

DISCLAIMAR: This is not a legal advice but a personal experience.

Tips for USA Green Card application in EB1/EB2 categories

Green card (GC) is permanent resident card in USA. It is required to live and work in USA without any additional visa for foreign nationals. Alternative to GC is work permit (non-immigrant visa) for temporary work/stay. For Indians who come to USA for study and then want to settle down in USA will need GC. Typically they start with a work permit (H1B visa) that is valid for 6 years, and then apply for GC before work visa expires. After first 3 years on H1B petition (I-797) is resubmitted for approval by the company lawyers and are generally approved. That gives you right to work in USA for next 3 years. But to travel outside USA or visit family in India, you will need renewed visa. The visa renewal is only done at US embassy outside of USA. In recent years, several people have faced delays from 1 week to more than 6 months in visa issuance resulting in difficulties and uncertainties. Thus if you want to settle down in USA in a hassle free manner, you should proactively seek to obtain GC at the earliest opportunity. For those with MS/PhD degree the common GC options are EB1 and EB2 categories. Next I will share my experience and provide some tips for the USA green card application in EB1-OR (Outstanding Researcher) and EB2 categories. The various options in EB1/EB2 categories are listed below.

EB1: “OR” type, eligible candidates – Outstanding Researchers and Professors
“A” type, eligible candidates – Nobel laureates, persons of extraordinary ability

EB2: Labor certification based, eligible candidates – skilled workers with higher degrees
National Interest Waiver (NIW), eligible candidates – skilled workers

Steps: The three steps are:

1. Labor certification (PERM)
2. I-140 (Immigrant visa petition)
3. I-485 (Adjustment of status in USA)

For EB1 you only need the last two steps (I-140 & I-485), also you can apply for both steps simultaneously. For EB2-NIW also you only need the last two steps; however you can not apply for both steps simultaneously. For EB2-PERM you have to apply for all 3 steps starting with labor certification. I-140 application takes about 6 months once applied. For I-485 application, priority date has to be current. Priority date is the date when your first application (PERM or I-140 as the case may be) is received by the U.S. Citizenship and Immigration Services (USCIS). The priority date being current is dependent on your country of citizenship (birth place) and GC category you are applying for. Generally for EB1 the priority dates are current for all. For EB2 for Indians I-485 application is a time taking process right now because priority dates are not current (4-5 years backlog). Once you apply for I-485 you will receive EAD (work permit) in 2 weeks and actual GC in 2-3 months. You apply for dependent’s (spouse, children) GC along with your I-485 application.

EB1-OR category:

If you have a PhD degree and have shown significant contribution to international scientific communities in your subject area (in terms of research papers, patents, judged others' work, have chaired technical sessions in international conferences, reviewer/editors of reputed journals, received international award) then you should apply in this GC category. For Indians, if you are eligible then this is a preferred option. The entire process can be completed within one year. However this requires significant work on your part compared to EB2-PERM category. You can apply in this category on your own with the help of any lawyer or through your company or university.

Start preparation by collecting all your documents (electronic copy is preferred) including, passport, birth certificate, degree certificates/transcripts, research papers you have written, list of papers/book you have reviewed, list of technical presentation at conferences, invited/guest lectures you presented, teaching experience, award certificates, any articles published about your research in newspaper or journals, etc. Remember, you have to prove that you are a well recognized scientist in world. It's good if you can show significance of your research/work/award worldwide. Below I will discuss these in detail.

Prepare your CV: Any lawyer or your company HR representative will first ask you to submit your CV to decide if you are eligible for EB1-OR, what is the chance of you getting GC, and what else you can do to make your case stronger? Often companies have their own set of forms for GC preparation and you will be asked to complete those. One of the forms can be to describe your research statement in simple words. When preparing CV or research statement, you should prepare it to make it easier to understand for someone not in your field. Separate topics. Be quantitative. For example, you can have a section (research statement) listing and describing few major research topics that you have worked on and published papers, separate peer-reviewed papers from reviewed paper and conference abstracts, list who have cited your papers and how other scientists are using your research and not just citing your work, list of presentation and seminar, list teaching experiences, list of conference attended and judged other work, list of award (e.g., best paper award, best presentation award, student of the year award, scholarship award, NSF/DOE funding) and how difficult it was to get the award (e.g., I was selected from 1000 applicant), etc.

Prepare your research scholar related documents: Collect all papers and other scholar activities. Get letters from publisher/editor if you are an editor or reviewer of their journals, also get letters from professional societies (SEG, EAGE, SPG, AGU, AAPG) if you are a member and have been very active in society's participation. Find out who are using your research findings and how they are using your paper? Ask them if he/she can write a letter for you describing how your research is useful to them. Only the number of papers you have published is not important, but the quality, where you have published and how significant your contribution is to research community is very important. If you have published paper in Science and Nature then your case is very strong.

Prepare achievements/awards related documents: If you have received awards document them and collect certificates. It is important to describe how competitive it was

to receive the award, describe who were your competitors whether from various countries and/or from different subjects, etc.

Recommendation letters: This is very important and takes lots of time to gather. These are letters from subject matter experts about you, your potential, and about your contribution to global scientific community. You will have to contact various professors and industry professionals you know and have worked with or collaborated on some research projects (this may also include co-chairing technical session in a conference, co-editing books or journals, etc). Ask them if they are willing to write recommendation letter for you for GC application. When you are contacting professionals for letter, send them your updated CV and highlights of your achievements. To write a letter for you one has to know you well. Two things to take into account when making a list of people to write letter for you – they have to be internationally known (who has published lots of research papers, books) and you had interacted with him/her. It's good to have a mix of academic people (your MS/PhD supervisors and other professors) and industry professionals (your co-workers and others you have worked/interacted with) from different countries, different research fields, and different universities/companies. Most likely you will have to draft letters on behalf of all who are going to write letter for you.

How to prepare recommendation letters? It's not easy. Look at other's letter if you can find, explore online for examples and keywords to use, and preferably talk to few people who have applied before in your field of research. Once you prepare a draft, show it to your lawyer, they will suggest you few key words to focus on and emphasize few items from your CV. Every statement has to have proof in terms of certificates and/or some authoritative person in that field writing for you. Once you and your lawyer are satisfied with the draft recommendation letter for one person, it should be relatively easy to frame letters on all other's behalf. You will also need updated CV from person who is writing letter for you.

Lawyer will prepare a letter to USCIS on your behalf using all your credentials and recommendation letters. Often they quote from recommendation letters for you to emphasize and prove your credentials. Many times it is subjective about importance of your work and award, and therefore it all depends on how your lawyer presents your materials.

EB2 category:

This category is for skilled worker with MS/PhD degree. The main problem in this GC category for Indians is it takes more time to get current date for I-485 application. This type of GC you apply through your employer and so dependent on the mercy of your employer.

For EB2-Labor based GC, you need to first apply for labor certification (also called PERM). PERM generally takes less than 2 months after applied to USCIS. The date your application is received by USCIS is your priority date. But there is a long process before PERM can be applied. Your employer will work with you to prepare a job description for a position and post this job publically (hopefully they will publish for a job for which you

are most qualified), and then employer will select you for this job among all applicants and then apply to USCIS for your PERM. PERM application preparation can easily take 6 months. PERM process is generally smooth and a safe process, however, recently USCIS intervenes in the job selection process and scrutiny applications. Once labor certification is approved you work on I-140 application which is straight forward and it can take about 6 months. This is the main GC application and after the approval of I-140 you are legally allowed to live and work in USA, however you will not receive work permit or GC before the last and final step I-485. As mentioned earlier you can only apply for I-485 when your priority date is current. Because of the long backlog you might have to wait for few years before your priority date is current and apply for I-485. You apply for your dependent's GC when applying your I-485.

For EB2-NIW based GC, you do not apply for labor certification but directly for I-140. In this category you have to prove that you are an important person for USA. This requires preparation like EB1-OR, as you will have to get recommendation letters and collect documents proving your credentials. The date your I-140 application is received by USCIS is your priority date. After I-140 is approved, you will have to wait to get your priority date currents and then apply for I-485 like EB2-PERM based GC.

I think if you can prove yourself as a person of national importance and you have a PhD and some research contribution to global community you should try for EB1-OR category. If your employer is not willing to also apply in EB1-OR category for you ask if you can independently apply for EB1-OR.

Birth certificate: Birth certificate is needed when applying for I-485. If you are not born in a hospital, you probably do not have birth certificate from hospital. In that case you will need birth certificate from government's civil office in your home town. If the birth certificate is not in English then you need translated one. Also if the certificate in English was issued based on original certificate in a local language, you will have to submit both certificates. Check it online for format and ask your legal group to advise you on this.

Some references:

1. USCIS - <http://www.uscis.gov/>
2. <http://www.immihelp.com/greencard/>

Good Luck!

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