

Attorney Strategy Worksheet

COB: _____ NIV Status: _____ NIV Exp: _____ EAD Exp: _____

F-1:

OPT STEM eligible?: Y or N ER enrolled E-Verify? Y or N

EAD max duration: _____

CPT possible? Y or N

H-3:

Trainee participating in training that is not available in home country and will benefit in pursuing career outside US? Y or N

Trainee will not engage in productive employment (unless incidental and necessary to training)? Y or N

ER can provide detailed, structured training program and details regarding supervision of trainee? Y or N

Length of training (note: if utilizing maximum 24 months, must physically reside outside the US for 6 months before trainee can seek extension, change status or be readmitted in H or L status): _____

H-4 EAD:

EE is married to H-1B with approved I-140 or has extended based on AC-21? Y or N

If I-140 is not with H-1B's current employer, has it been revoked or is it expected to be revoked (tip: I-140 from previous employer is acceptable, but EAD can be revoked/denied if I-140 revoked)? Y or N

Will EE travel to apply for H-4 visa or file I-539? _____

If filing I-539, anticipated date to request H-4 status begin (tip: base on adjudication timeframe and current EAD expiration, keeping in mind 90-day processing, to try to minimize gap in work authorization if F-1): _____

End date of H-1B petition validity (EAD will be limited by H-1B expiration date): _____

B-1 in Lieu of H-1B

Will the EE continue to maintain a permanent residence outside the US? Y or N

Will the EE be coming to a short duration task? Y or N

Will the EE be paid from abroad (other than reimbursement of expenses incidental to the temporary stay in the US)? Y or N

Will need to check to see if the appropriate consular post typically issues B-1 in lieu of H-1B.

E-1/E-2

Are they a national of an E-1 or E-2 treaty country? See appropriate available visa category.

E-1 Treaty Trader

Will they be coming to the US solely to carry on international trade of goods or services on their behalf or on behalf of a company they own? Y or N

Is the individual or company currently involved in international trade with the US? Y or N

Is the volume of the international trade between the US and treaty country more than 50% of the company's total volume of trade? Y or N

Is the amount of international trade substantial enough to ensure a continuous flow of international trade between the US and the treaty country? Y or N

E-2 Treaty Investor

Have they invested, or will be actively in the process of investing, a substantial amount of capital in a US enterprise? Y or N

Are they starting a new business, or are they investing in an existing business? _____

How will be the owners of the US company after the investment is made, what is the percentage of ownership for each owner, and what is the nationality of each owner (US citizens and Permanent Residents are considered US nationals)?

Is there a business plan for the US company? Y or N

What is the US business worth? _____

How much have they already invested in the US company? _____

How much more will they be investing in the US company prior to applying? _____

Is the investment substantial (see if the consular post has specific requirements for substantiality and proportionality)? Y or N

Where did the investment capital come from? Is it a legal source? _____

Can they provide documentary evidence of the source of the funds? Y or N

What is the current income of the company? _____

What is the expected income of the company within the next five years? _____

How many employees, besides the investor and their family members, does the company currently have? _____

How many employees, besides the investor and their family members, is the company expected to have within the next five years? _____

E-1/E-2 Employees

Is the company at least 50% owned by persons of the nationality of the E-1 or E-2 treaty country? Y or N

Is EE the same nationality as the company? Y or N

Will EE be engaged in duties of an executive or supervisory character, providing EE ultimate control and responsibility of the organization or a major component of the organization? Y or N

If not, does EE have special qualification skills which make EE's services essential to the efficient operation of the business? Y or N

O-1

Does Person have extraordinary ability within the sciences, arts, education, businesses, or athletics which has been demonstrated by sustained national or international acclaim? Y or N

If coming to work in television or motion picture, do they have a demonstrated record of extraordinary achievement in motion picture and/or television? Y or N

Have they arranged specific events or activities US in their field of expertise? Y or N

The Sciences, Education, Business, or Athletics (O-1A)

Have they received a major internationally recognized award (i.e. Nobel Prize)? Y or N

If not, can they document 3 of the following items in the fields of science, education, business or athletics?: Y or N

- a. Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor (academic awards to students are generally ignored). Y or N

- b. Membership in association in the field for which classification is sought, which requires outstanding achievement of their members, as judged by recognized national or international experts in the field. Y or N
- c. Published material in professional or major trade publications or major media about the person, relating to their work in the field. Y or N
- d. Participation on a panel, or individually, as a judge of the work of others in the same field or in an allied field. Y or N
- e. Evidence of original scientific, scholarly or business-related contributions of major significance in the field. Y or N
- f. Authorship of scholarly articles in the field, in professional journals, or other major media.
Y or N
- g. Evidence that the person has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence. Y or N

If the above listed criteria do readily apply to the occupation, is there comparable evidence that can be submitted? Y or N

The Arts (O-1B)

Have they been nominated for, or received, significant national or international awards or prizes in the particular field (i.e. Academy Award, Emmy, Grammy, or Director's Guild Award)? Y or N

If not, can they document 3 of the following items?: Y or N

- a. Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications contracts, or endorsements; Y or N
- b. Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications; Y or N
- c. Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials; Y or N
- d. Evidence that the alien has a record of major commercial or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications; Y or N
- e. Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements; Y or N
- f. Evidence that the alien has either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, as evidenced by contracts or other reliable evidence; Y or N

If the above listed criteria do readily apply to the occupation, is there comparable evidence that can be submitted? Y or N

L-1:

EE previously worked for parent, branch, subsidiary, or affiliate entity abroad? Y or N

Dates of employment abroad: ____

Any periods spent in the US during employment abroad? _____

Not counting any periods in the US during employment abroad, does employment total 1 year? Y or N

Employment abroad in managerial/executive or specialized knowledge position? _____

First date of entry in US in NIV status: _____

Employment abroad within last 3 years or within 3 years of entry date in NIV? Y or N

EE currently/can be placed in managerial/executive or specialized knowledge position? _____

Does ER have an approved Blanket petition or will individual petition be filed with USCIS? _____

Treaty Based Options (TN, E-3 and H-1B1)

TN: Citizen of Canada, Mexico? Y or N Profession on Treaty List? Y or N

E-3 or H-1B1: Citizen of Australia, Chile or Singapore? Y or N

Specialty Occupation? Y or N

PERM Labor Certification:

Salary: _____ Start Date: _____ Job Title: _____ Degree required: _____

Experience required by ER: _____

EMPLOYEE INFO

<u>Degree</u>	<u>Field of Study</u>	<u>Provisional & Final Degree Dates (mm/dd/yyyy)</u>	<u>School</u>	<u>Location (Country)</u>	<u>Have Eval?</u>
					<input type="checkbox"/>

					<input type="checkbox"/>
					<input type="checkbox"/>

EMPLOYMENT EXPERIENCE

<u>Company</u> <i>(if employed during education, indicate if course credit recvd)</i>	<u>Title</u>	<u>Start Date</u> <i>(mm/dd/yyyy)</i>	<u>End Date</u> <i>(mm/dd/yyyy)</i>	<u>Months?</u>	<u>Can EE get ref ltr?</u>

Total months of qualifying experience relevant to job offered: _____ months

PREVAILING WAGE ANALYSIS

Expected SOC Code: _____ Job Zone: _____ Level: _____

Expected Wage: _____ Wage Issue?: Y N

Anticipated PERM filing date (base on PWD processing, running recruitment and quiet period; if there is no anticipated wage issue or issue with EE obtaining reference letters, consider filing recruitment prior to obtaining PWD): _____

Employment-based category: EB2 or EB3

Current DOL processing times for PERM (take into consideration if case selected for audit): _____

Visa immediately available (allowing concurrent I-140 and I-485 filing)? Y or N
(take into consideration whether EE’s current status expiration will allow for EE to remain in the US with no interruption to status or work authorization while waiting for EAD/AP to be issued)

EB-1C : Intracompany Transferee Managers or Executives

See evaluation for L-1.

Is the position a primarily Managerial or Executive position (cannot for EB-1C for specialized knowledge position)? Y or N

Has the US entity been doing business in the US for at least one year?

EB-1B: Outstanding Professors and Researchers

Are they a Professor or Researcher with at least 3-years experience in teaching or research in their academic area of expertise? Y or N

Do they have an offer of employment to work as a Professor or Researcher in their field of expertise in a position that is a tenured or a tenure track position? Y or N

If not, do they have an offer of employment for a comparable position of indefinite or unlimited duration at a university or institute of higher education to conduct research? Y or N

If not, do they have an offer of employment for a comparable position of indefinite or unlimited duration to conduct research with a private employer that employs at least 3 persons full-time in research activities and the departmental, division or institution has achieved documented accomplishments in an academic field? Y or N

Can they document at least 2 of the following 6 items (or comparable evidence where these items do not apply):

- a. Receipt of major prizes or awards for outstanding achievement. Y or N
- b. Membership in an association which requires outstanding achievement. Y or N
- c. Published material in professional publications written by others about the applicant's work.
Y or N
- d. Evidence of the person's participation as a judge of the work of others. Y or N
- e. Evidence of original scientific research. Y or N
- f. Authorship of scholarly books or articles in the field. Y or N

If so, could this and other documentation be provided to show that they are recognized internationally as outstanding in their specific academic area? Y or N

EB-1A Extraordinary Ability

Are they an expert within the sciences, arts, education, businesses, or athletics, and seek to work in the US in their field of expertise? Y or N

Do they have sustained international acclaim and have been recognized in their field of expertise? Y or N

Have they received a major internationally recognized award (i.e. Nobel Prize)? Y or N

If not, can they document 3 of the following 10 items?: Y or N

- a. Receipt of lesser nationally or internationally recognized prizes or awards (academic awards to students are generally ignored). Y or N

- b. Membership in association in the field for which classification is sought, which requires outstanding achievement of their members, as judged by recognized national or international experts. Y or N
- c. Participated on a panel, or individually, as a judge of the work of others in the same or an allied field.
Y or N
- d. Published material about the person in professional or major trade publications or other major media.
Y or N
- e. Evidence of original scientific, scholastic, artistic, athletic or business-related contributions of major significance. Y or N
- f. Authorship of scholarly articles in the field. Y or N
- g. Artistic exhibitions or showcases. Y or N
- h. Performance in a leading or cultural role for organizations or establishments that have a distinguished reputation. Y or N
- i. High salary or remuneration in relation to others in the field. Y or N
- j. Commercial success in the performing arts. Y or N

If the above listed criteria do readily apply to the occupation, is there comparable evidence that can be submitted? Y or N

If they could show 3 out of the 10 items, could this and other documentation be provided to show that the person at a level of expertise indicating that they are one of that small percentage who have risen to the very top of their field? Y or N

National Interest Waiver

Would the person and position qualify as an EB-2 advanced degree professional or alien of exceptional ability? Y or N

Are they seeking employment in an area of substantial intrinsic merit? Y or N

Would the benefit of their work be national in scope? Y or N

Would the national interest be adversely affected if a labor certification were required (the benefit that their unique skills or abilities would provide substantially outweighs the inherent national interest in protecting U.S. workers through the Labor Certification process)? Y or N