

# Permanent Residence

## The Permanent Residence Process: Getting a Green Card

Foreign national employees often wish to pursue Lawful Permanent Residence (LPR), or a “green card.” LPR status allows you to live and work permanently in the United States, as opposed to renewing a non-immigrant visa status every few years. LPR status also allows you to work for any employer in the U.S. The steps you must take to apply for a Green Card will vary depending on your individual situation. Below is information specifically about Employment-Based permanent residence processes. For information about other categories, such as family-sponsored or marriage-based green cards, [visit the USCIS website](#).

## Employment-Based Permanent Residence “Greencard” Sponsorship

Employment-based (or EB) permanent residence requires a permanent employment position, such as faculty or staff, and an employer who is willing to sponsor you for this process. The (EB) categories of permanent residence include:

- **First preference (EB-1)**– priority workers
  - Foreign nationals with extraordinary ability in the sciences, arts, education, business, or athletics (EB-1-1);
  - Outstanding professors and researchers (EB-1-2); or
  - Certain multinational managers and executives (EB-1-3).
- **Second preference (EB-2)**– foreign nationals who are members of the professions holding advanced degrees or who have exceptional ability. This category includes EB-2 with a PERM Labor Certification, and requests for national interest waivers (NIW).

- **Third preference (EB-3)**– skilled workers, professionals, or other workers.

The most common type of EB process sponsored at UAMS is EB-2 PERM, followed by EB-1-2, for Outstanding Professors and Researchers. **Please note that category eligibility must be determined by an approved immigration law firm prior to beginning the process.** See the sections linked below for details on the steps involved in these categories.

## UAMS Procedure for Beginning an EB Green Card Case

Applying for employment-based permanent residence is a complex process and requires the assistance of an immigration attorney with particular expertise in the area of permanent residence applications for UAMS employees. Because all applications for permanent residence sponsorship are filed on behalf of UAMS (petitioner) and the employee (beneficiary), the outside attorney who will prepare the actual filings must be selected from the [UAMS Approved Immigration Attorney List](#) and confirmed by the departmental hiring official. Note: Colleges and/or departments may

have internal policies pertaining to sponsorship, so employees seeking an employer-sponsored application should first consult their hiring official regarding eligibility.

While employees may retain their own immigration counsel (at their expense) if they choose, they are required to use a law firm approved by the UAMS Immigration Services Office if they wish to apply for permanent residence based on their employment at UAMS.

Depending on the category of EB process, the hiring department may be required by federal regulation to pay for certain steps. For example, in an EB-2 PERM process, the hiring department must pay for all attorney fees and recruitment costs associated with the first step, the recruitment and PERM Labor Certification, which is often \$2500-5000, depending on the law firm. The department may choose to pay additional fees, if desired.

In order to begin a green card process with an approved law firm, the hiring department must email the Immigration Services Manager with the information below. The Immigration Services Manager will then initiate the case with the chosen law firm.

*“The Department of \_\_\_\_\_ would like to sponsor \_\_\_\_\_ (employee’s name) for employer-based permanent residency. We would like to use \_\_\_\_\_ (approved law firm name) for this case. All legal fees and filing fees for the case will be paid as follows: \_\_\_\_\_ (department/employee/shared cost – must provide breakdown if cost will be shared).”*

## **Once You Have Your Green Card**

Employees should contact the Immigration Services Office as soon as the permanent resident card is received so that immigration, international tax, payroll and I-9 records can be properly updated.

## **EB-2 PERM Process**

To be eligible for an EB-2 PERM process, the employee must have a Master’s degree or higher, a position which requires that degree, and your hiring department must be willing to sponsor you and pay the required fees for first of three steps of the process.

### **Step 1: PERM Labor Certification Application**

The PERM Labor Certification application is filed electronically with the U.S. Department of Labor (DOL). Prior to filing a PERM application, UAMS is required to show that we could not find a ready, willing and able US worker for the position held by the foreign national employee. The market test is solely a test, however, and does not require the department to terminate employment of the foreign employee should a US worker be found who is ready, willing and able to perform the job duties. Finding a US worker in this fashion simply means that we cannot move forward with the PERM filing.

The Office of Immigration Services works closely with the law firm, hiring department, and HR Talent Acquisition to post advertisements per the Department of Labor's regulations. If the department is unable to find a ready, willing and able US worker for the position, the law firm will be able to file the PERM labor certification online with the Department of Labor. As mentioned above, if a ready, willing and able US worker is found, the law firm cannot file the PERM labor certification and the application process will stop. The legal standard that must be established is that UAMS has undertaken a good-faith recruitment effort in order to determine the availability of qualified U.S. candidates for the position within 6 months of filing the application.

At present, the processing time for a PERM application at the DOL is approximately 3-4 months. If the PERM is selected for audit, the audit process adds 12 months onto the process. A priority date is established when the PERM Labor Certification is filed. *Please notes: The hiring department must pay all fees (attorney fees, recruitment costs, etc.) for this step.*

## **Step 2: I-140 Immigrant Petition for Alien Worker**

After the PERM Labor Certification is approved with DOL, the law firm will file the Form I-140 Immigrant Petition. With the I-140 petition, UAMS provides documents to show that we are offering a permanent position to a nonimmigrant employee; that the nonimmigrant employee met the minimum requirements of the position before coming to UAMS; and that UAMS has the financial ability to pay the offered salary. At present, the processing time for an immigrant visa petition at the USCIS is approximately 8-10 months. It is possible to premium process the immigrant visa petition in which the USCIS will adjudicate the petition within 15 days.

Once the I-140 Immigrant Petition is approved, employees must wait until their priority date is current before proceeding to the final step. You may find the current priority dates for I-485 filing at the [U.S. Department of State's Visa Bulletin website](#). Some foreign nationals must wait 8-10 years before they are able to proceed to the final I-485 step and obtain their green card due to per-country limitations. H-1B nonimmigrant employees whose EB category is backlogged, and they are therefore unable to file the final I-485 step, may be eligible for extensions of their H-1B status beyond the typical 6 year maximum. Contact the Immigration Services Office if you have questions related to extensions of your H-1B or other nonimmigrant status during your green card process.

## **Step 3: I-485 Application to Register Permanent Residence or Adjust Status**

The final step is to file the Form I-485, which is an application to USCIS from the employee requesting their status be "adjusted" from a non-immigrant to an immigrant (Legal Permanent Resident). At present, the processing time for an Adjustment of Status (AOS) application is approximately 12-18 months. All I-485 processes based on an EB category are required to attend an in-person green card interview at a USCIS field office.

# EB-1-2 Process

## Outstanding Professors and Researchers

The EB-1-2 (also known as EB-1B) permanent residence category is for Outstanding Professors and Researchers. To qualify, the employee must demonstrate international recognition for their outstanding achievements in a particular academic field. They must have at least 3 years' experience in teaching or research in that academic area, and they must be entering the United States in order to pursue tenure or tenure track teaching or comparable research position at a university or other institution of higher education. You may find examples of the type of evidence accepted by USCIS at the [USCIS EB-1 website](#). **Please note that eligibility for an EB-1-2 category green card must be determined by an approved immigration law firm prior to beginning the process.**

The EB-1-2 petition is a two-step process involving the filing of the I-140 (immigrant petition) and I-485 (adjustment of status) only. No initial filing with the Department of Labor (DOL) is required. The UAMS hiring department is not required to pay any portion of the attorney or filing fees for this category, but may choose to pay a portion or all of the expenses, if desired.

## Step 1: I-140 Immigrant Petition for Alien Worker

When filing the I-140 Immigrant Petition, the EB-1-2 category requires that UAMS establish that the professor or researcher is internationally recognized as outstanding in the professional field specified in the petition. The burden of proof for the EB-1-2 category is much higher than that of most other permanent residence filings because of the international recognition requirement.

Outstanding Professor and Researcher I-140 petitions are filed with the USCIS. Once filed, they generally take about 6-12 months to be approved. It is possible to premium process the immigrant visa petition in which the USCIS will adjudicate the petition within 15 days.

Once the I-140 Immigrant Petition is approved, employees must wait until their priority date is current before proceeding to the final step. You may find the current priority dates for I-485 filing at the [U.S. Department of State's Visa Bulletin website](#). Some foreign nationals must wait 8-10 years before they are able to proceed to the final I-485 step and obtain their green card due to per-country limitations. H-1B nonimmigrant employees whose EB category is backlogged, and they are therefore unable to file the final I-485 step, may be eligible for extensions of their H-1B status beyond the typical 6 year maximum. Contact the Immigration Services Office if you have questions related to extensions of your H-1B or other nonimmigrant status during your green card process.

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