

III. EB-3 THIRD PREFERENCE – EMPLOYMENT BASED IMMIGRATION

The Third Preference Employment Based category is apportioned for about 40,000 annual visas plus any unused visas in the first two employment based preferences. Labor Certification (PERM) and a specific job offer are required in the third Preference Employment Based category. Moreover, after receiving Labor Certification, the Petitioner (Employer) must file for an Immigrant Petition. Individuals may file for an adjustment of status or may proceed with consular processing when their visas become available. But because of the number of backlogs, individuals in this category must wait for years to have their visas available. In addition, immediate unavailability of this category will continue for individuals. The Third Preference Employment Based Immigration EB-3 (Green Card) is available for the following individuals: (a) Professionals; (b) Skilled Workers; and (c) Other Workers.

“**Skilled workers**” are persons whose job requires a minimum of 2 years training or work experience, not of a temporary or seasonal nature

“**Professionals**” are persons whose job requires at least a U.S. baccalaureate degree or a foreign equivalent and are a member of the professions

“**Other workers**” subcategory is for persons performing unskilled labor requiring less than 2 years training or experience, not of a temporary or seasonal nature.

This employment based preference category requires that your employer must first obtain Labor Certification (PERM) from the Department of Labor on Form ETA-9089. A specific job offer is required in the Third Preference Employment Based category. Moreover, after having received a Labor Certification, your employer (petitioner) must file for an Immigrant Petition. In some cases, the petition may be submitted to U.S. Citizenship and Immigration Service (USCIS) with an uncertified ETA-9089 for consideration as Schedule A, Group I. Your employer, the petitioner, must file a Form I-140, Petition for Alien Worker. As part of the application process, your employer must be able to demonstrate an ability to pay the offered wage as of your visa priority date. Your employer may use an annual report, federal income tax return, or audited financial statement to demonstrate an ability to pay your wage.

You may file for adjustment of status or proceed with consular processing when your visa becomes numerically available. But because of the backlogs, you- being in this preference category must wait for many years for your visa to become available. Skilled workers from countries like India, Philippines, and Mexico, unfortunately, have to wait even longer. Spouses and children below 21 years of age and not married are qualified to obtain green cards if accompanying the main beneficiary.

The process can be extremely detailed and requires significant effort on the part of the employer. For more information on the Third Preference category, read on!