

L1-A Visa

Summary

- Open to everyone
- Must be or have been an employee from the 'sponsor' business in the home country for 12 of the previous 36 months
- Very fast processing (a few weeks or months).
- The initial visa is one year, after which it may be renewed.
- Dependent visas for Spouse (can get EAD) and children under 21 years old.
- Can be converted to a green card

The L1-A visa is a non-immigrant employee visa that enables a U.S. employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States. This classification also enables a foreign company that does not yet have an affiliated U.S. office to send an executive or manager to the United States with the purpose of establishing one.

Generally, the foreign business in the applicant's home country will set up a subsidiary in the US or will acquire a majority stake (or otherwise control) in an existing business in the US. The US business does not have to be in the same trade or business as the home country business. For a person to qualify, he or she must have worked for the home country business for at least 12 of the previous 36 months. The L-1 visa covers the employee's spouse as well as unmarried children under the age of 21.

When opening a new office, the initial visa will be granted for one year. The visa is renewable in two-year increments for a total of seven years.

A key requirement of the L1-A visa is that the applicant serve in an executive or managerial capacity. The US business must essentially have three levels of workers: the executive (the L-1 recipient), his or her direct report managers, the workers. Essentially, the L-1A holder must be a manager of managers. Accordingly, it is difficult to have a US business that has less than five employees.

A key to the application is to prepare a very thoroughly documented business plan that clearly shows the labor creation and the other elements required. There is no minimum investment amount required to create or purchase the US subsidiary; however, in order to have enough employees it may be difficult to invest less than \$300K-\$400K. The trade or business in the US can be any legal business or trade. It is best to avoid potentially issue laden industries such as cannabis, even if legal in a state, as they may run afoul of federal laws.

The process requires that the applicant file the visa application (DS-160) after which the employer files the Petition for a non-immigrant worker (I-129). This must be filed at least 45 days prior to the beginning of the US employment and no more than six months prior. After beginning work, the employee can start the process to receive a green card by filing for an EB-1C classification. A key advantage of this, over other routes, is that it does not require PERM labor certification (an eight-month process on average). This process should require under one year.