

How to File an EB-2 NIW (National Interest Waiver) Case

To file an EB-2 NIW (National Interest Waiver) Case, you need to fill an I-140 form (Immigrant Petition for Alien Workers) and send the petition materials, including your I-140 form (for paper-based filing) or I-140 E-filed confirmation receipt (for E-filing), petition letter, reference letters and all other evidence supporting your case to the service center based on your jurisdiction.

1. Where Should you Send your EB-2 NIW (National Interest Waiver) Petition Package:

I-140 Service Center Jurisdiction:

A. Nebraska Service Center (NSC):

Alaska, Arizona, California, Colorado, CNMI, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, or Wyoming

B. Texas Service Center (TSC):

Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, U.S. Virgin Islands, or West Virginia

2. How Should You Complete the Form I-140 and Correctly Answer all the Questions on the Form

I-140 Form is used for **Immigrant Petition for Alien Workers**. People filing under the categories of EB-1 Alien of Extraordinary Ability, EB-1B Outstanding Researcher/Professor and EB-2 NIW (National Interest Waiver) need to fill out the form and file the case to the USCIS with the supporting evidence. The I-140 form will be the first thing immigration officers examine to get basic information about the case. Hence it is essential to answer all the questions on the form correctly. Any inaccurate information provided may lead to RFE (Request for Evidence) or even case denial.

This article intends to explain in detail how to answer the questions correctly and provide the most accurate information on your I-140 immigration petition form.

Please see our detailed instructions regarding how to fill out an I-140 form. (link to the following doc.)

Instructions for filing under EB-2 NIW (National Interest Waiver), EB-1A (Alien of Extraordinary Ability) and EB-1B (Outstanding Professors and Researchers) Categories

General Instructions:

You can type or clearly write your responses **in black ink**.

If you need extra space to complete an item, attach a separate piece of paper and indicate the item number. Sign and date each extra sheet of paper.

Answer all questions completely. If an item is not applicable or the answer is “none”, leave the item blank. Do not enter “N/A” or “none”.

If you are filing under EB-2 NIW or EB-1A, you are both the petitioner and the beneficiary. If you are filing under EB-1B, you are the beneficiary and your employer is the petitioner.

Part 1. Information About the Person or Organization Filing This Petition

1.a.- 1.c. If you are filing your I-140 under EB-1A or EB-2 NIW, enter your complete legal name. Make sure to enter your given name, middle name (if any), and family name in the appropriate boxes. If you do not have a middle name, leave 1.c. blank. Double-check to be sure you entered your name correctly. If you enter your name incorrectly, you will need to place a service request in order to correct your name and will not be able to place the service request until you have the receipt notice for your Form I-140. If you are filing under EB-1B, leave 1.a.-1.c. blank.

2. If you are filing under EB-1A or EB-2 NIW, leave this item blank. If you are filing under EB-1B, enter the name of the company or organization who is serving as the petitioner for your case.

Other Information

3. If you are filing under EB-1A or EB-2 NIW, leave this item blank. If you are filing under EB-1B, enter the employer/petitioner’s 9-digit IRS tax number.

4. If you are filing under EB-1A or EB-2 NIW, enter your complete US Social Security Number, if you have one. Providing a partial Social Security Number is not acceptable. If you do not have a Social Security Number, leave this item blank. If you are filing under EB-1B, leave this item blank.

Mailing Address

5.a.- 5.i. If you are filing under EB-1A or EB-2 NIW, enter your complete mailing address, including the apartment number, suite, or floor, if applicable. If you are filing under EB-1B, enter the employer/petitioner’s complete mailing address. If you enter a United States address, you do not need to provide a Postal Code or Province. Double-check the mailing address that you entered to be sure you entered it correctly. This is the address where the USCIS will send notices about your case. If the address is incorrect, your notices may be returned to USCIS.

Part 2. Petition Type

If you are filing under EB-1A, select 1.a.

If you are filing under EB-1B, select 1.b.

If you are filing under EB-2 NIW, select 1.i.

If you are filing under multiple categories, you will need to complete a **separate** Form I-140 for each category. Each I-140 form will need to be accompanied with additional USCIS filing fee of \$580 and petition package.

Leave 2.a. and 2.b. blank, unless this I-140 is being filed to amend a previously filed I-140. If so, check the box next to 2.a. and enter the receipt number for the previously filed I-140 being amended by this I-140.

Part 3. Information About the Person for Whom You Are Filing

1.a- 1.c. Enter your complete legal name. Make sure to enter your given name, middle name (if any), and family name in the appropriate boxes. If you do not have a middle name, leave 1.c. blank.

Mailing Address

2.a.- 2.i. Enter your complete mailing address, including the apartment number, suite, or floor, if applicable. If you are filing under EB-1A or EB-2 NIW, the address will be the same as the address you entered in Part 1.

Other Information

- 3.** Enter your email address, if you have one.
- 4.** Enter your daytime telephone number.
- 5.** Enter your date of birth. Make sure to enter the month first, the date second, and the year last.
- 6.** Enter your city/town/village of birth.
- 7.** Enter your state/province of birth (if any).
- 8.** Enter your country of birth.
- 9.** Enter your country of citizenship.
- 10.** Enter your country of nationality.
- 11.** Enter your Alien Registration Number (also known as an A-Number or Alien Number), if you have one. If you have a previously adjudicated I-140 or have an Employment Authorization Document (EAD), you may have a 7-9 digit A-Number.
- 12.** Enter your complete Social Security Number (if any).

If you are in the US, complete 13, 14.a. & 14.b., 14.d. & 14.e., 15, and 16.

13. Enter the most recent date that you arrived in the US.

14.a. Enter the I-94 number documenting your most recent arrival in the US. This should be an 11 digit number. If you do not have your I-94 number, you can go to the following website to retrieve it: <https://i94.cbp.dhs.gov/I94/request.html>.

14.b. Enter your passport number.

14.c. You can leave this item blank.

14.d. Enter the country which issued your passport. Note: a passport issued in the US by your home country's embassy or consulate is considered to have been issued by your home country, not the US.

14.e. Enter the expiration date of your passport. Make sure to enter the month first, the date second, and the year last.

15. Enter your current nonimmigrant visa status, e.g. F-1, J-1, H-1B, etc.

16. Enter the date that this status expires. Make sure to enter the month first, the date second, and the year last. If you have an F-1 visa, see the I-20. If you have a J-1 visa, see the DS-2019. If you have an H-1B visa, see the approval notice.

Part 4. Processing Information

Check the box next to **1.a.** if you will be applying at a U.S. Department of State consulate abroad for an immigrant visa in order to come to the United States and be admitted as a permanent resident. Enter the city or town and country where you will be doing consular processing. If you are not in the US, you will need to do consular processing after your I-140 is approved.

Check the box next to **1.b.** if you will be filing an I-485 for adjustment of status to that of lawful permanent resident and enter your last country of permanent residence outside of the US. You are eligible to file an I-485 if you are in the US and have a valid non-immigrant visa status.

This information can be changed in the future if you not sure or if your situation changes. If you checked 1.b. on the Form and later decide to do consular processing instead, you can file a Form I-824 (Application for Action on an Approved Application or Petition) to have your I-140 approval notice sent to the National Visa Center. If you checked 1.a. on the Form and later decide to file an I-485 instead, all you have to do is file the I-485 --there are no extra forms or added steps to the process. But, as a courtesy, you should notify the consulate and/or National Visa Center of your decision.

Either 1.a. or 1.b. should be checked. Do not check both boxes.

2.a.-2.f. Enter your complete foreign address.

3.a.-3.c. If your native alphabet is not written in Roman letters, enter your name **written in your native alphabet**. If your native alphabet does use Roman letters, leave 3.a.-3.c. blank. If you were born in India, you can leave 3.a.-3.c. blank, as English is an official language of India. French, German, and Spanish are examples of alphabets that use Roman letters. Chinese, Korean, Arabic, and Nepali are examples of alphabets that do not use Roman letters. It is fine to print out the Form and write your name in your native alphabet by hand.

3.d.-3.i. If your native alphabet is not written in Roman letters, enter your **foreign** address written in your native alphabet. If your native alphabet does use Roman letters, leave 3.d.-3.i. blank. If you were born in India, you can leave 3.d.-3.i. blank. It is fine to print out the Form and write your foreign address in your native alphabet by hand.

4. Answer “yes” or “no” and, if you answer “yes”, check any applicable boxes. **Note: you should only answer “yes” if you will be simultaneously filing the I-140 and the other form(s) (I-485, I-131, I-765, etc.).** If you will be waiting until you have the receipt notice for the I-140 or until your I-140 has been approved to file these forms, the correct answer is “no”.

5. You should answer “no”, unless you are in removal proceedings in Immigration Court. **If the answer is “yes”, make sure to provide the following information on a separate piece of paper attached to the Form: the case number(s), the office location(s), the date of the decision(s), and the disposition of the decision(s).** Write “Part 4, 5” on the separate piece of paper, sign, and date it.

6. You should answer “yes” if you have previously filed an immigrant visa petition or if one has previously been filed on your behalf, e.g. I-140, I-130, or I-485. Otherwise, you should answer “no”. **If the answer is “yes”, make sure to provide the following information on a separate piece of paper attached to the Form: the case number(s), the office location(s), the date of the decision(s), and the disposition of the decision(s).** Write “Part 4, 6” on the separate piece of paper, sign, and date it.

7. You should answer “no”, if you are filing under EB-2 NIW, EB-1A, or EB-1B.

8. You should answer “no”, if you are filing under EB-2 NIW, EB-1A, or EB-1B.

Part 5. Additional Information About the Petitioner

If you are filing under EB-1B, check the box next to **1.a.**

If you are filing under EB-1A or EB-2 NIW, check the box next to **1.b.**

If you are filing under EB-1B, complete **2.a.-2.f.** If the petitioner is a non-profit, e.g. a university, you can enter “0” for **2.d.** and **2.e.**

If you are filing under EB-1A or EB-2 NIW, leave **2.a.-2.f.** blank.

If you are filing under EB-2 NIW, EB-1A, or EB-1B, leave **2.g.-2.i.** blank.

If you are filing under EB-1A or EB-2 NIW, complete **3.a.** and **3.b.** with your occupation (e.g. physicist, chemist, engineer, etc.) and annual income.

If you are filing under EB-1B, leave **3.a.** and **3.b.** blank.

Part 6. Basic Information About the Proposed Employment

If you are not employed in the US and do not have proposed employment in the US, leave Part 6 blank.

If you are currently employed in the US, enter the information about your current employment in Part 6.

If you have proposed employment in the US, enter the information about your proposed employment in Part 6.

1. Enter your job title, e.g. Postdoctoral Researcher, Assistant Professor, etc.
2. Choose the most appropriate Standard Occupational Classification (SOC) code for your occupation. You can search for the SOC Code for your job title at the following link: <http://www.bls.gov/soc/classification.htm>. If you cannot find an SOC Code that exactly matches your job title, choose the one that comes the closest.
3. Enter a brief, non-technical job description.
4. Answer “yes” if the position is for 40 hours per week or more. Answer “no” if the position is for less than 40 hours per week.
5. If the answer to 4. is “no”, enter the number of hours per week that you work.
6. Answer “yes” if you have an expectation of continued employment unless there is good cause for termination. Answer “no” if your position is for a limited term.
7. Answer “yes” if you started this position less than 6 months ago. Answer “no” if you started this position more than 6 months ago.
8. Enter your wages and specify whether they are paid per hour, week, month, or year.
- 9.a.-9.e. Enter the complete address where you will work if it is different from the address you entered in Part 1.

Part 7. Information on Spouse and All Children of the Person for Whom You Are Filing

You must list your spouse, if any, and all children related to you- including those born in the US.

For each individual listed, provide his or her complete name, date of birth, country of birth, relationship to you, and indicate whether or not the individual will be applying for adjustment of status (filing an I-485) or applying for a visa abroad (doing consular processing).

If the individual was born in the US, the correct answer to these two questions is “no”.

If the individual was born outside of the US, the answer should be “yes” to one of these questions and “no” to the other. If the individual is in the US and has a valid non-immigrant visa status, he or she is eligible to file an I-485 as a derivative beneficiary of your I-140. If the individual is outside of the US, he or she will need to apply for an immigrant visa abroad, in order to come to the US and be admitted as a permanent resident.

The answer should never be “yes” to both questions.

Part 8. Signature of Petitioner

If you are filing under EB-1B, the information in this part should be about the individual who signs the form on behalf of your petitioning employer.

- 1.a.** If you are filing under EB-1A or EB-2 NIW, sign your name. If you are filing under EB-1B, the signature should be by a person authorized to sign the Form on behalf of your employer.
- 1.b.** Enter the date of signature. Make sure to enter the month first, the date second, and the year last.
- 2.** If you are filing under EB-1A or EB-2 NIW, enter your daytime phone number. If you are filing under EB-1B, enter the daytime phone number for the person signing the Form.
- 3.** If you are filing under EB-1A or EB-2 NIW, enter your mobile telephone number. If you are filing under EB-1B, enter the daytime phone number for the person signing the Form.
- 4.** If you are filing under EB-1A or EB-2 NIW, enter your email address. If you are filing under EB-1B, enter the email address for the person signing the Form.
- 5.** If you are filing under EB-1A or EB-2 NIW, leave this blank. If you are filing under EB-1B, enter the job title of the person signing the Form.

Part 9. Signature of Person Preparing This Petition, If Other Than the Petitioner

If you do not have an attorney or representative, you do not need to complete Part 9. If you have an attorney or representative, he or she will need to complete Part 9.

If you have an attorney or representative, you will also need to file a Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) together with your Form I-140.