

Smithsonian Institution
Smithsonian Astrophysical Observatory
Process for Permanent Residence Sponsorship
Requests

In limited circumstances, the Smithsonian may be able to assist units in hiring/retaining foreign nationals who meet specific criteria by supporting their application for Permanent Residency. The institution follows a formal process to support mainly certain EB-1 and EB-2 categories of Permanent Residency. This document provides information regarding the Smithsonian's process for sponsoring a petition for permanent residence and establishes the process by which SAO will consider and submit a request for SI sponsorship.

I. Introduction

Permanent residence status allows a foreign national (a "**Foreign National**") to legally live and work in the United States without the time limitation typical of individuals in non-immigrant status (e.g. those living in the U.S. under a temporary visa). Sponsorship of a petition for permanent residence of a Foreign National (a "**Petition**") should be requested only when there is an institutional need. The Smithsonian/SAO may decline to sponsor any Petition in its sole discretion. In the event that SAO determines to submit a request that the Smithsonian sponsor a Petition, SAO must work with the Foreign National to provide all of the information set forth herein and as may be requested from time to time.

II. Eligibility

The Smithsonian may agree to sponsor a Petition based on the following guidelines:

- A. The Foreign National must qualify for one of the permanent residence categories set forth in Section III below.
- B. The Foreign National must be currently in or have been offered a full-time position of employment at the Smithsonian to be considered for sponsorship.
- C. The Unit Director must intend to employ the Foreign National for at least three years. If a position is funded by a grant, there must be an expectation of continued employment for at least three years even if the grant funding ceases. Sponsorship of Petition, however, does not constitute a guarantee of lifetime employment.
- D. The Unit Director of the Requesting Unit must support the Smithsonian's sponsorship of the Petition.
- E. The Smithsonian will not sponsor Petitions for fellows, research associates and interns.
- F. The Smithsonian's initial decision to sponsor a Petition is subject to the Smithsonian's or SAO's designated immigration attorney (the "Immigration Attorney") determining whether the Foreign National meets the qualifications of any of the permanent residence categories set forth in Section III.

III. Permanent Residence Categories

The Smithsonian may sponsor Petitions in the following permanent residence categories:

EB-1 Categories

Category	Description
Extraordinary Ability	A Foreign National must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim. A Foreign National's achievements must be recognized in the field through extensive documentation.
Outstanding professors and researchers	A Foreign National must demonstrate international recognition for outstanding achievements in a particular academic field. A Foreign National must have at least 3 years experience in teaching or research in that academic area. A Foreign National must be entering the United States in order to pursue tenure or tenure track teaching or comparable research position at a university or other institution of higher education.

EB-2 Categories

Category	Description
Advanced Degree	A Foreign National's position must require an advanced degree and a Foreign National must possess such a degree or its equivalent (a baccalaureate degree plus 5 years progressive work experience in the field).
Exceptional Ability	A Foreign National must be able to show exceptional ability in the sciences, arts, or business. Exceptional ability "means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business."
National Interest Waiver	A Foreign National seeking a national interest waiver is requesting that the Labor Certification be waived because it is in the interest of the United States. Though the jobs that qualify for a national interest waiver are not defined by statute, national interest waivers are usually granted to those who have exceptional ability (see above) and whose employment in the United States would greatly benefit the nation. Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140,

	Petition for Alien Worker.
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IV. Initiation of Permanent Residence Sponsorship Process

- a. The manager of the SAO Division/Department to which Foreign National is assigned (the “**Requesting Manager**”) submits a request in writing, copying SAO Director Human Resources, to SAO Director to consider sponsorship of Foreign National in order to retain the employee beyond the maximum time limit allowed by the present U.S. visa status.
- b. The manager of the SAO Division/Department must include the following documentation to Director SAO at time of request:
 - i. A summary that describes why SAO should support the Smithsonian’s sponsorship of the Petition, including a description of the Foreign National’s active and substantial involvement within SAO’s programs or activities, a description of the long-range plans for the Foreign National and the direct benefit to the Smithsonian from the Foreign National’s continued participation in the program or activity.
 - ii. A detailed Curriculum Vitae for the Foreign National, listing all of the Foreign National’s professional accomplishments, including but not limited to:
 1. educational and professional employment history, including full name and address of each activity or employer; each position; and the approximate dates the individual started and quit each position;
 2. any national or international level awards, prizes, honors or recognitions the Foreign National has ever received;
 3. any newspaper articles, trade or other publications written about or otherwise mentioning the Foreign National;
 4. any distinguished organizations the Foreign National has worked with, in a leading or critical role;
 5. any articles or books the Foreign National has had published;
 6. any patents Foreign National has obtained;
 7. any associations or other professional groups Foreign National is affiliated with or a member of;
 8. any times Foreign National has judged or approved the work of other professionals in his/her field, either individually or as part of a panel;
 9. names of distinguished professional groups with which Foreign National has been affiliated, and description of the work individual has performed for each such group;
 10. any works as a celebrity or person; and
 11. any other contributions or accomplishments of major significance.
- c. If the SAO Director approves the request, he will forward the request, along with a memo of support, to SAO Director Human Resources, who will submit to the Office of International Relations, SI for review.
- d. The Office of International Relations will review the Initial Submission and determine whether there is sufficient evidence for the Smithsonian to initiate sponsorship of the

Petition in one of the categories set forth in Section III. The Office of International Relations will advise SAO accordingly.

- e. If the Office of International Relations makes a determination to initiate sponsorship, the Office of International Relations will inform SAO Director Human Resources and forward the Initial Submission to the Immigration Attorney to begin the sponsorship process.

V. Immigration Attorney Review

The Immigration Attorney will review the Initial Submission and any additional information that the Immigration Attorney deems necessary to make a determination on the Foreign National's eligibility for Smithsonian sponsorship in one of the categories set forth in Section III. If the Immigration Attorney determines that the Foreign National meets the qualifications for any of the categories set forth in Section III, the Immigration Attorney will work with the Foreign National and SAO to prepare and file the Petition and all required documents.

If the Immigration Attorney determines that the Foreign National does not meet the qualifications for any of the categories set forth in Section III, the Immigration Attorney will advise the Office of International Relations accordingly.

VI. Costs of Sponsoring a Petition

SAO will be required to pay legal fees and expenses associated with the cost of sponsoring the Petition. The estimated fees and expenses for each category are provided below; however, such fees and expenses are subject to change. Prior to initiation of Petition by Immigration Attorney, the Requesting Manager should confirm with SAO Financial Management Department availability of funds for all required fees and expenses for sponsoring a Petition and any restrictions related to the payment of such fees and expenses.

- A. EB-1 Categories (Extraordinary Ability and Outstanding Professors and Researchers)
 - (1) Legal Fees: \$7,500, ½ billed at commencement of work by Immigration Attorney and ½ due upon approval of Form I-140 (immigrant visa petition).
 - (2) Additional, Out-of-Pocket Expenses: USCIS and/or State Department filing fees (est. \$1,650), FedEx/postage (minimal amount), additional USCIS filing fee for premium processing of Form I-140 if Requesting Unit desires (\$1,225), costs of translating any foreign-language documents for USCIS.
- B. EB-2 Categories (Advanced Degree, Exceptional Ability, National Interest Waiver)
 - (1) Legal Fees: \$7,500: \$2,500 payment at commencement of case; \$2,500 payment upon approval of labor certification, and; \$2,500 payment upon preparation/filing of application with USCIS to adjust status in United States.
 - (2) Additional, Out-of-Pocket Expenses: USCIS and/or State Department filing fees (est. \$1,650), FedEx/postage (minimal amount), classified advertisements for labor certification (est. \$3,000), additional USCIS filing fee for premium processing of Form I-140 if Client desires (\$1,225).

VII. Timeframe for Permanent Residence Sponsorship

The time it takes to complete a Petition from start to finish varies based on the permanent residence category, and the time it takes for the Foreign National and/or SAO to submit all required documentation. Once submitted, processing times can vary at USCIS. An estimate of processing times is provided below.

Once the Smithsonian and the Immigration Attorney determine that the Foreign National meets the qualifications for any of the categories set forth in Section III, it can take at least three weeks to prepare

and file the Petition, beginning from the time the Foreign National and SAO submit all supporting letters and other required documents. Once the Petition is filed, USCIS will usually process cases in one to twelve months, depending on security clearances and case load. For Foreign Nationals from India or China filing a Petition for any of the EB-2 permanent residence categories, USCIS may take between three to twelve years to process a Petition.

VIII. Employment While Petition is Pending

In order to remain and work in the United States during processing of any Petition, the Foreign National must maintain their H-1B status (or current immigration status) – at least until the point where the process provides a separate form of employment authorization. SAO Requesting Manager and the Foreign National must work with the SAO Human Resources Department and the Immigration Attorney to maintain the Foreign National's current immigration status.