCIS Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny your Form I-140 and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

USCIS Privacy Act Statement

AUTHORITIES: The information requested on this form, and the associated evidence, is collected under the Immigration and Nationality Act, section 101, et seq.

PURPOSE: The primary purpose for providing the requested information on this form is to determine if you have established eligibility for the immigration benefit for which you are filing. The information you provide will be used to grant or deny the benefit sought.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in denial of your Form I-140.

ROUTINE USES: The information you provide on this form may be shared with other Federal, State, local, and foreign government agencies and authorized organizations following approved routine uses described in the associated published system of records notices [DHS-USCIS-007 - Benefits Information System and DHS-USCIS-001 - Alien File, Index, and National File Tracking System of Records, which can be found at www.dhs.gov/privacy]. The information may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

USCIS Compliance Review and Monitoring

By signing this form, you have stated under penalty of perjury (28 U.S.C 1746) that all information and documentation submitted with this form is true and correct. You also have authorized the release of any information from your records that USCIS may need to determine eligibility for the benefit you are seeking and consented to USCIS' verification of such information.

The Department of Homeland Security has the right to verify any information you submit to establish eligibility for the immigration benefit you're are seeking at any time. USCIS legal right to verify this information is in 8 U.S.C. 1103, 1155, 1184, and 8 CFR parts 103, 204, 205, and 214. To ensure compliance with applicable laws and authorities, USCIS may verify information before or after your case has been decided. Agency verification methods may include, but are not limited to: review of public records and information; contact via written correspondence, the Internet, facsimile, or other electronic transmission, or telephone; unannounced physical site inspections of residences and places of employment; and interviews. Information obtained through verification will be used to assess your compliance with the laws and to determine your eligibility for the benefit sought.

Subject to the restrictions under 8 CFR part 103.2(b)(16), you will be provided an opportunity to address any adverse or derogatory information that may result from a USCIS compliance review, verification, or site visit after a formal decision is made on your case or after the agency has initiated an adverse action which may result in revocation or termination of an approval.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 60 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Ave., N.W., Washington, DC 20529-2020, OMB No. 1615-0015. **Do not mail your completed Form I-140 petition to this address.**

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