



# Navigating U.S. Business Immigration

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The immigration team at [Siri & Glimstad](#) has decades of experience helping U.S. companies in many industries successfully traverse the U.S. business immigration landscape. The team is led by [Peter Yost](#), who has nearly 25 years of employment-based immigration experience at a top 50 law firm, including 10 plus years managing that firm's large immigration and global mobility practice. [Christina Xenides](#) is another senior immigration attorney at Siri & Glimstad with more than 10 years of experience handling business, family, and vaccine waiver immigration cases. Peter and Christina, together with the rest of the Siri & Glimstad immigration team, would be honored to assist Red Balloon's customers with any of their immigration needs.



## U.S. BUSINESS IMMIGRATION IS COMPLEX



U.S. companies wanting to legally sponsor key foreign workers must navigate a complex matrix of U.S. immigration laws and procedures. The options for temporary and permanent visas read like an alphabet soup. Review by multiple U.S. government agencies creates a complex labyrinth. Processing times can be frustratingly slow and unpredictable. Adjudications by government agencies seem to be riddled with inconsistencies resulting in requests for evidence or even denials. Given these many challenges, some U.S. employers completely opt out of the process. At Siri & Glimstad, we work with American businesses to demystify the immigration process so they can maximize the opportunity for success.

# 2 TYPES

There are two primary categories of employment-based immigration visas: temporary visas and permanent visas.

## TEMPORARY VISAS

Companies sponsor foreign workers for limited periods of time on temporary visas. The best-known and widely used temporary business-based visa is the H-1B visa for professional level workers. The H-1B visa is available for persons in professional level jobs such as engineers, software developers, accountants, marketing specialists, chemists, doctors, professors, financial analysts and so forth.

The H-1B visa can be valid for up to 3 years at a time, and for a grand total of 6 years with all employers combined. There are several components to the H-1B process including a requirement that the U.S. employer pay at or above the prevailing wage for the job offered in the job location. Base government filing fees for an H-1B petition can be several thousand dollars, plus a similar amount for legal fees. It is much easier to file a transfer H-1B visa petition for a foreign worker who already has H-1B status rather than to try to obtain an initial H-1B visa through the annual H-1B cap visa lottery. Government processing times can vary from around 2 weeks for cases filed with expedited premium processing (requires an additional filing fee) to several months or more for standard processing cases.

Other commonly used temporary business visas include L-1 visas for intra-company transfers, TN visas for Canadian and Mexican professionals, and O-1 visas for persons of extraordinary ability in business, science or the arts.

## PERMANENT VISAS

The process for a U.S. business to sponsor a foreign worker for a permanent visa (also known as a green card) involves several steps. Most foreign workers going through the green card process must first obtain PERM labor certification, which requires the U.S. employer to undertake a labor market recruitment test to see if there are any qualified U.S. workers.

The second step in the process is to get an approved I-140 petition in the EB-2 or EB-3 category. A smaller percentage of foreign workers will be eligible to bypass the PERM labor certification phase and file an I-140 petition in the EB-1 category as a multinational manager, a person of extraordinary ability, or an outstanding researcher/professor.

All foreign workers seeking to obtain a green card must submit an I-485 application to adjust status to that of a permanent resident as the final step in the process. The overall green card process can take 12-24+ months and cost \$10,000-\$20,000 for filing fees and legal fees combined. As with temporary visas, government agencies can issue requests for evidence or outright denials on permanent visa applications. It is possible to appeal most denials, but doing so adds considerable time and expense, and a case approval is not certain.

*Having expert legal guidance throughout the immigration process is essential.*

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## IMMIGRATION-RELATED GOVERNMENT AGENCIES

The involvement of numerous U.S. government agencies in various aspects of the immigration process creates confusion for employers:

- **U.S. Citizenship & Immigration Services (CIS)** adjudicates most employment-based temporary and permanent visa petitions
- **The Department of Labor (DOL)** is involved in the H-1B temporary visa process through certification of the underlying Labor Condition Application (LCA) and in the PERM labor certification process for green card applications
- **The Department of State (DOS)** has jurisdiction over U.S. Consulates abroad, which issue visa stamps in the passports for travel
- **U.S. Customs & Border Protection (CBP)** admits foreign workers into the country at the port of entry
- **Immigration & Customs Enforcement (ICE)** initiates I-9 audits and reviews company records
- **The Department of Justice (DOJ)** conducts investigations if a complainant alleges immigration-related or national origin discrimination

Knowing the primary government agency “players” can eliminate some of the stress in the immigration process.

## CONCLUSION

The labor market is tight in many sectors, and American companies are eager to find the right talent to meet their hiring needs. Sometimes the best answer is to supplement the U.S. workforce with highly skilled foreign workers who value freedom and are eager to realize the American dream. Sponsoring foreign workers through the U.S. business immigration system can appear daunting. By partnering with the experts at Siri & Glimstad, the immigration process can become more understandable and manageable. Our immigration team looks forward to working with you!

Siri | Glimstad



Peter Yost

(612) 324-0539 | [pyost@sirillp.com](mailto:pyost@sirillp.com)

Christina Xenides

(512) 265-5622 | [cxenides@sirillp.com](mailto:cxenides@sirillp.com)