

TwinCities-Home



Getting Your Work Visa

(Information supplied on this topic is from experience only, and in no way reflects policies, regulations, or laws from either Canada, USA, Manitoba, or Minnesota.)

General:

✳ Getting your work visa can be one of three things: A very simple straight-forward process (TN visa), a two to three month process (H1 visa), or a 4 to 5 year process (Green Card). I will assume you want the simple straight-forward process. The question becomes one of eligibility. In a nut-shell, if you are a professional with a 4 year bachelor degree, your job is one of those listed in the *Qualifying TN Professions*, and you have a job offer on company letterhead, your best bet is to get what is called a **TN-1**. If you have a degree, but your profession is not listed on this list, you may have to consider the H1-B visa.

✳ For those of you who have a specific question for the INS, the **Pembina North Dakota DIRECT** number is **701-825-6777**. Expect busy signals. Once the phone actually rings, an INS official will answer. Remember, these guys/girls are on the phone ALL day, so be polite, and have your specific question well thought out. If you were planning on having a detailed conversation with him/her, do not call. Instead, ask for his/her name, when they are on shift at the Pembina location, and make the one hour trip to the POE (Point of Entry) station. People that I have dealt with were always friendly, polite, knowledgeable, and patient.

✳ INS border officers will not provide guarantees on any particular visa situation when asking over the phone, or in person. They can only make such an evaluation when applying for the visa itself. Do NOT ask the INS official to break the rules (which are by the way, immigration LAWS). In other words, if you are trying to get a TN visa as a SYSTEMS ANALYST and you have a "certificate", or Novell Certification, or MS Certification and 5 years experience, there is a **100%** chance you will NOT be granted a TN visa. The same with having a 2 year diploma and 2.5 years experience - again - look carefully at the requirements (shown at the end of the page). If you meet the requirements, you will be granted a visa. If you are "borderline", or your definition of experience differs from theirs, then you might have a problem.

✳ I get e-mails from people daily stating that they want to move to the USA "really badly", but simply put, will not be granted a visa based on either education requirements, or work experience requirements. Getting a work visa (TN visa specifically) is like trying to convince an employer that you are really good at what you do. It is a process that tries to determine whether you meet a set of criteria which is part of immigration law. (Interpretation of such immigration laws is the very reason we have *immigration Attorneys!*). If you feel, or are unsure if you will obtain such a visa, post your question to a very well known immigration website: [Joseph Grasmick's Immigration Forum](#). This forum is monitored by Joe himself (an immigration lawyer) as well as many other knowledgeable people. Do not expect free specific legal advice. However, most answers posted here are accurate and correct.

✳ If you are not sure if you would qualify for a TN visa, or would like to explore obtaining a different visa (such as the H1-B visa), I can recommend the following immigration lawyer. Do not call him for *free* advice. However, his rates are reasonable and he works just outside of the Minneapolis area:

✳ TN visas are once again being issued to nurses for a full 1 year. For a short period, they were only being granted for 6 months at a time. As far as I know, 6 month restrictions are still being placed on physiotherapists, and other medical fields.

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TN-1 Visas:

✳️ A listing of jobs that qualify for TN-1 visas can be found below. You may also want to check out some NAFTA notes from [The Law Offices of Joseph C. Grasmick's](#) WEB site. It contains some very clear information. The TN-1 Visa is obtained right at the border crossing. If you meet this criteria, there is no need to travel to the border in advance of your actual move to the USA. In fact, they will not issue TN-1 visas any earlier than 2 weeks prior to you starting work. You do NOT need a lawyer to do anything for you if you are getting a TN-1 visa. Both Brenda and myself currently reside in Minneapolis on TN-1 visas. You may elect to travel down to the Emerson border crossing a week or two before you are actually scheduled to move. When one refers to getting a TN-1 visa, you actually receive a document labeled an "**I-94**". [On this I-94 card \(sample shown below\)](#), they will stamp your arrival to the USA (current date), and mark "class: TN", with an expiry date 364 days forward. On the reverse of this card, it lists the authorized place of employment. This card is normally stapled to a page within your Canadian passport.

✳️ The actual NAFTA document (for TN's and TD's) is available online at the [INS WEB site](#)

✳️ I have received a few e-mails from people who otherwise would have been offered employment with a US-based firm, but instead were brushed off because such companies felt they had to deal with a "visa situation". If you, yourself, have determined that you qualify to obtain a TN-1 visa (simply check the table shown below), there really is no work involved for the employer. Your employer MUST be informed that you will be working for them on a temporary work visa though. A true statement to your potential employer could be:

*"Due to my professional standing, no **special** visas are required for me for this position. I will require a standard offer letter stating the start date of the position, the position description, and the wage. The offer letter must also state that there are no current or anticipated labour disputes, and must state it is for a 1 year term."*

✳️ The potential employer may question the part about the "1 year term", but simply reply that you must obtain a new I-94 card once per year, and will require a new letter once per year. The position itself can be permanent, but the employment offer on a TN visa can only be in one year increments. You will be able to work continuously for this firm, without work stoppage. You will need to return to the Canada-USA border to get your new I-94 (showing "TN-1 status") before 365 days have past. Normally, most people from Minneapolis drive up to Pembina on a given weekend, get the new visa, and then go to Winnipeg for a weekend visit. Alternatively, you can [renew your visa by mail](#).

✳️ Only the person obtaining the work visa may work. Trade Dependant visas (TD) are issued to any other remaining family members (married spouses and children 21 years and under). This entitles such dependants to reside in the USA for as long as the person working has a valid TN visa. Under the current rules of NAFTA (chapter 16), trade dependants simply can NOT work in the USA. Special "F" type visas may be granted to TD children of the TN parent(s) that are attending a university or college if such work is at the college. Careful consideration should be made, and the questions asked: *Will my spouse want to work? Will my kids approaching an age where they would want to work part-time after school?* A solution to this is to first obtain a TN visa, move to the USA, and then have your company sponsor you for a Green Card. A Green Card, when obtained (expect to wait several years for processing!), is a *family unit* visa showing permanent residence - and allows all family members to freely seek employment while in the USA. Also note that the INS does NOT recognize a "common-law spouse". You will be asked to provide proof of marriage (marriage certificate) and birth certificates for children, or other official documents proving you are the legal guardians.

✳️ **TN Checklist** - Make sure you bring the following (for each person WORKING):

- Passport, or other primary identification (such as birth certificate) - no photocopies
- Offer of Employment (original, on company's letterhead). [Specific TN-1 details, and a sample letter found here!](#)
 - Must be dated
 - Good idea to state "There are no current or anticipate labor disputes at..."
 - Must state your wage, and wage period (ie weekly, annually) including any possible bonuses, etc
 - Must state the employment offer is temporary, starting on *start date* and ending on *end date*. The total period cannot exceed 1 year.
 - Start date must be within two weeks of your application for this TN-1 visa. (Different border INS officials seem to have different rules. Ours told us specifically "2 weeks". However, we have heard from other people that if it is raining outside, with a light west wind, this time frame can be 3, 2, or even 1 week)
 - Must state the position. This position MUST be exactly as one of the positions shown in the table of qualifying positions shown below. "Computer Systems Analyst" would qualify. "Computer Programmer" would NOT qualify. Make sure this is correct or the offer letter is useless.
 - It is a good idea for the letter to include a paragraph briefly describing your duties. These duties should coincide

available at Grasmick.Com.

- An *optional* letter, commonly called a "Letter of Support", addressed to US Immigration can be helpful to describe the exact duties of your position, if such duties are not clearly described in your Offer of Employment. This letter would be written by the employer. If the position you will be working in is clearly defined in the offer letter, this optional letter is *not* normally needed.
- \$56.00 USD (cash) per TN visa (price subject to change) who is working
- Proof of education and qualifications (original degree certificate, and/or original college/university transcript). I highly recommend having your transcript available.
- Any other requirements, dependant on position shown in TN-1 table below.
- **IMPORTANT:** Remember, if you are applying for a TN visa, your intentions on residing in the USA are *temporary*. . . common question asked by an INS official at the border might be "What are you planning on doing after your 1 year visa runs out?" - The correct answer is "Return to Canada, unless the company offers to extend the position after the 1 has passed.". If you reply "Hmmm, I plan on buying a house, and staying there permanently by getting my Green Card they can, and **WILL** actually DENY your entry based on this intention. Be VERY CAREFUL when replying to such questions

★ **WARNING:** Jobs classified as **COMPUTER PROGRAMMER** do **NOT** qualify for a TN-1 visa. If you have accepted a position for such work, your offer of employment **must** state the position to be for a **COMPUTER SYSTEMS ANALYST**, and your duties must be that of a Systems Analyst. A [Systems Analyst \(DOT definition\)](#) is currently the only IT related position that qualifies for a TN-1 visa.

★ That's it! If you have a specific question regarding obtaining a TN via, e-mail me at the address shown below, and I will try to answer.

★ **TIP:** Your offer of employment **MUST** indicate that the job you are to be doing is one of the qualifying jobs, and it must state the **starting** and **ending** date (for a period of no longer than one year), and state the **salary (or hourly) wage**. Once I find my letter, I will post it here as a sample. The letter must also state that "there are no current labour disputes ..."

- ★ **TN-1 Advantages:** They are cheap. They are *instant* at the border crossing. They require virtually no paperwork or lawyers. Even though they are not "renewable", you can easily get a new one each year.
- ★ **TN-1 Disadvantages:** They are only good for 1 year. After one year, you must return to Canada (or at least the border) and obtain a new TN-1 visa. You can do this for years on end though. You do not actually get the TN-1 visa until you reach the border, which can be a cause for some anxiety (*at least it was for us!*)

Sample TN Offer Letter:

Letterhead for ABC Company
123 Anystreet, Anytown, Anystate
Phone 555-555-1234, Fax 555-555-5678

November 27, 2000

To the US Immigration and Naturalization Services

Dear Sir or Madam:

Re: TN Petition for BOB SMITH

We are writing to request that BOB SMITH be granted TN status for the position of SYSTEMS ANALYST.

We would like to employ Mr. BOB SMITH as a SYSTEMS ANALYST, reporting to JOHN DOE, Director of Information Services. This NAFTA qualifying position is described in the DOT category "030.167-014 SYSTEMS ANALYST (profess. & kin.)".

In this position, Bob Smith will be required to perform the following duties:

- Analyze end-user requirements, document and develop solutions using computer technology

- Prepare time and cost estimates, and monitor projects using standard project management tools.
- Study existing computer hardware and software, and provide input on improvement of such hardware and software
- Work with our existing IT staff in providing assistance in software development, creating of test plans, installation plans, and other project direction.

This position requires an individual with a related degree. Based on Bob Smith's education and experience, he is ideally suited for this position. We believe Mr. Smith qualifies for TN status, as outlined in section 214(e) of the North American Free Trade Agreement. We believe Mr. Smith meets the requirements to be admitted as a SYSTEMS ANALYST with the duties which are outlined and described by the Department of Labor's Dictionary of Occupational Titles (DOT). He is a professional as outlined in the regulations 8 CFR 214.6.

We require his services temporarily for a one year period, starting 12/15/2000 and ending no later than 12/14/2001 contingent upon INS approval of this petition. Once this temporary employment has completed we fully expect Bob Smith to return to Canada. Mr. Smith's employment will comply with all applicable local, state, and federal laws. He will earn an annual salary of \$60,000 plus standard company benefits as outlined in his employee handbook. There are currently no labor disputes, nor are any anticipated at ABC Company. Mr. Smith has provided us evidence that he is a Canadian citizen and will provide you original documents showing proof of citizenship and proof of suitable education for this position.

ABC Company is publicly traded company (NYSE: ABC) based in Minneapolis and was established in 1973. We are one of the 10 largest manufacturing facilities in Minnesota, with offices world-wide, employing over 4,000 employees in the USA, and 2,000 additionally in our international offices. ABC Company manufactures widgets, with annual world-wide sales of \$300 million dollars.

Should any further information be required, I can be reached at 612-555-1234 (during regular business hours), or at 612-555-6789 (after regular business hours).

Very truly yours,

(sign)

JANE DOE,

Director of Human Resources.

/jd

H1-B Visas:

✳ I am going to be honest here - I am not an expert on getting H1-B visas. All I do know is that they are expensive (expect to involve a lawyer) - and will cost you (or if you get your potential employer to pay the whole shot, great!) about \$1,000 to \$2 (or more) depending on complications. My advise for this is to go with the TN-1 visa IF YOU QUALIFY FOR ONE. When arrive in the Twin Cities, and have established yourself, THEN look at starting the H1-B or Green Card process. If this is not possible, and you absolutely need to get an H1-B visa (in other words, only if you do not qualify for the TN-1 visa), read up information found [on this WEB site](#). But keep in mind, information found here is provided by a lawyer, and they are obvious going to make it sound like a complicated processes. **TIP:** When you are considering offers of employment, get them to com paying for processing your Green Card (this is worth about \$3,000 is INS and legal fees). Many employers in the Twin Citie (larger ones, at least) already have the legal staff on hand to process these for you.

Loosing your Job IMPORTANT:

✳ Something that is many times overlooked. What happens if I get fired when I am on a TN-1 or H1-B visa? What are my ri As a TN or H1 visa holder, you have no special rights over and above any other US resident or citizen. On the other hand, yc have no LESS rights either. Your employer can not single you out during a layoff just because you are on a temporary visa w the intention of "keeping jobs for people who are US citizens". NAFTA allows you an equal opportunity. However, an empl can (and many will) let a visa expire and opt not to renew it. Many TN's run into this situation - and sometimes it comes as q surprise when you approach your employer a week or so before you TN expires to get a new offer letter - and they simply de To avoid this, discuss your expiring visa 2 or 3 months BEFORE it is to expire and get them to commit to doing a MAIL RENEWAL of your TN visa.

✳ What to do? First understand that you normally have 10 days to permanently I FAVE the IISA from the last day of

CHANGED IMMEDIATELY to a B2 (Visitor) visa. This can be done with a I-539 "Requesting a Change of Status". You do it almost instantly your TN is terminated, because it must be in the hands of the INS before the 10 days is up. It should include a note from you to indicate the reason you are requesting a change to visitor, such as "need some additional time to sell my house and wind up my affairs here after which time I will be returning to Canada". Do NOT state you are using this extra time to look for a job!

✳ After filing the I-539 to change your status to "B2" (sent by RETURN RECEIPT MAIL, and enclosing the required check for first person, \$10 for each other person on same app), now you can start looking around for your new job (or wind up your affairs if you actually plan on leaving). You should receive a "receipt" letter in a few weeks. About 3-4 months later, you will receive a response (ie denied or approved). During this waiting period, and because the INS received your I-539 request BEFORE your visa expired or WITHIN 10 days from termination of your previous employment, you are "in status" and can continue to legally reside in the USA until a decision is made.

✳ If you find yourself a new job, return to the CANADA-USA border (which incidentally, invalidates your I-539 "Change of Status" application because the INS now consider that process abandoned when you leave US soil!) with your new offer letter supporting docs and ID and get your new TN (and TD if applicable) visas.

Green Cards:

✳ It is my understanding that you can not "apply" for a Green Card, and simply obtain one while a resident of Canada. A Green Card process takes from 2 to 4 years from application start date to finish, requires "labour certification", a lawyer, and between \$3,000 and \$4,000. If your intention is to emigrate to the USA with secured employment, either temporarily, or permanently, first secure employment using either an TN-1 or H1-B visa, then look into the Green Card process once you are in the US of America. However, when asked by an INS official (if you have a TN visa), do **NOT** state you are considering getting a Green Card, or looking at permanently moving to the USA. Your TN visa will be denied. If you already have a TN visa, it can also be revoked by such a statement or intention. For more information on the processes needed for a green card, see [The Immigrant's Support Network: 123's of Employment Based Green Card Processes](#) WEB site.

Qualifying TN-1 VISA Positions

(All positions shown below require a 4 year baccalaureate degree in the *related field*, unless otherwise specified)

- **Accountant** (baccalaureate, CPA, CA, CGA, or CMA)
- **Agriculturist/Agronomist**
- **Animal breeder**
- **Animal Scientist**
- **Apiculturist**
- **Architect** (baccalaureate or state/provincial license. Also see **Landscape Architect**, below)
- **Astronomer**
- **Biochemist**
- **Biologist**
- **Chemist**
- **Systems Analyst** Must have:
 - baccalaureate or
 - post secondary diploma *** (see below!) and three years experience
- **Dairy Scientist**
- **Dentist** (DDS, DMD, or state/provincial license)
- **Dietician** (baccalaureate or state/provincial license)
- **Disaster Relief Insurance Claims Adjuster** Must have:
 - baccalaureate or 3 years' experience in claims adjustment, and
 - completed training in appropriate areas of insurance adjustment pertaining to disaster relief claims
- **Economist**
- **Engineer** (baccalaureate or state/provincial license)
- **Entomologist**
- **Forester** (baccalaureate or state/provincial license) (Also see **Sylviculturist**, below)
- **Geneticist**
- **Geochemist**
- **Geographer**
- **Geologist**
- **Geophysicist**
- **Graphic Designer** Must have:
 - baccalaureate or
 - post secondary diploma *and three years' experience
- **Horticulturist**
- **Hotel Manager** Must have:
 - baccalaureate in hotel/restaurant management or
 - post secondary diploma * in hotel/restaurant management and three years' experience in hotel restaurant management
- **Industrial Designer** Must have:
 - baccalaureate or
 - post secondary diploma *and three years experience
- **Interior Designer** Must have:
 - baccalaureate or
 - post secondary diploma *and three years' experience
- **Land Surveyor** (baccalaureate or state/provincial/federal license)
- **Landscaping Architect**
- **Lawyer** (member of state/provincial bar, or LLB, JD, LLL, or BCL)
- **Librarian** (MLS, or BLS. BLS must be one for which another baccalaureate degree was a pre-requisite)
- **Management Consultant** Must have:
 - baccalaureate or
 - five years' experience in consulting or related field.

- **Mathematician**
- **Medical Technologist**/Medical Lab Technologist (Ca
 - baccalaureate or
 - post secondary diploma *and three years' exper
 - (U.S. job must be in a laboratory to perform ch hematological, immunologic, microscopic, or t analyses for diagnosis, treatment or prevention
- **Meteorologist**
- **Nurse, Registered** (must have state/provincial license) *be able to accept employment providing you have youi However, before you can practise, you must write the .*
- **Nutritionist**
- **Occupational Therapist** (baccalaureate or state/provi
- **Oceanographer**
- **Pharmacist** (baccalaureate or state/provincial license)
- **Pharmacologist**
- **Physician** (teaching and/or research only, MD or state.
- **Physicist**
- **Physio/Physical Therapist** (baccalaureate or state/pro
- **Plant Breeder**
- **Poultry Scientist**
- **Psychologist** (must have state/provincial license. Canr baccalaureate degree)
- **Range Manager/Range Conservationist**
- **Recreational Therapist**
- **Research Assistant** (baccalaureate and must work in a institute)
- **Social Worker**
- **Soil Scientist**
- **Statistician**
- **Sylviculturist/Forestry Specialist** (also see **Forester**,
- **Teacher** (baccalaureate degree: must be coming to wo university only); no secondary or elementary school te
- **Technician or Technologist, Scientific.** (E.g.: **Electr** Must:
 - work in direct support of professionals in one c
 - biology
 - chemistry
 - engineering
 - forestry
 - geology
 - geophysics
 - meteorology
 - physics
 - possess theoretical knowledge of discipline, an
 - solve practical problems in discipline, or apply basic or applied research
- **Urban Planner**
- **Veterinarian** (DVM, DMV, or state/provincial license)
- **Vocational Counselor**
- **Writer, Technical Publications** (Technical Publicatic
 - baccalaureate or
 - post secondary diploma *and three years' exper
- **Zoologist**

*** - **Systems Analyst (DOT definition)** - a post secondary diploma of at least 2 years of study is required. The Red River Community College 2 ye program *Computer/Analyst Programmer* qualifies. In addition, **you MUST have 3 full years of experience in this same field**, either before, during, c

of recommendation showing time/date range worked, etc. Your experience must be stated as a *Computer Systems Analyst* (or Programmer/Analyst). Experience as a "Programmer" may require immigration officials to determine if such experience, on an individual basis, relates to a Computer System Analyst. If they determine that such experience as a programmer does not "close enough" fit the description (as per actual NAFTA documents and regulations) of Computer Systems Analyst, **they can and will deny you your TN-1 VISA.**

TIP: *If your experience has been strictly as a software developer (ie "Programmer"), have your current and previous employers state in the recommendation letter, or letter of employment that one of your duties was to "perform analysis...". This will clarify your role, and increase the chance your TN-1 VISA being accepted*

I-94 Sample showing "TN" approval:

Departure Number [REDACTED] (Departure Number Removed)		U.S. IMMIGRATION PERM - 178	
Immigration and Naturalization Service		MAY 04 1998	
I-94 Departure Record		CLASS <i>TN</i> TO <i>May 03, 1999</i>	
14 Family Name (Name Erased)			
15 First (Given) Name (Name Erased)		16. Birth Date (Day/Mo/Yr) (Birthdate Erased)	
17 Country of Citizenship <i>CANADA</i>			

You can contact Neil Marriott at neilm@mn.rr.com