



SAN FRANCISCO

05



IMMIGRANT VISAS

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In this chapter you will find information on all the Immigrant visas available for the USA. It is an extremely detailed chapter so please read it carefully to ensure you find out which visa meets your requirements.

An immigrant visa, more commonly referred to as a “green card,” is given to a person granted lawful permanent resident status. It allows you to live and work in the USA indefinitely subject to few restrictions.

There are several different categories of immigrant visas (green cards), including family-based green cards, employment-based green cards and green cards based on being a special immigrant, asylum seeker or refugee.

An applicant can lodge their application for an immigrant visa/permanent resident status at either a US Embassy/Consulate or with the USCIS office that has jurisdiction over the applicant’s residence in the USA.

The first process is called “Consular Processing” while the later step is called “Adjustment of Status”. In order to adjust your status while you are in the US you must meet certain criteria and conditions. You should contact an immigration specialist to determine if you are eligible.

Numerical limitations

The US government puts numerical limitations on the number of immigrant visas granted each year, except for those based on immediate family petitions (applications). Whenever there are more qualified applicants for a category than there available visa numbers, the category will be considered over-subscribed and immigrant visas will be issued in the chronological order in which the applications were filed until the numerical limit for the category is reached.

The filing date of the application becomes the applicant's priority date. Immigrant visas cannot be issued until an applicant's priority date is reached. In certain heavily over-subscribed categories there may be a waiting period of several years before a priority date is reached.

The waiting time to receive a green card varies and could be as long as 12 years. To see what the waiting period is in a particular category you can visit the Visa Bulletin website (updated monthly) at the Department of State's website www.travel.state.gov/visa

Is there any other important information I should be aware of if I am applying for an immigrant visa?

Yes. All applicants for an immigrant visa will be required to submit certain personal documents, which include:

- Passport
- Birth certificate
- Police certificates (Certificate from the Gardai to state that you are of good character and do not have a criminal record)
- Evidence that you will not become a public charge in the United States.

Medical examinations

Before an immigrant visa can be issued every applicant regardless of age must undergo a medical examination. A doctor designated as a civil surgeon by the US government must conduct the examination. The applicant must pay for the examination.

Visa fees

The cost of each immigrant visa varies. For further information or to view the Schedule of Fees, please see the USCIS website www.uscis.gov

If you have a pending immigrant visa application at the American Embassy, you should contact:

Immigrant Visa Unit

42 Elgin Road
Ballsbridge
Dublin 4

Telephone: 01 668 8777

It is important to note that since no advance assurances can be given that a visa will be issued, applicants are advised not to make any final travel arrangements, not to dispose of their property and not to give up their jobs until visas have been issued to them.

An immigrant visa can be valid for 6 months from the date of issue, which means that you must enter the USA within 6 months from the date you get your visa.

Family-based Immigrant Visas

Family-based immigrant visas are available if you want to become a lawful permanent resident based on the fact that you have a relative who is a citizen of the US or if you have a relative who is a lawful permanent resident.

The family-based immigrant visa that your relative (sponsor) can apply for on depends on whether they are a US citizen or a lawful permanent resident.

If the sponsor is a US citizen they can apply for the following relatives to immigrate to the USA:

- **Husband or wife** - This category includes the widow/er of a US citizen, if the application is filed within 2 years following the death of the US citizen
- **Parent of US citizen** - US citizen must be over 21 years of age
- **Child of a US citizen** - Unmarried child under 21 years of age, unmarried son or daughter over 21, married son or daughter of any age. Stepchildren where the relationship occurs before the child's 18th birthday, and adopted children where the adoption is finalised before the child reached his/her 16th birthday
- **Brother or sister** - If the sponsor is at least 21 years old.

If the sponsor is a lawful permanent resident they can apply for the following foreign national relatives to immigrate to the USA:

- **Husband or wife**
- **Unmarried son or daughter** - of any age.

Preference Categories

If you wish to emigrate as a relative of a US citizen or lawful permanent resident you must obtain an immigrant visa number based on the preference category in which you fall. People who want to become permanent residents are classified into categories based on a preference system.

The immediate relatives of US citizens which includes parents, spouses and unmarried children under the age of 21 will not have to wait for an immigrant visa number to become available once the visa petition filed for them is approved by USCIS. An immigrant visa number will become immediately available.

Any relatives in the remaining categories must wait for an immigrant visa number to become available according to the following preferences:

- **1st Preference (FB-1)** - Unmarried sons and daughters (over 21 years) of US citizens
- **2nd Preference (FB-2)** - Divided into 2 sub-categories
 - FB-2A - Spouses and minor children (under 21 years) of lawful permanent residents
 - FB-2B - Unmarried sons and daughters (over 21 years) of lawful permanent residents.
- **3rd Preference (FB-3)** - Married sons and daughters of US citizens
- **4th Preference (FB-4)** - Brothers and sisters of US citizens if the US citizen is over the age of 21.

Applying for a Family-based Visa

For all family-based visas the US citizen or permanent resident files the application with the USCIS. They must include:

- Form I-130 - Petition for Alien Relative
- Documentary proof that the applicant is a US citizen or permanent resident
- Documentary proof that the applicant and the person the application refers to are related
- The application charge.

Your relative (sponsor) must meet certain criteria in order to apply to sponsor you to immigrate to the US. They must:

- Be a citizen or lawful permanent resident of the US and be able to provide documentation providing that status
- Prove that they can support you by filling out an Affidavit of Support. For more information on this please refer to the website www.uscis.gov

The application is filed by your relative (sponsor) and must be accompanied by proof of your relationship to the requesting relative. When the USCIS receives the application it is dated and stamped.

This date becomes the applicant's "priority date" on the waiting list for permanent residence. Once USCIS approves the application it is forwarded to the National Visa Center (NVC), which deals with the preliminary visa issuing process on behalf of all Embassies/Consulates.

The NVC will send the applicant an invoice for the appropriate fee due, forms to be completed and details of all the documents they will need to provide to the Embassy/Consulate. Once the fee has been paid and all the forms have been completed and returned the applicant will be scheduled for a visa interview when the quota becomes available and once security checks have been completed.

The interview will be held at the nearest Embassy/Consulate based on the applicant's place of residence. The Embassy/Consulate will notify the applicant when they have to attend for the interview.

If the Immigrant visa application is approved at the interview the applicant will be given a letter to produce at their port of entry to the USA or a visa will be placed in their passport. From the date the visa is issued the applicant has 4 months to enter the USA. A permanent residence card should be issued to them within 120 days of their entry into the USA.

For more detailed information on family-based immigrant visas please refer to the website www.uscis.gov

Employment-based Immigrant Visas

Employment-based immigrant visas are divided into 5 preference categories. Most require a permanent offer of employment in the USA, a labour certification from the US Department of Labor (DOL) and the filing of an application with the USCIS. A person whose occupation requires a labor certification must have pre-arranged employment in the USA. For more information on what occupations require a labor certification please see the website www.dol.gov

For more information on the specific categories of immigrant visas please see the website www.uscis.gov

Filing for employment-based residence is an extremely technical process and those interested are encouraged to contact an immigration attorney with expertise in this area.

For more detailed information on immigrant visas please see the website <http://dublin.usembassy.gov>

Employment-based 1st (EB-1)

Within this preference there are 3 sub-groups:

- **Persons of extraordinary ability** in the sciences, arts, education, business or athletics. Applicants in this category must have extensive documentation showing sustained national or international acclaim and recognition in the field of expertise
- **Outstanding professors and researchers** with at least 3 years experience in teaching or research and who are recognised internationally
- **Certain executives and managers** who have been employed in at least one of the 3 preceding years by the overseas affiliate, parent, subsidiary or branch of the US employer.

Employment-based 2nd Preference (EB-2)

There are 2 sub-groups within this category:

- Professionals holding an advanced degree (any degree higher than a bachelors), or a bachelor's degree and at least 5 years progressive experience in the profession
- Persons with exceptional ability in the arts, sciences, or business. Exceptional ability means having a degree of expertise significantly above that ordinarily encountered within the field.

Employment-based 3rd Preference (EB-3)

There are 3 sub-groups within this category:

- Skilled workers are persons capable of performing a job requiring at least 2 years' training or experience
- Professionals with a baccalaureate degree are members of a profession with at least a university bachelor's degree
- Other workers are those persons capable of filling positions requiring less than 2 years' training or experience.

Employment-based 4th Preference (EB-4) - Special Immigrants

In order to apply in this category, an applicant must be the beneficiary of an approved, I-360 (Petition for Special Immigrants).

There are six sub-groups in this preference:

- Religious workers coming to carry on the vocation of a minister of religion, or to work in a professional capacity in a religious vocation, or to work for a tax-exempt organisation affiliated with a religious denomination
- Certain overseas employees of the U.S. Government
- Former employees of the Panama Canal Company
- Retired employees of international organisations
- Certain dependents of international organisation employees
- Certain members of the US Armed Forces.

Employment-based 5th Preference (EB-5) - Employment Creation Investors

To qualify under this category an immigrant (investor) must invest between \$500,000 and \$1,000,000 US dollars depending on the employment rate in the geographical area in a commercial enterprise in the United States and create at least 10 new full-time jobs for US citizens, permanent residents or other lawfully resident immigrants, not including the investor and his or her family members.

The Diversity Visa Lottery Program

The Diversity Visa Lottery Program is administered on an annual basis by the Department of State. Every year the USA Visa Lottery Program provides 50,000 US visas worldwide to natives of certain countries. All entries for the DV Lottery must be submitted electronically; no paper entries will be accepted.

Important information on the DV Lottery Program

- Persons born in a high admission country (countries that have sent more than 50,000 immigrants to the US during the previous 5 years) are in most cases ineligible for the programme. The high admission countries are: Brazil, Canada, China (mainland born), Columbia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Philippines, Peru, Poland, Russia, South Korea, United Kingdom (except Northern Ireland) and its independent territories, and Vietnam. Persons born in Hong Kong SAR (Special Administrative Region), Macau SAR and Taiwan are eligible
- It is not necessary to use an outside attorney or consultant, as it **is not guaranteed** to improve your chances of success due to the fact that successful candidates are chosen at random
- The annual DV program makes permanent residence visas available to persons meeting the simple, but strict, eligibility requirements

- A computer-generated random lottery draw chooses selected applicants for diversity visas
- After the individuals have been selected at random from among all qualified entries through the State Department E-DV lottery computer program, they will **not be notified by email**. Those selected will be notified only by letter through the post between May and July of the following year at the addresses listed on their E-DV entry
- Only the randomly selected individuals will be notified. Persons not selected will **not** receive any notification
- US Embassies/Consulates will **not** be able to provide a list of those selected to continue the visa process
- If you feel that a company or consultant in connection with the DV lottery has cheated you, you can make a formal online complaint at www.ftc.gov

How do I apply for the DV Lottery visa?

The following provides instructions on how to apply for the DV Lottery visa:

- The DV Lottery normally runs between October and December each year
- Applicants for the DV lottery must apply online at this address www.dvlottery.state.gov
- Entries must be submitted electronically; paper entries will not be accepted
- Applicants are advised not to wait until the last week of the registration period as heavy demand may result in delays and **no entries will be accepted after the closing date and time**
- Successfully registered entries will result in the display of a confirmation screen containing the applicant's name, date of birth, country of origin and a date and time stamp
- The applicant should print this screen for confirmation purposes
- Applicants must meet the educational or training requirements of the DV programme

- Applicants will be selected at random and those selected will be notified by mail between May and July of the following year. Applicants who are not selected will receive no response to their entry
- All notification letters are sent within 9 months of the end of the application period to the address indicated. Anyone not notified within this time period will know that his/her application has not been successful
- DV lottery visas will be issued between certain dates
- There is no fee at the time of the submission of the DV application although a DV case processing fee and regular visa fees are required later in the process if an applicant is successful
- The Department of State's Bureau of Consular Affairs has stated that selected applicants who wish to receive visas must be prepared to act promptly on their cases
- Selection does not automatically guarantee a visa
- Applicants may only submit one entry. If more than one entry is submitted, that applicant will be disqualified
- An applicant may be in the USA or in another country and still submit the DV entry form

- Crosscare Migrant Project advises that those who are illegally resident in the USA at the time of application should contact a reputable Immigration Attorney or one of the Irish Immigration Centers (please see **Chapter 13 - Irish Contacts** for more information) to determine their eligibility
- A husband and wife may each submit one entry if each meets the eligibility requirements. If either is selected, the other may be entitled to derivative status
- There is no minimum age to apply for DV program but the requirement of a secondary education or equivalent work experience will effectively disqualify most persons who are under the age of 18.

Photographs

A digital photograph/scanned photograph of each applicant, his/her spouse and each child under the age of 21 must be submitted by entry form. If the submitted digital photographs do not conform to the following specifications, the DV entry form will automatically be rejected.

Digital photograph

Background

- The photo must be taken in front of a neutral light coloured background
- Photos taken against a dark or patterned background will not be accepted.

Head position

- Person being photographed must directly face the camera
- Head of the person should not be tilted up, down or to the side
- Head of the person should cover 50% of the photograph

- Photos of applicants wearing head coverings or hats are only accepted due to religious beliefs and even then may not obscure any portion of the face of the applicant
- Photos of applicants with tribal or other headgear not specifically religious in nature are not accepted
- Photos of military, airline, or other personnel wearing hats will not be accepted
- Photos in which the person being photographed is wearing sunglasses or other items that detract from the face will not be accepted.

Technical specifications

- The image must be in the Joint Photographic Experts Group (JPEG) format.

Image colour depth

- The image **must** be in 24-bit colour; monochrome images (2-bit colour depth), 8-bit colour or 8-bit greyscale will not be accepted.

Image resolution

- Picture must have resolution of 320 pixels high by 240 pixels wide.

Image file size

- The maximum image size accepted will be 62,500 bytes or 62.5kb.

Scanned photograph

Background

- The photo must be taken in front of a neutral light coloured background
- Photos taken against a dark or patterned background will not be accepted.

Head position

- Person being photographed must directly face the camera
- Head of the person should not be tilted up, down or to the side
- Head of the person should cover 50% of the photograph
- Photos of applicants wearing head coverings or hats are only accepted due to religious beliefs and even then may not obscure any portion of the face of the applicant
- Photos of applicants with tribal or other headgear not specifically religious in nature are not accepted
- Photos of military, airline, or other personnel wearing hats will not be accepted.

Technical specifications

- The image must be the Joint Photographic Experts Group (JPEG) format.

Scanner resolution

- Scanned at a resolution of 150 dots per inch.

Image resolution

- 300 by 300 pixels.

Image file size

- The maximum image size accepted will be 62,500 bytes or 62.5kb.

Image colour depth

- The image **must** be in 24-bit colour; monochrome images (2-bit colour depth), 8-bit colour or 8-bit greyscale will **not** be accepted.

Print size

- 2 inches by 2 inches (50mm x 50mm) square.

Education or training requirement

An applicant must have a secondary school education or equivalent defined as successful completion of a 12 year course of elementary and secondary education (Leaving Certificate) **or** 2 years of work experience within the past 5 years in an occupation requiring at least 2 years of training or experience to perform.

The USA Department of Labor's online database:

www.online.onetcenter.org will be used to determine qualifying work experience. Applicants will also find a link to a Labor Department list of qualifying occupations at the Consular Affairs website:

www.travel.state.gov. If applicants cannot meet the requirements he/she should not submit an entry to the DV program.

Native of a country whose natives qualify

If a person was born in a country whose natives are ineligible but his/her spouse was born in a country whose natives are eligible, such person can claim the spouse's country of birth provided that both the applicant and the spouse are issued visas and they both enter the USA simultaneously (that is, if your spouse is Irish and you were born in the UK you can claim on your spouse's place of birth).

If a person was born in a country whose natives are ineligible but neither of his/her parents was born there or resided there at the time of the birth, such person may be able to claim nativity in one of the parents' country of birth (i.e. if the parents were temporarily resident in a non-qualifying country for example on a work contract or on holiday).

The online application

The only way of applying for the DV-Lottery is to submit an Electronic Diversity Visa Entry Form (EDV). Applicants will be asked to submit the following information on the DV form:

- **Full Name:** Last/Family Name, First Name, Middle Name
- **Date of Birth:** Month, Day and Year
- **Gender:** Male or Female
- **City/Town of Birth**
- **Country of Birth:** The name of the country should be that which is currently in use for the place where the applicant was born
- **Applicant Photograph**
- **Mailing Address:** Address, City/Town, District/Country/Province/State, Postal Code/Zip Code, Country
- **Phone Number:** (optional)
- **Email Address:** (optional)

- **Country of Eligibility:** if the applicant's native country is different from their country of birth this information must be submitted on the entry. If an applicant is claiming nativity through a spouse or parent, please indicate this on the entry
- **Marriage Status:** Unmarried, married, divorced, widowed, legally separated
- **Number of Children that are Unmarried and under 21 years of Age:** Except children that are either US legal permanent residents or US citizens
- **Spouse Information:** Name, Date of Birth, Gender, City/Town of Birth, Country of Birth, Photograph
- **Children Information:** Name, Date of Birth, Gender, City/Town of Birth, Country of Birth, Photograph.

Is there any other information I need to be aware of?

Yes. You should be aware of websites or emails that offer you a guaranteed visa if you apply through them; this is false as the DV lottery picks people at random. You should also be aware of:

- Emails requesting payment for applying for the DV lottery. It is important to know that it costs nothing to **apply** for the DV lottery
- Web-based organisations that charge you for applying for the lottery are charging for the service they offer - i.e. filling out the form for you. It is not illegal to use one of these companies but be aware that while they will be familiar with filling out the DV lottery online application forms, using such a company will not increase your chances of being selected
- The DV lottery does not send emails in response to applications. Ignore any email that appears to be from the DV lottery center. Any genuine communication from the DV lottery center will be by post
- Further information can be found on www.travel.state.gov or applicants may contact Crosscare Migrant Project
- We advise applicants that they also consult the above websites and obtain further information from the US Embassy.

