

Family Immigration (Immigrant Visa Processing in India)

A lawful permanent resident is a foreign national who has been granted the privilege of permanently living and working in the United States. The Immigration and Nationality Act allows for the immigration of foreigners to the United States based on relationship to a U.S. citizen or legal permanent resident. In this article, we endeavor to provide you detailed information about how an individual can obtain a U.S. green card, if he/she has a relative who is a citizen (USC) or a lawful permanent resident (LPR) of the United States.

The ***first step*** is to determine whether the USC or LPR relative can sponsor the foreign national for a green card. Family-based immigration falls under two basic categories: unlimited and limited.

UNLIMITED FAMILY-BASED

Immediate Relatives of U.S. Citizens (IR): The spouse, widow(er) and unmarried children under 21 of a U.S. citizen, and the parent of a U.S. citizen who is 21 or older. There is no limit to the number of visas that can be issued under this category.

LIMITED FAMILY-BASED

Family First Preference (F1): Unmarried sons and daughters of U.S. citizens, and their children, if any.

Family Second Preference

F2A: Spouses and minor children of lawful permanent residents.

F22B: Unmarried sons and daughters (over age 21) of lawful permanent residents.

Family Third Preference (F3): Married sons and daughters of U.S. citizens, and their spouses and children.

Family Fourth Preference (F4): Brothers and sisters of United States citizens, and their spouses and children, provided the U.S. citizens are at least 21 years of age.

The ***second step*** is to file Form I-130 Immigrant Petition with the U.S. Citizenship & Immigration Services (USCIS). Relatives of intending immigrants who plan to base their immigrant visa applications on family relationship must submit Form I-130 to the USCIS Service Center that has jurisdiction over the place where the petitioner resides. The Form I-130 has to be accompanied by proof of relationship between the petitioner and the foreign national and the filing fees. Information about the supporting documents, filing fees, place of filing, etc. can be obtained on USCIS website at www.uscis.gov.

Once the USCIS receives the petition, it will send a Receipt Notice which will indicate the date USCIS received the petition, the names of the petitioner & the beneficiary and the category. USCIS will then process and approve the case and will send the petitioner a Notice of Approval, Form I-797. USCIS will also forward the approved petition to the National Visa Center for immigrant visa processing.

The National Visa Center (NVC)

In April of 1994, the Department of State opened a permanent Immigrant Visa processing facility at the National Visa Center (NVC) in Portsmouth, NH. The NVC processes all approved immigrant visa petitions after they are received from U.S. Citizenship and Immigration Services in the Department of Homeland Security (USCIS) and retains them until the cases are ready for adjudication by a consular officer abroad.

Every month, the Visa Office (VO) establishes Qualifying Dates that determine if a petition will be eligible for processing. Qualifying Dates are the latest priority dates that can be processed for certain visa categories. An immigrant visa petition can only become ready for further processing when the Qualifying Date in the appropriate visa category has advanced up to the priority date of the petition. Petitions may remain at NVC for several months or for many years depending on the visa category and country of birth of the visa applicant.

The NVC is responsible for the collection of visa application fees and visa application documentation. When an applicant's priority date meets the most recent Qualifying Date, the NVC will contact the applicant and petitioner with instructions for submitting the appropriate processing fees. Presently, the processing fee for Affidavit of Support is \$70 per case and the Immigrant Visa Application is \$380 per applicant. The fees have to be paid either by cashier's checks or money order. No personal checks are accepted.

After the appropriate processing fees are paid, the NVC will again contact the applicant and petitioner to request that the necessary immigrant visa documentation be submitted to the NVC. The petitioner will have to submit Form I-864 Affidavit of Support accompanied by financial documents & each applicant has to complete and submit Form DS-230 Part I.

Affidavit of Support

The Affidavit of Support is legally required for the petitioning sponsor for many family-based to show the intending immigrant will have adequate means of support, when planning to immigrate to the U.S. The purpose of the process is to prove that the intending immigrant has adequate means of financial support and is unlikely to become a [*public charge*](#). A "petitioning sponsor" is a person who has filed an immigrant petition, which has been approved by USCIS. The intending immigrant is the foreign national for whom the petition has been filed.

The NVC processes the paperwork pertaining to Form I-864 & DS-230 Part I and forwards the entire case to the appropriate U.S. Consulate, depending on where the beneficiary resides, for further processing and visa issuance. In India, the case can be forwarded to the U.S. Consular posts located at Mumbai, New Delhi or Chennai. When NVC forwards the petition to the U.S. Consulate abroad, the petitioner or his attorney will receive a letter informing them about the transfer.

Immigrant Visa Processing at U.S. Consulate, Mumbai

The U.S. Consulate at Mumbai, India is able to schedule the foreign national for an interview after they receive the petition (the minimum amount of time is normally six to eight weeks but may be longer if the priority date is not current. The Consulate will send the applicant an appointment letter and additional instructions, which is commonly known as 'PACKET FOUR'.

Packet IV is the information package issued to Immigrant Visa Applicants which indicates the date & time of the visa interview and provides detailed instructions regarding the steps to be taken by the applicant prior to the interview date. If the applicant is unable to keep the scheduled visa appointment, he/she can request for rescheduling the interview. However, the applicant may experience a lengthy delay before another appointment can be granted.

Prior to the interview date, the applicant and the family members, if any should present the following documents to the nearest VFS Office:

- ❖ Photographs
- ❖ Biographic Data Form – The DS 230 Part I and II have to be completed for each applicant. Form DS-230 Part II should not be signed. The applicant will be requested to sign this form during the visa interview.
- ❖ Birth Certificate – Each applicant must submit an original and a clear photocopy of his/her birth certificate. The certificate should include the applicant's name, date and place of birth, the names of both parents, and the seal of the issuing office, i.e. the municipal authorities or the village authorities (gram panchayat or talati-cum-mantri). If your name is not mentioned in the birth certificate and if any details are missing in the birth certificate or if there is a discrepancy regarding your date of birth or name, submit the certificate along with secondary evidence such as baptismal certificate, an adoption decree, a school record, a notarized affidavit from a close relative, a neighbor or friend who was present at the time of your birth on the appropriate stamp paper, which must be sworn before a First Class Magistrate, etc. If your birth was not recorded, "no record of birth registration" letter from the relevant municipality along with secondary evidence.
- ❖ Marriage Certificate - Any applicant who has ever been married must provide an **original and a clear photocopy** of the marriage certificate(s) for all marriages. Persons who married before 1955 must attempt to register their marriage.
- ❖ Termination of Previous Marriage: All applicants who have divorced or whose spouses have died must provide an **original and a clear photocopy** of proof of the legal termination of all previous marriages (death certificate of spouse, divorce decree). Divorce between Hindus and Christians must be documented by a court order. A certificate from the Kazi or the head of the Jammatt must document divorce between Muslims.

- ❖ **Proof of Relationship:** All applicants should bring extensive documentary evidence of the relationship between the petitioner and the primary beneficiary and between the primary beneficiary and any derivative beneficiaries. **Failure to do so could greatly delay your application while your application is investigated.**
- ❖ **Police Report:** Each applicant aged 16 years and older must submit a police certificate that includes information regarding the applicant including all arrests, the reason for the arrest(s) and the disposition of each case(s).
 - (A) Indian citizens residing in India for six months or more since turning 16 years of age must present Indian police clearance certificates from both their district police station and the local area passport office. Applicants whose passports were issued within six months of the visa interview may present just the passport office certificate. These certificates are valid for one year from the date of issuance.
 - (B) If an Indian citizen who has lived in India for at least one year after the age of 16 currently resides outside India, he/she must obtain a certificate issued by the Indian Embassy or Consulate where he/she lives. These certificates are valid for only one year from the date of issuance.
 - (C) Foreign police certificates: Applicants who have resided in any other country for one year or more after the age of 16 may also be required to submit police certificates for these countries.
- ❖ **Deportation:** Any applicant who has been deported from the United States must submit all documents relating to the matter.
- ❖ **Prison Records:** Applicants who have been convicted of a crime must submit court records, prison records, records regarding the disposition of the case and any additional information regarding the crime, regardless of the fact that he/she may have subsequently benefited from an amnesty, pardon or other act of clemency.
- ❖ **Military Records:** A certified copy of any military record is required. The record should contain a complete record of the applicant's service and conduct while in service. It must show any conviction of crime before a military tribunal. A discharge certificate is required upon discharge, retirement, or resignation from military service.
- ❖ **Affidavit of Support:** Applicants should check with their petitioner/sponsor to see if form I-864 has already been submitted to the National Visa Center (NVC). If so, it is not necessary to submit another I-864.
- ❖ **Medical Report:** Medical report from one of the Embassy's panels physicians for each applicant.
- ❖ **Following to Join Applicant:** When a family member of the principal applicant (the person for whom a petition has been filed by a relative in the United States)

intends to stay in India longer than the principal applicant and immigrate to the United States at a later date, some additional documents are required. Each of the items listed below is needed for each child less than 21 years who will be following to join the principal applicant later:

1. Original and photocopy of birth certificate.
 2. A passport size photograph.
 3. Passport or some photo identification such as driving license.
- ❖ **Fees:** Currently there is an immigrant visa fee of \$335 for each applicant and a \$45 visa surcharge fee for a total of \$380. Only fees that have not been collected by NVC have to be paid. Visa fees are not refundable; they must be paid through a rupee bank draft drawn on a nationalized or foreign bank. **The bank drafts must be issued in the name of “The American Consulate General, Mumbai,” and should be payable in Mumbai.** At present, each applicant has to pay the total Immigrant Visa Fee of \$380 equivalent in India rupees (only single draft required) for each applicant. If the applicant has to only pay the surcharge he/she can pay \$45 equivalent in Indian rupees (only single demand draft) for each applicant.

The above listed documents must be presented at the nearest VFS office. VFS will give the applicant a receipt for all documents left with it. At the time the applicant presents the documents, he/she must also pay a courier fee of Rs.365. **All documents must be presented at the nearest VFS office no earlier than ten (10) working days and no less than seven (7) days prior to the interview date. Failure to submit the documents by ten working days prior to the appointment may result in loss of the interview date.**

WHAT TO EXPECT ON THE DAY OF THE INTERVIEW

Due to security concerns, applicants are encouraged to bring with them only those documents required in support of the visa applications. Examples of items not permitted on our premises are: sealed envelopes, cellular phones, cameras, tape recorders or players, calculators, any device with batteries (flashlights), radios, etc.), tobacco products, lighters, matches, briefcases, large bags, weapons, and pocketknives.

Applicants arriving at the Visa Section will be interviewed and given an oath by a consular officer. Their documents will be reviewed, and they will be advised of the outcome of their applications.

If the application is approved, the applicant will not need to return to the Consulate to collect the passport and visa. The passport and visa will be returned promptly, by courier, to the address specified by the applicant. Generally, the immigrant visa is issued for a period of 6 months and the applicant is required to enter the United States before the visa expires.