



**IMMIGRATION MATTERS**

**AWT**  
ASSOCIATION OF WATER TECHNOLOGISTS

**BAKER DONELSON**  
BEARMAN, CALDWELL & BERKOWITZ, P.C.

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**ABOUT DILNAZ**

**BAKER DONELSON**  
Employment-Based  
U.S. Immigration

- Visa Sponsorship
- Permanent Residence
- Consular Processing
- Naturalization
- Government Enforcement
- I-9 Audits & Investigations
- Immigration Compliance

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## RECENT DEVELOPMENTS UNDER TRUMP

- “Buy American, Hire American” Executive Order
- Removal of Deferred Action for Childhood Arrivals (DACA)
  - Border wall, increased detentions, and expedited removal
    - Travel Ban
      - NAFTA and TN sponsorship
      - Increased site visits and audits
- Heightened review of all nonimmigrant and immigration petitions
- Delays in visa issuance and administrative processing

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## WHAT IT MEANS FOR EMPLOYERS



- Compliance is critical!
- Avoid the common mistakes employers make
- Anticipate delays in processing

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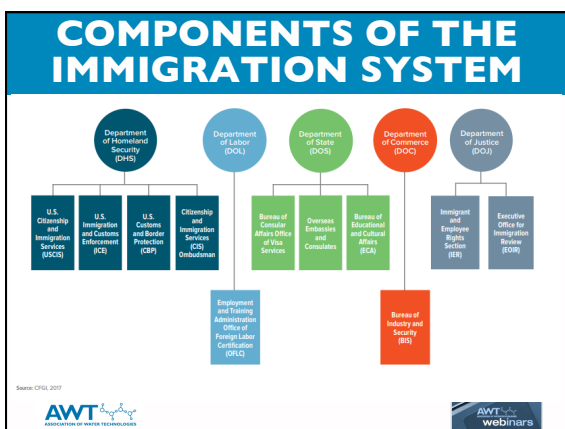
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### IMMIGRATION SPONSORSHIP

- Nonimmigrant Visas
- Immigrant Visas 
- Permanent Residence and Naturalization

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### NONIMMIGRANT VISA CATEGORIES

- Visitors for Business or Tourism (B) (includes Visa Waiver Program/ESTA)
- Students (F)
- Professional Workers (H-1B)
- Exchange Visitors (J)
- Extraordinary Ability (O-1)
- Canadian & Mexican Professionals (TN-1)
- Intra-Company Transferees (L-1)
- Treaty Traders and Investors (E-1/E-2)
- Family Members (F-2, J-2, H-4, L-2, O-3, TD)

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### NONIMMIGRANT VISAS

- H-1B Specialty Occupation
  - Professional occupations requiring at least a Bachelor's degree or higher
  - Annual quota of 65,000 with an additional 20k visas for those with a U.S. Master's degree
  - Prevailing Wage requirement
  - Valid for 3 years with a 3 year extension possible
  - File on April 1<sup>st</sup> for a start date of October 1<sup>st</sup>
  - H1B1 – Chilean and Singaporean nationals

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## NONIMMIGRANT VISAS

- L-1 Intracompany Transferee
  - Overseas affiliate/subsidiary transfers – ensure that there is a qualifying corporate relationship
  - One year of qualifying employment abroad either as a manager or in a specialized knowledge capacity
  - L-1A Manager/Executive (7 years)
  - L-1B Specialized Knowledge (5 years)
    - Specialized knowledge is defined as information and experience about the company's products, services, research, equipment, techniques, or interests and their applications in international markets. A "specialized knowledge" employee has an advanced level of knowledge or expertise in the organization's processes and procedures. This specialized knowledge must be required to carry out the duties of the position with the U.S. affiliated company.

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## NONIMMIGRANT VISAS

- TN/NAFTA
  - Applicable only to Mexican or Canadian citizens
  - Position must be on the list of designated professional occupation that is eligible for TN visas
    - Computer Systems Analyst
    - Engineer
    - Architect
    - Accountant
    - Medical/Allied professions
    - Scientist
  - Visa valid in 3 year increments, renewable continuously

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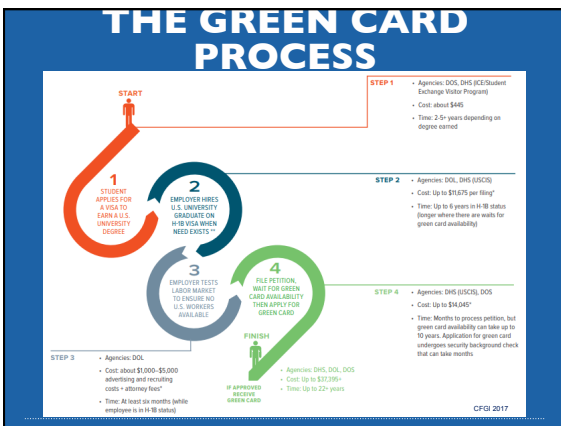
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## GREEN CARD CATEGORIES

**First Preference (EB-1)**



- Extraordinary Ability, Outstanding Researcher, Multinational Executive
- Exempt from Labor Certification Requirements

**Second Preference (EB-2)**

- Nat'l Interest Waiver of the Labor Cert
- Labor Cert required: Advanced Degree Professionals, Bachelors plus 5 years experience

**Third Preference (EB-3) (Labor cert required)**

- Skilled Worker (2+ years experience), Bachelor's Degree

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## IMMIGRANT VISA AVAILABILITY

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	EL SALVADOR GUATEMALA HONDURAS	INDIA	MEXICO	PHILIPPINES	VIETNAM
1st	01JUN16	01JAN12	01JUN16	01JAN12	01JUN16	01JUN16	01JUN16
2nd	01JAN13	01JAN13	01JAN13	01JAN07	01JAN13	01JAN13	01JAN13
3rd	01NOV16	01NOV14	01NOV16	01JAN03	01NOV16	01NOV16	01NOV16
Other Workers	01NOV16	01MAY07	01NOV16	01JAN03	01NOV16	01NOV16	01NOV16
4th	C	C	15FEB16	15FEB16	15FEB16	C	C
Certain Religious Workers	C	C	15FEB16	15FEB16	15FEB16	C	C
5th Non-Regional Center (C5 and T5)	C	08AUG14	C	C	C	C	08AUG14
5th Regional Center (I5 and R5)	C	08AUG14	C	C	C	C	08AUG14

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## IMMIGRATION ENFORCEMENT

- Since October 2017, HSI has opened 3,510 worksite investigations, initiated 2,282 I-9 audits, and made 594 criminal and 610 administrative worksite-related arrests. That's up from 1,716 investigations, 1,360 I-9 audits, 139 criminal arrests and 172 administrative arrests the previous fiscal year.
- ICE intends to conduct up to 15,000 Form I-9 audits per year.
- ICE recently changed the way it calculates civil penalties to increase the fines imposed for I-9 violations. In FY 2017, employers were ordered to pay \$97.6 million in judicial forfeitures, fines and restitution, and \$7.8 million in civil fines.
- Penalties can range from \$220 - \$2,191 for substantive/technical violations (per violation) and depending on the number of violations in comparison to the total workforce.

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## I-9 PENALTIES

Substantive Verification Violations	1st Offense \$220 - \$2,191	2nd Offense \$220 - \$2,191	3rd Offense + \$220 - \$2,191
0% – 9%	\$220	\$1,096	\$2,191
10% – 19%	\$548	\$1,315	\$2,191
20% – 29%	\$876	\$1,534	\$2,191
30% – 39%	\$1,205	\$1,753	\$2,191
40% – 49%	\$1,534	\$1,972	\$2,191
50% or more	\$1,862	\$2,191	\$2,191

Violations may include some of the following:

- Not maintaining original I-9 documents
- Mistakes, errors or omissions in properly completing Section 1 or 2 of the Form I-9
- Accepting improper documents to confirm identity or work authorization

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## COMPONENTS OF A SOLID I-9 POLICY

- Mandate the timing of the I-9 completion
- Centralize who completes the paperwork and controls the process
- Document and outline the proper procedures for I-9 completion and develop a solid understanding of the M-274 Handbook
- Arrange for the proper retention and storage of I-9s and mandate a process for reverification
- Plan for an internal self audit at least once per year

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## QUESTIONS



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