



# USCIS and USPTO Webinar

April 24, 2024

# Agenda

---

- **Introduction**

Annie Colarusso, Tech Hubs Deputy Director

- **Immigration Pathways for STEM Workers and Entrepreneurs**  
(1:00-1:30)

Doug Rand, Senior Advisor to the Director, U.S. Citizenship and Immigration Services

- **Demo of IP, Trademarks, and Patents Search Tools** (1:30-2:00)

Charesse Evans, Senior Advisor & U.S. Patent and Trademark Office Team

- **Next Steps for Community of Practice** (2:00-2:05)

Jason Rittenberg, Dan Berglund, & Mark Skinner, SSTI



# **USCIS PRESENTATION**

## **Immigration Pathways for STEM Workers and Entrepreneurs**

Doug Rand



U.S. ECONOMIC DEVELOPMENT ADMINISTRATION



U.S. Citizenship  
and Immigration  
Services

# Global STEM Talent Pathways

---



**U.S. Citizenship and Immigration  
Services**

---

April 24, 2024

# Biden-Harris Administration Actions



U.S. Citizenship  
and Immigration  
Services

FEBRUARY 02, 2021

Executive Order on Restoring Faith in  
Our Legal Immigration Systems and  
Strengthening Integration and  
Inclusion Efforts for New Americans

JANUARY 21, 2022

FACT SHEET: Biden-Harris  
Administration Actions to Attract  
STEM Talent and Strengthen our  
Economy and Competitiveness

OCTOBER 30, 2023

Executive Order on the Safe, Secure,  
and Trustworthy Development and  
Use of Artificial Intelligence



# Resources for Tech Professionals



Pathways for  
Entrepreneurs



Pathways for  
Tech Workers



Options for  
laid-off workers



*Science: New U.S.  
immigration rules spur  
more visa approvals  
for STEM workers*



U.S. Citizenship  
and Immigration  
Services

# Terminology



U.S. Citizenship  
and Immigration  
Services

- Some foreign nationals can work in the United States temporarily through one of the [“nonimmigrant” pathways](#) for STEM employment. These pathways include F-1 Optional Practical Training, H-1B, L-1, E-2 and O-1 nonimmigrant visas, and allow foreign nationals to temporarily live and work in the United States.
- Some foreign nationals can work in the United States permanently through one of the employment-based [“immigrant” pathways](#). These pathways can lead to lawful permanent residence (also known as a “green card”), which allows the individual to live and work in the United States permanently.



# H-1B Visa: Specialty Occupations



U.S. Citizenship  
and Immigration  
Services

- [H-1B visas](#) provide a pathway for individuals with at least a bachelor's degree (or equivalent) in a specific specialty (or equivalent) to work in a job that is related to their degree and that qualifies as a "specialty occupation."
- H-1B workers are generally permitted to stay in the United States for a maximum of six years but, may be able to stay longer if they have taken certain steps towards obtaining lawful permanent resident status.
- There is an [annual cap](#) on the number of H-1B workers that can be granted initial H-1B status each year, although specific types of employers may be exempt from the cap.
- In October 2023, DHS issued a proposed rule to modernize the H-1B Program.
- In February 2024, DHS issued a final rule to strengthen integrity and reduce the potential for fraud in the H-1B registration process.



# O-1 Visa: Extraordinary Ability



U.S. Citizenship  
and Immigration  
Services

- The O-1 visa is for individuals with extraordinary ability in certain fields, including the sciences, education, or business.
- There is no cap on the number of O-1 nonimmigrants who may be admitted to the United States each year.
- There is no limit to the number of years a person can work on an O-1 visa. Specifically, an O-1A may be granted up to 3 years to work in the United States . After this initial validity period, an O-1A may be granted extensions of up to 1 year. There is no specified limit on the number of extensions a person can receive while working in the United States on an O-1A.
- January 2022, USCIS issued updated policy guidance, including examples of evidence to clarify how certain professionals in STEM may qualify as O-1A, individuals of extraordinary ability.

# L-1 Visa: Intracompany Transferee



U.S. Citizenship  
and Immigration  
Services

- L-1 visas are for employees of qualifying multinational organizations who hold positions as managers or executives (L-1A) or have specialized knowledge (L-1B), allowing them to work in the United States for the same organization for a maximum of seven years (L-1A) or five years (L-1B).
- Companies can also use the L-1 classification to send an executive, manager, or employee with specialized knowledge to the United States for the purpose of establishing a new U.S. office.
- The foreign national must demonstrate that a qualifying relationship exists between their employer abroad and their intended U.S. employer to be eligible for an L-1 visa.
- There is no cap on the number of L-1 nonimmigrants who may be admitted to the United States each year.

# F-1 Visa: Optional Practical Training



U.S. Citizenship  
and Immigration  
Services

- Generally, F-1 international students are not permitted to work in the United States. However, F-1 students may be eligible for Optional Practical Training (OPT).
- OPT permits an F-1 student to work in a position that is directly related to the student's major area of study for up to 12 months.
- An F-1 student may be authorized for pre-completion OPT (before completion of the course of study) or post-completion OPT (after completion of the course of study). The time granted for post-completion OPT will be reduced by any time spent in pre-completion OPT.
- F-1 students who earned a degree in certain STEM fields are eligible for a 24-month extension of post-completion OPT, for a total of 36 months.
- In December 2023, USCIS issued policy guidance in the USCIS Policy Manual to address the nonimmigrant student (F and M) classifications, including OPT and the STEM OPT extension for F-1 students.



# Other Nonimmigrant Visas



U.S. Citizenship  
and Immigration  
Services

Other types of nonimmigrant visas are available to nationals of specific countries and may offer a viable pathway to global talent.

For example:

- Visas similar to the H-1B visa are available to [Australian nationals](#) (E-3) and to nationals of Singapore and Chile (H-1B1).
- TN visas are available to certain technology workers from Mexico and Canada through the [U.S.- Mexico-Canada Agreement](#) (which replaced NAFTA).

# EB-1 Immigrant Visa



U.S. Citizenship  
and Immigration  
Services

- **EB-1A Visa – Extraordinary Ability:** foreign nationals who possess extraordinary ability in the sciences, arts, education, and business, or athletics.
- **EB-1B – Outstanding Professor or Researcher:** professors and researchers who demonstrate international recognition for their outstanding achievements in a particular academic field to pursue tenure or tenure track teaching, or for a term of indefinite or unlimited duration, or a comparable research position at a university, institution of higher education, or private employer.
- **EB-1C Visa – Multinational Manager or Executive:** executives and managers of multinational organizations.
- The EB-1 category has an **annual cap of 40,040** immigrant visas.

# EB-2 Immigrant Visa



U.S. Citizenship  
and Immigration  
Services

- The [EB-2 category](#) enables foreign nationals with advanced degrees or exceptional ability in certain fields, including the sciences or business, to obtain lawful permanent residence.
- To be eligible for an EB-2 visa, under the [advanced degree professional](#) subcategory, the position the foreign national will fill must require an advanced degree and the foreign national must possess such a degree or a bachelor's degree followed by five years of progressively responsible experience in the specialty.
- To be eligible for an EB-2 visa under the [exceptional ability](#) subcategory, the foreign national must demonstrate that they have “a degree of expertise significantly above that ordinarily encountered” in their chosen field.



# National Interest Waiver



U.S. Citizenship  
and Immigration  
Services

- Although the EB-2 category generally requires the U.S. employer to obtain a certification from the Department of Labor that there are not sufficient U.S. workers able, willing, qualified, and available to accept the job opportunity, this requirement may be waived, allowing qualifying individuals to petition on their own behalf, if USCIS determines the waiver to be in the national interest.
- USCIS may grant a national interest waiver as a matter of discretion.
- A recent USCIS policy update clarified how persons with advanced degrees in STEM fields can use the NIW to engage in endeavors of substantial merit that are in the national interest, including critical and emerging technologies such as those found in the National Science and Technology Council's Critical and Emerging Technologies Update List.

# Entrepreneur Pathways



U.S. Citizenship  
and Immigration  
Services

- All of the previously discussed pathways (F-1 OPT STEM, H-1B, L-1, O-1, EB-1, EB-2 with National Interest Waiver) can be used by entrepreneurs, depending on the circumstances.
- The [International Entrepreneur Rule](#) provides an additional pathway for certain startup founders. The validity period lasts up to 5 years, and includes work authorization for spouses. Eligibility requirements for the initial 30-month period include:
  - U.S. entity formed within the last 5 years
  - At least 10% ownership stake
  - Investment of at least \$264,147 from qualified investors OR a federal, state, or local government grant or award of at least \$105,659.
  - Up to three entrepreneurs eligible based on the same startup

# More Information



U.S. Citizenship  
and Immigration  
Services

- For detailed information about these and other pathways, please see:
  - [Options for Noncitizen STEM Professionals to Work in the United States](#)
  - [Options for Noncitizen Entrepreneurs to Work in the United States](#)
- These resources from USCIS are currently available in English, Spanish, Chinese, Korean, and Russian.
- Also note that for many of these pathways, the processing step with USCIS can be expedited through the payment of an additional [premium processing](#) fee.



# About the Presentation



U.S. Citizenship  
and Immigration  
Services

- Author(s): USCIS Office of Citizenship, Partnership and Engagement, Public Engagement Division.
- Date of last revision: This presentation is current only as of the date of last revision, April 24, 2024, and is valid only as of the date of its last revision.
- This presentation contains no sensitive Personally Identifiable Information (PII).
- Any references in documents or text, with the exception of case law, relate to fictitious individuals.
- All images in this presentation: Reproduced from USCIS.gov.

# Contact



U.S. Citizenship  
and Immigration  
Services

Send any questions for USCIS to the Public Engagement Division ([public.engagement@uscis.dhs.gov](mailto:public.engagement@uscis.dhs.gov)). Please place Tech Hub in the subject line.

# USCIS Presentation Disclaimer



U.S. Citizenship  
and Immigration  
Services

We understand that you will be taking notes today of the statements made by USCIS personnel. The materials being presented today are for informational purposes only and are not legal advice. The information disseminated today, and any statements made by USCIS personnel are intended solely for the purpose of providing public outreach to the Agency's stakeholders about issues of mutual interest. This presentation is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.



# Dissemination



U.S. Citizenship  
and Immigration  
Services

This presentation may not be reproduced or further disseminated without express written consent.

Please contact the USCIS External Affairs Directorate for additional information.



U.S. Citizenship  
and Immigration  
Services



# U.S. Citizenship and Immigration Services

# **USPTO PRESENTATION**

## **Demo of IP, Trademarks, and Patents Search Tools**

**Charesse Evans, Hellen Bryan-Johnson, Ken Takeda, Abdhesh Jha**



U.S. ECONOMIC DEVELOPMENT ADMINISTRATION



# SSTI: Upcoming Community of Practice Kickoff

---

# Questions?

---

Reach out to the Tech Hubs Program Office at [techhubs@eda.gov](mailto:techhubs@eda.gov).

Visit the Tech Hubs website at <http://techhubs.gov>.

[Sign up for the EDA newsletter](#) and follow us on social media:

