

# Business Growth Through Immigration Programs

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On April 18, 2017, the executive branch of the United States implemented a “Buy American and Hire American” initiative through a presidential executive order that affected how federal government agencies make decisions on a daily basis. The purpose of the executive order was to protect the interests of U.S. workers, and perhaps no government agency has been more influenced by this policy than the U.S. immigration agency, known as U.S. Citizenship and Immigration Services.

According to the USCIS website, the Buy American and Hire American initiative “seeks to create higher wages and employment rates for U.S. workers and to protect their economic interests by rigorously enforcing and administering our immigration laws.”

USCIS states that it is carrying out the initiative specifically to protect the economic interests of U.S. workers.

Under this policy, employment-based visas and green card processes, which at first blush appear to only focus on hiring foreign nationals to fill positions for businesses in the United States, have been under siege lately, as such visa categories have been highly scrutinized when adjudicated by USCIS officers since the implementation of the Buy American and Hire American initiative. In practice, all employment-focused visa categories are feeling the effects of the initiative as more roadblocks occur and seemingly endless questions are asked by USCIS, making it much more difficult for an employer to hire foreign workers under an employment visa category.

However, when considering these employment visas, it is important to understand that some of these visa categories do not solely offer U.S.-based jobs to foreign workers, but also help to stimulate the U.S. economy and create more job opportunities for American workers. Specifically, the E-2 investor visa, the L-1 intracompany transfer visa and the EB-5 immigrant investor process for U.S. lawful permanent residency can all help create jobs for U.S. workers and increase investments domestically.

Small and midsized companies are especially in position to take advantage of immigration laws to help improve resources and personnel, as well as attract investment for growth by partnering with foreign nationals beyond just hiring someone on a visa for employment. For example, businesses can take advantage of the E-2 investor visa by offering partial ownership to a foreign national, as well as an opportunity to relocate to the United States, in exchange for the foreign investor providing investment capital in the U.S. company. Another example involves the L-1 visa, which allows for business owners abroad to move to the U.S. to work for new affiliate companies here, which enables the U.S. business to grow and capture a larger global market. An even more significant impact on a U.S. company can be made by recruiting investment funds from foreign nationals in exchange for an opportunity to become a lawful permanent resident

in the United States under the EB-5 immigrant investor program. It is important to look more closely at what each of these immigration options entails for both the U.S. company and the foreign national, and also at how they help achieve the Buy American and Hire American initiative, to better understand how to take advantage of these immigration programs.

## **E-2 Investor Visa**

The E-2 investor visa offers an opportunity for local businesses to recruit funds from foreign nationals in certain countries (those with U.S. commerce and navigation treaties) to invest in and co-manage a business in the United States. In return, the foreign investor has an opportunity to move to the U.S., with immediate family members, so long as the foreign investor gains at least 50 percent ownership of the business, or operational control through a managerial position or similar role. Under the E-2 investor visa, an investment involves the foreign investor's placing of capital, including funds or other assets, with the objective of generating a profit. That means that a U.S. business can seek out substantial capital from foreign investors, which not only offers to foreign nationals the opportunity to place their funds into a strong U.S. business, but also offers an opportunity to live and work in the United States with that business.

## **L-1 Intracompany Transfer Visa**

Similarly, the L-1 intracompany transfer visa is an option that can benefit foreign nationals and U.S. businesses. This visa enables an executive or manager from a foreign office to be transferred to a parent, subsidiary or affiliate office in the United States, and in return allows the U.S. business to raise capital and expand its global footprint across the world. In other words, a foreign company or individual can be incentivized to deploy funds into a U.S. business, as it allows for company expansion into the U.S. market and for owners and employees of such businesses to move with their families to the United States.

## **EB-5 Immigrant Investor Program**

The EB-5 immigrant investor program was set up in the U.S. to incentivize foreign investment opportunities and stimulate local economies. It allows foreign investors to invest \$1 million or alternatively \$500,000 in rural or high unemployment areas, in a domestic company that will result in the creation of 10 new jobs. In return, the foreign investor and immediate family can become U.S. lawful permanent residents if requirements are met. The structure of the investment can vary, and the foreign investor can have an active or less active role within the company depending on preference. U.S. businesses have become more interested in participating in the EB-5 program over the years, and overall, the EB-5 program has become an attractive way to market business relationships internationally. Many overseas investors still consider the United States the land of opportunity and want their children to take advantage of the U.S. education system. Therefore, foreign investors are significantly incentivized to obtain green cards for their families; at the same time, using an immigration benefit as a selling point allows businesses to obtain foreign capital to grow and boot local economies.

Businesses in the U.S. should understand that these immigration programs offer ways to incentivize foreign investment, which in turn may spur company growth, leading to more American jobs with increased capabilities, and more market coverage worldwide. All of that falls squarely within the purpose of the Buy American and Hire American initiative. U.S. businesses should consider and study each of these options to better understand which one works best for their specific needs.

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