

# Immigration Update and Lawful Permanent Resident Options for Foreign Nationals

January 27, 2026

**Fredrikson**

The logo for Fredrikson, featuring the name in a bold, black, sans-serif font. A red horizontal bar is positioned below the 'F' and extends to the right, ending under the 'n'.

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# Agenda

- Immigration and Enforcement Updates
- Lawful Permanent Residence Options
- Q&A

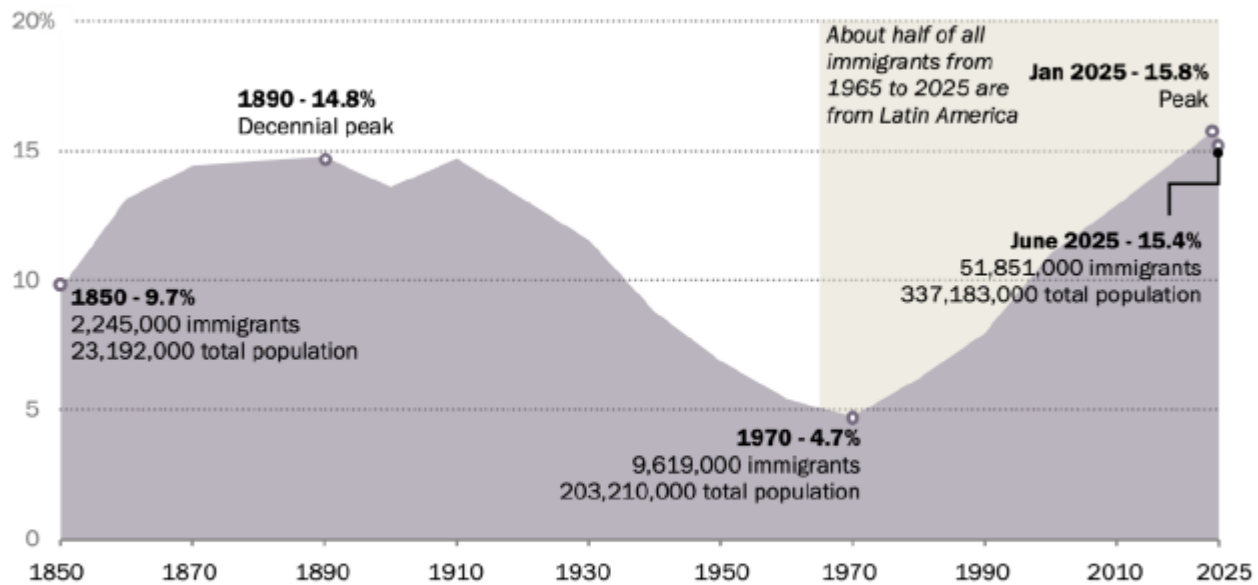
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# The Current Immigration Landscape

# Current Immigration Forecast

## U.S. immigrant population peaked at nearly 16% in January 2025

*% of U.S. population that is foreign born*



Note: Populations are rounded to the nearest 1,000. Shares are calculated using unrounded population numbers. Data for 2025 represents the civilian, noninstitutional population.

Source: U.S. Census Bureau, "Historical Census Statistics on the Foreign-Born Population of the United States: 1850-2000," Pew Research Center tabulations of 2010 and 2023 American Community Surveys and 2025 Current Population Surveys (IPUMS).

PEW RESEARCH CENTER

- In 2025, the U.S. had more immigrants leave the U.S. than enter in 2025
- In January 2025, 53.3 million immigrants lived in the United States – the largest number ever recorded.
- By June 2025, the country's foreign-born population had shrunk by more than a million people, marking its first decline since the 1960s.

Pew Research Center -

<https://www.pewresearch.org/short-reads/2025/08/21/key-findings-about-us-immigrants/>

# Impact of 2025 Immigration Related Executive Orders

## Securing

### Securing Our Borders

- Reinstates Remain in Mexico Policy, eliminates CBP One App, halts certain parole programs

## Declaring Emergency

### Declaring a National Emergency at the Southern Border

- Directs the Department of Defense to use military forces at the border

## Protecting

### Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats

- Implements stricter vetting and visa screening, sets the stage for travel bans Provides for maximal enforcement of immigration law, expands the use of expedited removal, states that all “sanctuary jurisdictions” will no longer receive federal funds
- DHS to remove/deport an individual from US without a hearing before an immigration judge unless they express a fear of persecution
- Individuals without legal immigration status in the US who have been in the US less than two years can be subject to expedited removal
- Individuals should carry documentation of immigration status and documentation of their physical presence in the US

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# Immigration Enforcement

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# Know Your Rights – ICE at Your Workplace

- ICE needs a judicial warrant or permission to enter “private” or “employees only” areas
- Establish and know the protocol if ICE visits-Who do you call?
- You have the right to remain silent when questioned by ICE
- If ICE enters by force, do not interfere or resist
- If it is safe to do so, take notes about officers’ names, badge numbers, what they take, or who they arrest. Also, you have the right to take out your phone and record the officers as long as you do not interfere with what they’re doing.

• [2025-12-19-Immigration-Know-Your-Rights-ICE-Flyer-Electronic.pdf](#)

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# Know Your Rights – ICE at Your Door

- You have the right to keep your door closed and remain silent
- You have the right to tell ICE you wish to remain silent
- If you choose to speak, you have the right to ask to see a judicial warrant
- If ICE does not have a judicial warrant , you can ask them to leave
- Your safety is a priority

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# Know Your Rights If ICE Stops You on the Street

- Stay calm. Ask “Am I free to go?”
- If ICE says yes, walk away and say “I do not want to answer any questions.”
- If ICE say no, you can say “I do not want to answer any questions. I want to speak to a lawyer”

Know Your Rights - The Advocates for Human Rights

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# Document Your Immigration Status

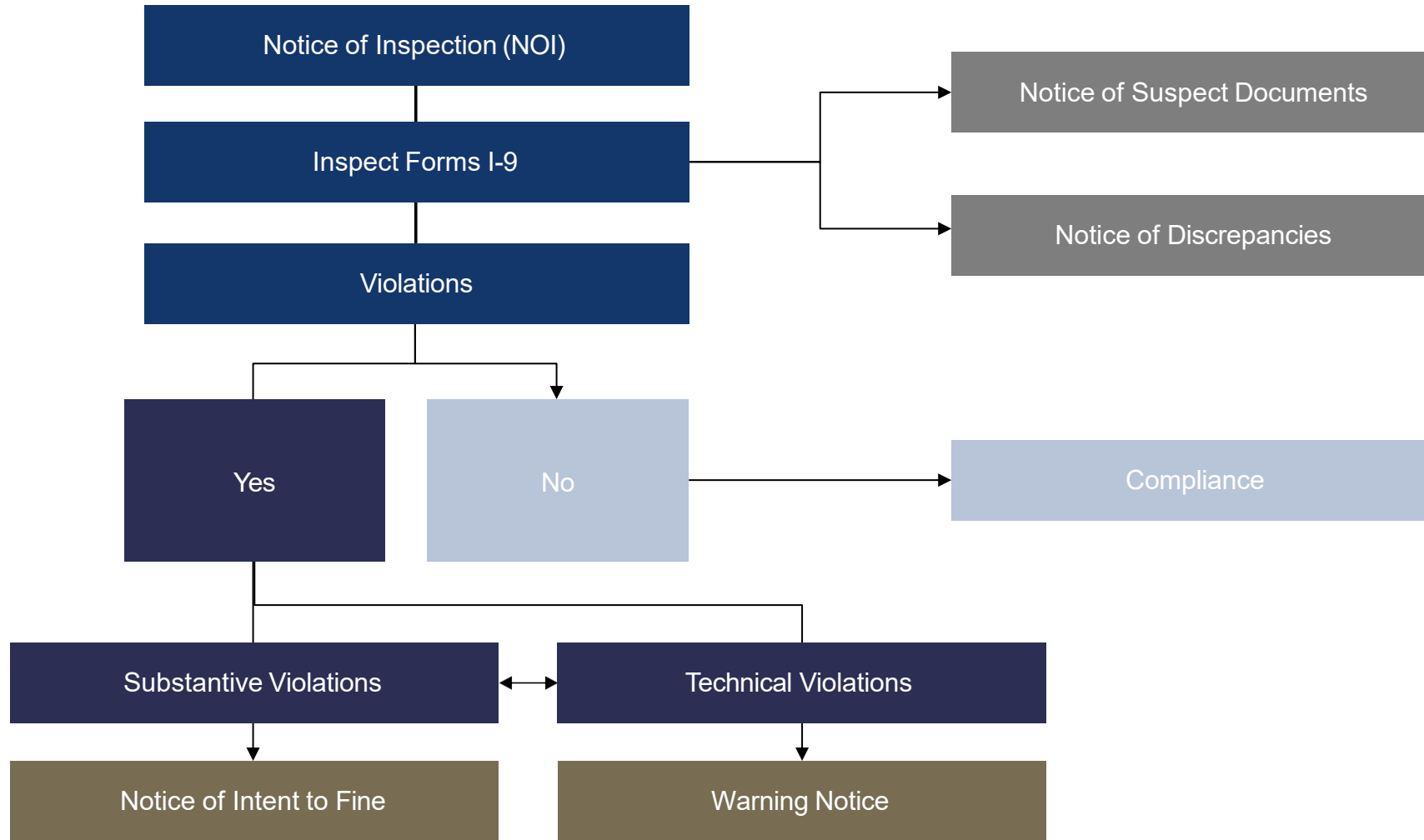
- Reminder: Carrying Documentation of Immigration Status
- Non-Immigrants: Photocopy of valid passport ID page, copy of I-797 approval notice and I-94 record
- Lawful Permanent Residents : Your I-551 “Green Card” and a copy of your valid passport ID page. Make a photocopy of it to present if asked.
- United States Citizens: Photocopy of valid passport ID page or birth certificate and a valid photo ID. Not required by law to carry proof of US citizenship status.
- In the US Without Legal Status: Evidence you have lived in the US continuously for two years or more

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# I-9 Audits

- Significant increase in I-9 audits
- Conduct an internal audit of company's I-9s
- Never too late to correct until you are audited by ICE
- A Notice of Inspection initiates an I-9 Audit
- I-9 audits are not ICE raids

# I-9 Audits: Anatomy of an I-9 Audit



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# Losses to Legal Work Force

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# Termination of Humanitarian Immigration Programs

- Termination of TPS for Nationals of Venezuela, Haiti, and Somalia
- Revocation of humanitarian parole for hundreds of thousands of immigrants living in the U.S. legally under the Cuban, Haitian, Nicaraguan, and Venezuelan parole program (CHNV)
- Termination of Uniting for Ukraine Program

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# Delays & Heightened Vetting at US Consulates

- Applicants must apply at in country of nationality or country of last residence
- Increase in the number of cases subject to administrative processing
- Scrutiny of social media activities including participation in political activities

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# Presidential Proclamation Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of United States – Travel Ban and Restrictions – Full Ban

- Afghanistan
- Burkino Faso
- Burma
- Chad
- Republic of Congo
- Equatorial Guinea
- Eritrea
- Haiti
- Iran
- Libya
- Somalia
- South Sudan
- Sudan
- Syria
- Yemen
- Laos
- Mali
- Niger
- Sierre Leone
- Syria
- Traveling under documents issued by Palestinian Authority

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# Presidential Proclamation Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of United States – Travel Ban and Restrictions – Partial Ban

- Angola
- Antigua and Barbuda
- Benin
- Burundi
- Cote d'Ivoire
- Cuba
- Dominica
- Gabon
- The Gambia
- Malawi
- Mauritania
- Nigeria
- Senegal
- Tanzania
- Togo
- Tonga
- Venezuela
- Zambia
- Zimbabwe

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# Pause of Immigration Visas Processing – Public Charge Concerns – Effective January 21, 2026

- Afghanistan, Albania, Algeria, Antigua and Barbuda, Armenia, Azerbaijan, Bahamas, Bangladesh, Barbados, Belarus, Belize, Bhutan, Bosnia and Herzegovina, Brazil, Burma, Cambodia, Cameroon, Cape Verde, Colombia, Cote d'Ivoire, Cuba, Democratic Republic of the Congo, Dominica, Egypt, Eritrea, Ethiopia, Fiji, The Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Haiti, Iran, Iraq, Jamaica, Jordan<sup>21</sup>, Kazakhstan, Kosovo, Kuwait, Kyrgyz Republic, Laos, Lebanon, Liberia, Libya, Moldova, Mongolia, Montenegro, Morocco, Nepal, Nicaragua, Nigeria, North Macedonia, Pakistan, Republic of the Congo, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Somalia, South Sudan, Sudan, Syria, Tanzania, Thailand, Togo, Tunisia, Uganda, Uruguay, Uzbekistan, and Yemen

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# Presidential Proclamation-Restriction on Entry of Certain Nonimmigrant Workers

- Requires a payment of \$100,000 for H-1B petitions filed on or after September 21, 2025 for the following H-1B petitions:
  - H-1B Petitions Filed On or After September 21, 2025, Beneficiaries Who Are Outside of the US and Do Not Have a Valid H-1B Visa
  - H-1B Petitions Filed On or After September 21, 2025, Requesting Consular Notification , Port of Entry Notification or Pre-Flight Inspection for a Beneficiary in the US
  - H-1B Petitions Filed On or After September 21, 2025, Requesting Change of Status, Amendment of Status, or Extension of Status AND USCIS determines the Beneficiary is Not Eligible for the Requested Action
- \$100k fee can be waived if DHS determines that it is in the national interest of the U.S. and does not pose a threat to the security or welfare of the U.S.

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# New H-1B Lottery Selection Process- Weighted Selection Process for Cap Subject H-1B Petitions

**USCIS issued Final Rule on December 29, 2025**

- Effective February 27, 2026
- Entries would be weighted based on the offered wage of the H-1B position
  - Level 4 wages would receive 4 entries per unique registration; Level 1 would receive 1 entry
- Save the date for our webinar on the 2026 H-1B Lottery Registration and H-1B Season: **February 17, 2026**

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# Green Card Options

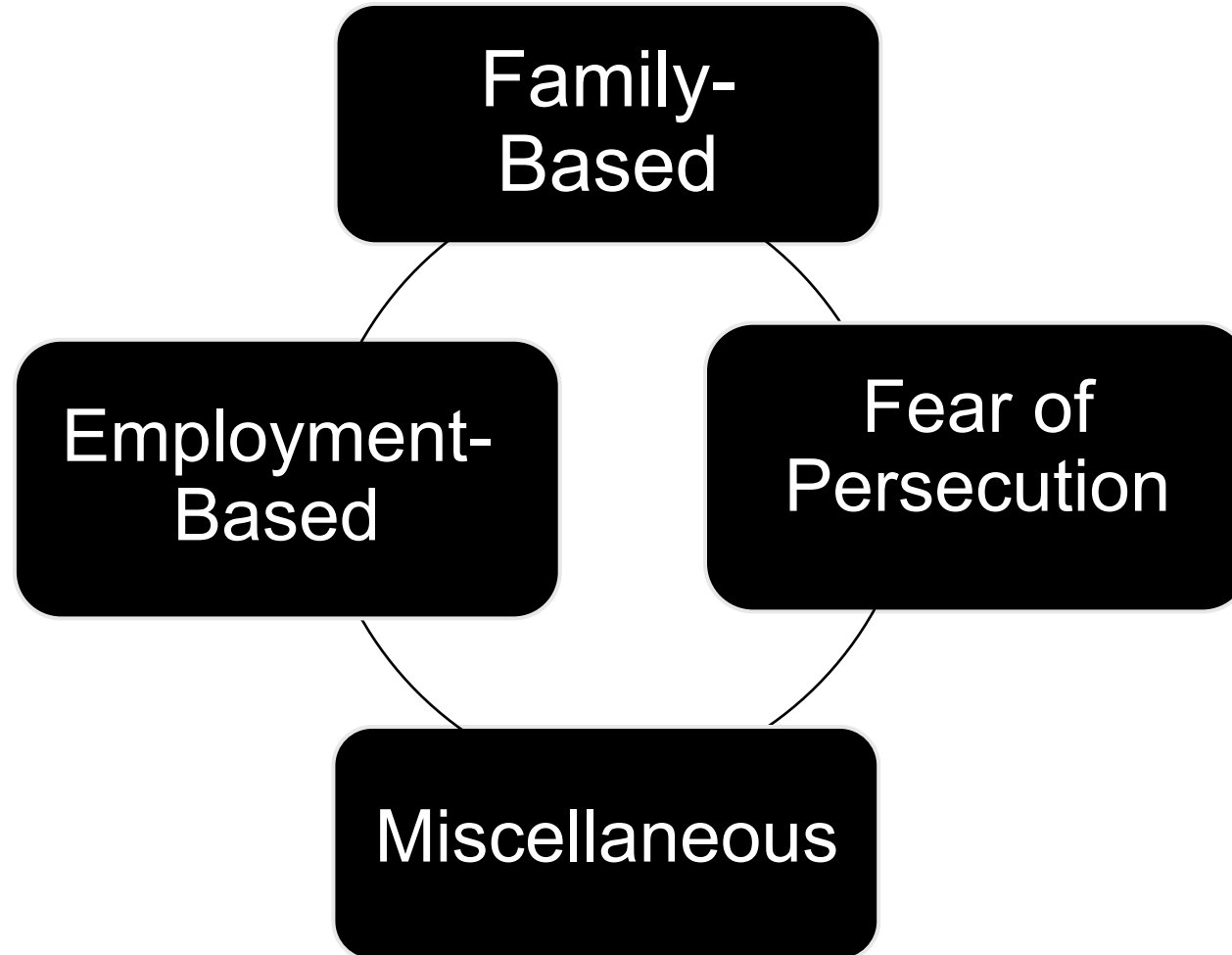
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# Green Card Options

- But first, why apply for a green card?
- Ability to work and remain in the US indefinitely;
- Pathway to U.S. citizenship;
- Stability;
- Job prospects;
- Spouse work authorization;
- Facilitates foreign travel.....among other reasons.

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# Basic Strategy Options For Permanent Residence



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# Fundamentals of Employment-Based Permanent Residence

Employer  
Sponsored

Self  
Sponsored

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# Employer-Sponsored Green Card Options



- Labor Certification - two types (3 steps each):
  - Standard PERM Labor Certification
  - PERM Special Handling
- EB-1B Outstanding Professors and Researchers (2 steps)
  - Meet 2 of 6 criteria
  - Show outstanding ability and international recognition

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# Self-Sponsored Green Card Options

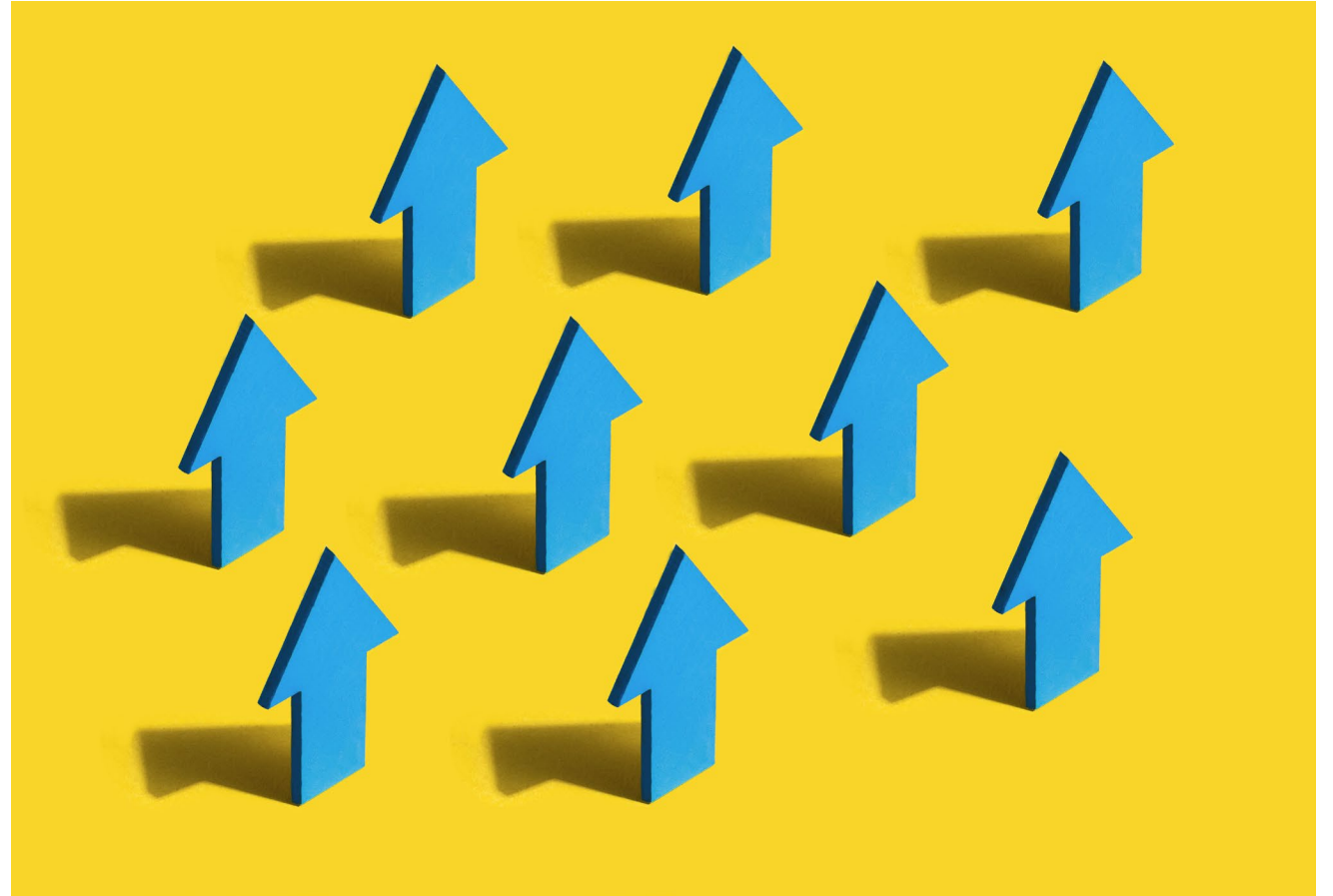
- EB-1A Individuals of Extraordinary Ability (2 steps)
  - Meet 3 out of 10 criteria
  - Sustained national or int'l acclaim
  - Among small % at top of field
- EB-2 National Interest Waiver (2 steps)
  - Substantial merit & national importance
  - Well positioned to advance
  - Sensible to waive labor certification



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# Self-Sponsored Green Card Options

- EB-5 Investment-Based Immigration
- Trump Gold Card



# EB-5 – Program Overview and Basic Requirements



## Pathway to US Residency

EB-5 offers foreign investors a pathway to US permanent residency through personal, job-creating investments in new commercial enterprises.



## Investment Amounts

Minimum investment is \$800,000 in TEAs and \$1,050,000 outside TEAs, with funds placed at risk for job creation activities.



## Documentation and Legal Review

Comprehensive business plan  
Detailed documentation of lawful source and path of funds



## Job Creation Requirement

Each investment must create at least 10 full-time jobs sustained for at least two years for U.S. workers.



## Investment Pathways

EB-5 includes Regional Center investments allowing indirect and induced job creation, and Direct investments requiring direct W-2 job creation

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# EB-5 - Visa Availability & Strategic Considerations

- **Reserved Visa Categories**

- EB-5 visa quotas reserve 20% for rural, 10% for high-unemployment, and 2% for infrastructure projects with priority processing.
- As of January 2026, reserved categories remain current for all countries.

- **Concurrent Filing Benefits**

- Investors lawfully present in the U.S. can file I-526/I-526E and I-485 concurrently, gaining temporary work and travel authorization upon issuance of EAD/AP.

- **Risk Factors**

- Project success directly impact immigration outcome; but not vice versa.
- Regional Center Investment legislation sunset - Filing by September 30, 2026, secures grandfathering protection; delays risk losing benefits if program lapses.
- Long processing time and Visa Backlog for some – age out issue for kids
- Increased RC compliance measures lead to more RC termination
- Uncertainty surrounding the future of the EB-5 program

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# Gold Card – Program Overview

- Launched by Executive Order (Sept. 2025) as a wealth-based pathway to U.S. lawful permanent residence
- Allows qualified foreign nationals to obtain a green card through a direct financial contribution to the U.S. government, rather than investment in a job-creating enterprise
- Designed as a faster, simplified alternative to traditional investment visas such as EB-5 – yet processing time is unknown
- Implemented through existing EB-1 or EB-2 immigrant visa categories, which are backlogged for some applicants

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# Gold Card – Eligibility Requirements

- Financial contribution – not investment
  - \$1 million per person individual contribution, including principal and dependents
  - \$2 million per principal, and \$1 million per dependent, if sponsored by a U.S. employer or corporation
- Processing and government fees
  - \$15,000 DHS processing fee per applicant (non-refundable)
- Must prove lawful source and path of funds
- Subject to vetting
- No job creation required

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# Gold Card – Risk Factors

- The Gold Card is not a congressionally created visa category; implementation relies on executive authority and existing immigrant visa classifications
- Processing time, long-term durability and visa quota treatment remain open questions
- Program requirements and procedures may change with regulatory guidance or court challenges

# Alternative Pathways – Family-Based Immigrant Sponsorship

- Family-Based Options:
  - Immediate relatives of U.S. citizens (spouses, unmarried children under 21, parents)
  - Family preference categories:
    - **First:** (F1) Unmarried Sons and Daughters of U.S. Citizens.
    - **Second:** Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents.
    - **Third:** (F3) Married Sons and Daughters of U.S. Citizens.
    - **Fourth:** (F4) Brothers and Sisters of Adult U.S. Citizens.
- Long visa wait time for preference categories:

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	08NOV16	08NOV16	08NOV16	22DEC06	01MAR13
F2A	01FEB24	01FEB24	01FEB24	01FEB23	01FEB24
F2B	01DEC16	01DEC16	01DEC16	15FEB09	22DEC12
F3	08SEP11	08SEP11	08SEP11	01MAY01	01MAR05
F4	08JAN08	08JAN08	01NOV06	08APR01	22JUL06

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# Alternative Pathways – Humanitarian Options

- Asylum and refugee status for individuals fearing persecution
- Special Immigrant Juvenile Status (SIJS) for vulnerable children
- T and U visas for victims of trafficking or serious crimes
- VAWA self-petitions for survivors of abuse

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# Presenters



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