

EMPLOYMENT-BASED IMMIGRATION BACKLOGS AND WAITING TIMES

EXECUTIVE SUMMARY

The employment-based immigration backlog has passed 1.2 million and may exceed 2 million by 2040 without changes to U.S. immigration law.¹ According to a National Foundation for American Policy analysis, a high-skilled foreign national from India with a labor certification application or an employment-based immigrant petition filed in January 2026 or later has a potential wait time for a green card (permanent residence) of 179 years in the employment-based second preference (EB-2), 38 years in the employment-based third preference (EB-3) and 5 years in the employment-based first preference (EB-1). The long waits are due to a significant backlog that has developed over many years because of annual and per-country limits on employment-based immigrant visas and the strong demand for foreign-born scientists and engineers in America. Anyone from India with an application filed in 2025 or 2026 in the employment-based second or third preference can likely expect to wait decades for permanent residence without a change in the law.

Table 1
Employment-Based Immigration Backlogs (Estimated)

Immigration Category	April 2020	Dec. 2025	Change Since April 2020	Percentage Change Since April 2020
Employment-Based First Preference (EB-1)	101,253	84,420	-16,832	-16.6%
Employment-Based Second Preference (EB-2)	684,257	840,869	+156,612	+22.9%
Employment-Based Third Preference (EB-3)	260,812	339,206	+78,394	+30.1%
Total	1,048,342	1,264,495	216,153	+20.6%

Source: USCIS, National Foundation for American Policy. USCIS published data on principals, and NFAP calculated the estimated number of dependents and total backlogs in categories based on FY 2024 data.

These long waits, often while in H-1B temporary status, undermine U.S. companies' ability to attract and retain talent and create significant hardships for individuals and their families. As of December 2025, nearly one million people from India are waiting in the employment-based immigration backlog. The long waits are not because of slow processing of applications at U.S. Citizenship and Immigration Services, which is a separate issue.

The annual limit and per-country limit also cause years-long delays for hospitals sponsoring nurses and other needed healthcare professionals from the Philippines and other countries. In 2022, as part of what became the Chips and Science Act, the House of Representatives passed an exemption from employment-based green card

¹ National Foundation for American Policy calculations based on Approved Employment-Based Petitions Awaiting Visa Availability By Preference Category and Country of Birth, as of April 20, 2020 and as of December 2025, U.S. Citizenship and Immigration Services.

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numerical limits and backlogs for individuals with a Ph.D. in science and technology fields and those with master's degrees in critical industries. Sen. Charles Grassley (R-IA) blocked its inclusion in the final bill during the conference committee. The measure would have significantly reduced the employment-based immigrant backlog.

There were approximately 3.8 million people on the family-sponsored preference waiting list as of November 2023, according to the most recent report from the State Department. In addition to those backlogs, the Trump administration has made it more difficult for U.S. citizens to sponsor family members through a new public charge rule, a ban on the entry of immigrants from 39 countries and a freeze on applications for individuals from 75 countries.

THE EMPLOYMENT BACKLOG INCREASED SIGNIFICANTLY IN THE PAST 5 YEARS

The employment-based immigration backlog in the first three preferences increased by 20.6% or 216,153, from 1,048,342 to 1,264,495, between April 2020 and December 2025, according to the National Foundation for American Policy's estimate of U.S. Citizenship and Immigration Services data on approved employment-based petitions awaiting visa availability. NFAP calculated the total backlog by using USCIS data on principals approved (but waiting) for green cards in 2020 and 2025 and estimating the number of dependents (i.e., spouses and children), which the immigration agency did not include. NFAP used the percentage of dependents (59%) among the employment-based immigrants in FY 2024 to perform the analysis. (See Table 1.)

The NFAP analysis found the backlog decreased by 16.6% or 16,832 in the employment-based first preference (EB-1) but increased by 22.9% or 156,612 in the employment-based second preference (EB-2) and by 30.1% or 78,394 in the employment-based third preference (EB-3) between April 2020 and December 2025.

There are 5 employment-based preferences:

- First Preference (EB-1, including outstanding researchers and professors, aliens of extraordinary ability)
- Second Preference (EB-2, workers with advanced degrees or exceptional ability)
- Third Preference (EB-3, professionals, skilled workers and other workers)
- Fourth Preference (EB-4, special workers, such as religious workers)
- Fifth Preference (EB-5, employment creation or investor visas).

While 40,040 or 28.6 percent of the 140,000 annual quota is used by each of the first, second and third preferences, the first preference can utilize numbers unused by the fourth and fifth preferences, which are limited to 7.1 percent (or 9,940) each. Also, the second preference (EB-2) can utilize numbers not used by EB-1, while EB-3, the third preference, can use visa numbers not utilized by the EB-2 category.

THE CAUSES OF THE EMPLOYMENT-BASED IMMIGRATION BACKLOG

Two key features of U.S. law cause the waits for employment-based green cards. First, the annual limit of 140,000 is too low for the number of skilled foreign nationals employers sponsor for permanent residence. The 140,000 annual limit was set by Congress in 1990 and it includes both the principal and dependent family members, with dependents typically using half or more of the slots. Congress selected the 140,000 annual limit before smartphones, widespread internet use, e-commerce, advanced artificial intelligence and many other developments.

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The second factor causing long waits for certain employment-based immigrants is the per country limit. Under the per country limit, as described in the Immigration and Nationality Act, in Section 202(a), “[T]he total number of immigrant visas made available to natives of any single foreign state . . . may not exceed 7 percent . . . of the total number of such visas made available under such subsections in that fiscal year.”² In most cases, that limits employment-based immigrants from one country to approximately 10,000 a year.³ In practice, individuals from countries with large populations can wait several years longer than people from smaller population countries. Nationals from India, China and the Philippines are most affected by the per-country limit. Under the law, China and India are allotted the same number of green cards as Iceland and Luxembourg.

THE LONG WAITING TIMES FOR EMPLOYMENT-BASED GREEN CARDS

According to a National Foundation for American Policy analysis, a high-skilled foreign national from India with a labor certification application or an employment-based immigrant petition filed in January 2026 or later has a potential wait time for a green card (permanent residence) of 179 years in the employment-based second preference (EB-2), 38 years in the employment-based third preference (EB-3) and 4 to 5 years in the employment-based first preference (EB-1). The long waits are due to a significant backlog that has developed over many years because of annual and per-country limits on employment-based immigrant visas and strong demand for foreign-born scientists and engineers in America. Anyone from India with an application filed in 2025 or 2026 in the employment-based second or third preference can likely expect to wait decades for permanent residence without a change in the law. As discussed below, waiting times vary by country and category, and depend on when an application is filed.

Table 2
Employment-Based Applicants Estimated Years of Waiting for Permanent Residence in 2026

Category	India	China	Philippines
Employment-Based First Preference (EB-1)	4 to 5 years	5 years	0 years
Employment-Based Second Preference (EB-2)	179 years	25 years	0.3 years
Employment-Based Third Preference (EB-3)	38 years	7 years	6 years

Source: National Foundation for American Policy analysis of USCIS data. Note: Wait times do not include any additional government processing but when an immigrant visa becomes available.

² Section 202(a)(2) of the INA.

³ Section 202(a)(3) of the INA allows nationals from one country to exceed the ceiling if additional employment-based visas are available.

Employment-Based Immigration Backlogs and Waiting Times

Government data explain how the backlog developed: In FY 2016, USCIS approved 47,601 applications in the employment-based second preference (EB-2) for Indians, which translates into an estimated 98,594 people once dependents are included, according to NFAP calculations, but only 4,407 people from India were granted permanent residence in the EB-2 category in FY 2016.⁴ In other words, in FY 2016 alone, over 90,000 people (principals and dependents) were likely added to the backlog. The pattern holds in 2017 and 2018. (See Table 3 and Table 8.)

Table 3
Indians with Applications Approved and Receiving Permanent Residence in the EB-2 Category:
FY 2016 to FY 2018

Fiscal Year	Estimated Number of Indians Approved in the EB-2 Category	Number of Indians Who Received Permanent Residence in the EB-2 Category (Limited by U.S. Law)	Difference Between Estimated Number of Indians Approved in EB-2 Category and Number who Received Permanent Residence in Category by Fiscal Year
FY 2016	98,594	4,407	94,187
FY 2017	84,928	3,328	81,600
FY 2018	80,999	4,527	76,472

Source: National Foundation for American Policy calculations of USCIS data; USCIS, Form I-140, Receipts and Current Status by Preference and Country (Fiscal Year 2026, Quarter 2).

The employment-based second preference category is current for individuals from all countries except China and India. That illustrates how the per-country limit affects people from nations with large populations.

NFAP obtained data on the number of principals and dependents approved by country and family-based and employment-based immigration category for FY 2016, FY 2017 and FY 2018 via a FOIA request. The three years represent typical years. From FY 2020 to FY 2024, Covid-19 and other processing issues, along with visa restrictions, created a shortfall in the number of family-based immigrant visas issued, which added employment-based green cards in the following fiscal year. As noted elsewhere in the report, those additional green cards did not solve the employment-based backlog problem. The Trump administration's immigration restrictions in 2025 and 2026 could cause a new shortfall in the number of family-based immigrant visas issued. That would add more green cards to employment-based categories and could affect waiting times.

⁴ USCIS, Form I-140, Receipts and Current Status by Preference and Country (Fiscal Year 2026, Quarter 2). USCIS only releases data on approved applications for principals, but dependents also count against the annual employment-based limit. NFAP estimated the dependents based on FY 2024 data.

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Other changes to employment-based immigration could affect individuals. A proposed rule could increase required salaries for H-1B visa holders and employment-based green card applicants by raising the prevailing wage level. That may price high-skilled foreign nationals out of the U.S. labor market. Individuals waiting for employment-based green cards typically rely on extensions of H-1B status to remain in the country working until they receive permanent residence.

UNDERSTANDING PRIORITY DATES AND WAITING TIMES

To understand waiting times, it helps to review priority dates and the State Department's monthly Visa Bulletin. The Visa Bulletin lists priority dates to select dates that bring in enough applicants to reach the annual limit in a category without exceeding it, like turning on a faucet to fill a bucket. The State Department considers the annual limit and the per-country limit, which generally limits a category to admitting no more than 7% of individuals from one country.

A priority date for employment-based green cards is the date the federal government receives a permanent labor certification (PERM) application or, if an individual is exempt from labor certification, an immigrant petition is filed. A visa number generally is "available" for an individual with a priority date earlier than the date listed in the State Department's most recent Visa Bulletin.⁵ The latest Visa Bulletin states, "Numbers are authorized for issuance only for applicants whose priority date is *earlier* than the final action date listed below."⁶

The "final action dates" for employment-based preference cases appear in the monthly Visa Bulletin. Unless USCIS designates it otherwise, the final action date in the Visa Bulletin chart must be used by applicants "to determine when you may file your adjustment of status application."⁷

As of the August 2026 Visa Bulletin, to file for adjustment of status, a highly skilled individual from India must have a priority date earlier than:

- EB-1: October 15, 2022.
- EB-2: Listed as unavailable in August 2026, but was listed as September 1, 2013, in the June 2026 Visa Bulletin.
- EB-3: January 1, 2014.

⁵ Copies of visa bulletins can be found at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

⁶ Ibid.

⁷ See <https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin>.

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In practice, that means in the EB-1 category, an Indian who filed and obtained a priority date between October 15 and December 31, 2022, can expect a relatively short wait to obtain permanent residence. The EB-2 category is more uncertain, but the wait could be less than two years for Indians with a labor certification or immigrant petition filed between September 1 and December 31, 2013, if immigrant visa availability returns when the October 2026 Visa Bulletin is published. Similarly, an Indian in the EB-3 category with a priority date between January 1, 2014 and March 31, 2014 should expect a wait of less than two years if current trends hold.

For individuals in the EB-2 or EB-3 category from India, the wait is more likely to be measured in decades than in years, depending on how close their priority date is to 2025 or 2026.

The trend shows that an Indian in the employment-based third preference (EB-3) with a labor certification application filed in 2013 waited approximately 13 years to obtain a green card, but one with labor certification filed in 2026 could wait twice as long. Estimating waiting times is complicated by several factors, including whether individuals waiting decide to abandon their applications to pursue opportunities in other countries and if employment-based green cards will be added to yearly totals due to shortfalls in family categories.

As of the August 2026 Visa Bulletin, to file for adjustment of status, a highly skilled individual from China must have a priority date earlier than:

- EB-1: July 1, 2023.
- EB-2: September 1, 2021.
- EB-3: January 1, 2022.

The current backlog and the August 2026 Visa Bulletin imply a waiting time of 5 years for an individual from China with an immigrant petition filed in 2026 for the employment-based first preference (EB-1), but likely fewer years the closer one's priority date is to July 1, 2023. Individuals from China in the employment-based second preference (EB-2) could wait up to 25 years if their labor certification or immigrant petition were filed in 2026. The wait could stretch to two decades if their priority date is in 2024 or 2025, or only a few years if their filing with the government was in 2021. The waiting time is up to 7 years for individuals from China in the employment-based third preference (EB-3) with a labor certification or immigrant petition filed in 2026.

As of the August 2026 Visa Bulletin, to file for adjustment of status, a highly skilled individual from the Philippines must have a priority date earlier than:

- EB-1: Current.
- EB-2: Current.
- EB-3: August 1, 2023.

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The current backlog and the August 2026 Visa Bulletin imply a waiting time of up to 6 years for individuals in the Philippines with a labor certification application or an immigrant petition filed in 2026 for the employment-based third preference (EB-3). The backlog for the Philippines in EB-3 was an estimated 39,408 as of December 2025, a 91.7% increase from April 2020. (The number is estimated because NFAP needed to estimate the number of dependents from USCIS data.) The average yearly number of Filipinos who received permanent residence in the EB-3 category between FY 2016 and FY 2018 was only 6,451. There is a significant demand for healthcare workers from the Philippines.

INDIA: EMPLOYMENT-BASED GREEN CARD BACKLOG

Indians waiting for green cards comprise 79% or an estimated 996,599 of the 1,264,495 individuals in the first three preferences of the employment-based immigration backlog as of December 2025. The number of Indians waiting in the employment-based second preference (EB-2) backlog increased by 17.6% or an estimated 109,505 between April 2020 and December 2025. The number of Indians waiting in the employment-based third preference (EB-3) backlog increased by 51.1% or an estimated 72,209 between April 2020 and December 2025. As of December 2025, nearly one million people from India are waiting in the employment-based immigration backlog, with an estimated 731,566 in the employment-based second preference and 213,414 in the employment-based third preference.

Table 4
India: Employment-Based Immigration Backlogs (Estimated)

Immigration Category	April 2020	Dec. 2025	Change Since April 2020	Percentage Change Since April 2020
Employment-Based First Preference (EB-1)	71,988	51,619	-20,369	-28.3%
Employment-Based Second Preference (EB-2)	622,062	731,566	+109,505	+17.6%
Employment-Based Third Preference (EB-3)	141,205	213,414	+72,209	+51.1%
Total	835,255	996,599	161,344	+19.3%

Source: USCIS, National Foundation for American Policy. USCIS published data on principals and NFAP calculated the estimated number of dependents and total backlogs in categories based on FY 2024 data.

*Employment-Based Immigration Backlogs and Waiting Times***CHINA: EMPLOYMENT-BASED GREEN CARD BACKLOG**

The number of employment-based immigrants from China in backlogs increased by 46.2% in EB-1, 14.7% in EB-2 and 25% in the employment-based third preference between April 2020 and December 2025. As of December 2025, an estimated 32,801 people from China were in the employment-based first preference backlog, 71,345 were in the employment-based second preference backlog and 23,711 were waiting in the third preference.

Table 5
China: Employment-Based Immigration Backlogs (Estimated)

Immigration Category	April 2020	Dec. 2025	Change Since April 2020	Percentage Change Since April 2020
Employment-Based First Preference (EB-1)	22,436	32,801	+10,365	+46.2%
Employment-Based Second Preference (EB-2)	62,196	71,345	+9,149	+14.7%
Employment-Based Third Preference (EB-3)	18,972	23,711	+4,739	+25.0%
Total	103,603	127,857	23,254	+23.4%

Source: USCIS, National Foundation for American Policy. USCIS published data on principals and NFAP calculated the estimated number of dependents and total backlogs in categories based on FY 2024 data.

THE PHILIPPINES: EMPLOYMENT-BASED GREEN CARD BACKLOG

Many healthcare workers, especially nurses, immigrate to America from the Philippines in the employment-based third preference. That is because there is no dedicated temporary visa category for nurses. The number of Filipinos waiting in the employment-based third preference backlog increased by an estimated 91.7% between April 2020 and December 2025, from 20,557 to 39,408.

Table 6
Philippines: Employment-Based Immigration Backlogs (Estimated)

Immigration Category	April 2020	Dec. 2025	Change Since April 2020	Percentage Change Since April 2020
Employment-Based First Preference (EB-1)	251	—	-251	—
Employment-Based Second Preference (EB-2)	—	465	+465	—
Employment-Based Third Preference (EB-3)	20,557	39,408	+18,852	+91.7%
Total	20,808	39,873	19,066	+91.6%

Source: USCIS, National Foundation for American Policy. USCIS published data on principals and NFAP calculated the estimated number of dependents and total backlogs in categories based on FY 2024 data.

ADDITIONAL EMPLOYMENT-BASED GREEN CARDS

The employment-based immigration backlog increased by 20.6% in five years even though over 280,000 additional green cards were added to the category than expected in FY 2020 through FY 2024. The additional green cards were added by law because of shortfalls in the previous fiscal year's family-based preferences. The numbers grew significantly due to Covid-19 visa restrictions and processing problems because most people immigrating under the family-based preferences are outside the United States. In contrast, most people in the employment-based preferences are in America and were less affected by visa rules and processing issues at U.S. consulates. The family-based preference annual limit is 226,000, but fell to 121,560 in FY 2020, 65,690 in FY 2021, 166,040 in FY 2022, and 204,240 in FY 2023.⁸

Table 7
Employment-Based Preferences: Green Cards By Year

Fiscal Year	Actual	Expected
2020	148,960	140,000
2021	193,340	140,000
2022	270,280	140,000
2023	196,760	140,000
2024	171,120	140,000
Total	980,460	700,000

Source: DHS Yearbook of Immigration Statistics, Table 6; National Foundation for American Policy.

OTHER ISSUES WITH EMPLOYMENT-BASED IMMIGRATION

Labor certification is required for most employment-based immigrants, and failing to receive it could prevent a highly skilled individual from gaining a green card and the opportunity to live permanently in the United States. The labor certification process can take two to three years. Obtaining a prevailing wage determination, the first step in the process, takes three to eight months, and recruitment lasts a minimum of 60 days and can extend beyond that period. PERM is the most time-consuming part of the employment-based green card process. As of August 2026, the Department of Labor website lists 403 days as “the average number of days to process PERM applications” for an analyst review and 290 days for an “audit review.”⁹

⁸ DHS Yearbook of Immigration Statistics, Table 6.

⁹ See Stuart Anderson, “DOL Immigration Rule Could Spell Trouble For Employers and Immigrants,” *Forbes*, August 10, 2026.

FAMILY IMMIGRATION BACKLOG

The family preference categories are also subject to numerical and per-country quotas, resulting in long wait times for individuals from several countries. There were approximately 3.8 million people on the family-sponsored preference waiting list as of November 2023, according to the most recent report from the State Department.¹⁰

As of August 2026, only applicants whose sponsors filed before July 2001 were eligible to enter from Mexico as the married son or daughter of a U.S. citizen, according to the State Department's Visa Bulletin. Only applicants who filed before March 2008 were eligible to enter from the Philippines as the sibling of a U.S. citizen.¹¹

CONCLUSION

While the situation at the border during the Biden administration and ICE raids under the Trump administration have garnered significant attention, fewer people have focused on America's problems in its legal immigration system. Elected officials have long insisted that people should "play by the rules" and enter legally. However, without legislative changes, many who have tried to immigrate legally have been told they must wait decades and endure backlogs unlikely to disappear in their lifetimes.

¹⁰ Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2023.

¹¹ See State Department Visa Bulletin.

APPENDIX

Table 8
India: Approved Applications for Employment-Based Preferences By Year

YEAR	EB-1	EB-2	EB-3
2014	6,375	24,977	3,826
2015	6,127	31,517	6,252
2016	7,735	47,401	9,942
2017	8,496	40,831	8,594
2018	7,574	8,942	8,048
2019	6,877	43,208	11,162
2020	6,193	34,854	9,020
2021	7,234	37,394	47,964
2022	8,100	45,002	16,495
2023	10,998	39,106	12,486
2024	9,487	39,263	10,148
2025	8,345	36,069	9,993
2026 (2 QUARTERS)	2,571	14,644	5,505
APPROVED APPLICATIONS INCLUDING ESTIMATED DEPENDENTS (INDIA)			
YEAR	EB-1	EB-2	EB-3
2014	15,364	51,952	7,767
2015	14,766	65,555	12,692
2016	18,641	98,594	20,182
2017	20,475	84,928	17,446
2018	18,253	80,999	16,337
2019	16,574	89,873	22,659
2020	14,925	72,496	18,311
2021	17,434	77,780	97,367
2022	19,521	93,604	33,485
2023	26,505	81,340	25,347
2024	22,864	81,667	20,600
2025	20,111	75,024	20,286
2026 (2 QUARTERS)	6,196	30,460	11,175

Source: USCIS Form I-140, Receipts and Current Status by Preference and Country (Fiscal Year 2026, Quarter 2); National Foundation for American Policy additional calculations to include dependents based on FY 2024 data.

ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) non-profit, non-partisan public policy research organization based in Arlington, Virginia, focusing on trade, immigration and related issues. Advisory Board members include Columbia University economist Jagdish Bhagwati, Cornell Law School professor Stephen W. Yale-Loehr, Ohio University economist Richard Vedder and former INS Commissioner James Ziglar. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post*, and other major media outlets. The organization's reports can be found at www.nfap.com. X.com: [@NFAPResearch](https://twitter.com/NFAPResearch) Bluesky: [@NFAPResearch.bsky.social](https://bsky.app/profile/NFAPResearch.bsky.social)