The Mexican Investor and E-2 Survival

By Kathleen Campbell Walker[1]

Introduction

Tragically, the seemingly unending violence in Mexico has led to many of the country's entrepreneurs and businesses to seek options to create new businesses or to operate within the United States ("U.S."). With the current economic woes of the U.S., it would seem that the U.S. would streamline procedures for investors to acquire lawful immigration status. Unfortunately, the protectionist leanings generated by recent high U.S. unemployment figures though have led to increasingly draconian interpretations of our highly complex business immigration options to include even those immigration based options, which create jobs for our economy.

In a 2008 Small Business Administration ("SBA") study, the report found that, "Immigrants are nearly 30 percent more likely to start a business than are nonimmigrants, and they represent 16.7 percent of all new business owners in the United States."[2] This SBA report also found that nearly 30 percent of all new business owners per month in New York, Florida, and Texas, are immigrants.[3] In addition, business owners from Mexico constituted the largest share of immigrant business owners.[4]

According to the U.S. Department of State ("DOS") published statistics for the E-2 Treaty Investor visa category from 2005 to 2009, there has been a continuing decline of E-2 visa issuances at consular posts over the past four years.[5] For Mexican nationals, E issuance trends are on the rise. In 2009, 2,499 E visas were issued, while in 2008, 1,904 were issued, and in 2007, the number was 1,874.[6]

It is critical for Mexican investors though to recognize that an E-1 (treaty trader) or E-2 (treaty investor) visa is not a long term fix for their family or often for their business plans.

Recent Developments

Reciprocity Schedule and Fees

In 2010, Mexican nationals desiring to apply for E visa renewals received bad news on two fronts. The first was that it was no longer possible to obtain a full five year E visa and the second was the increase in visa application fees for E visas. The change in the reciprocity schedule was due to an error by the U.S. Embassy in commencing a process to allow certain nonimmigrant visa holders (i.e. Trade Nafta – TN) to pay an annual visa fee amount to obtain

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[2] R. Fairlie, *Estimating the Contribution of Immigrant Business Owners to the U.S. Economy*, Small Business Administration, Office of Advocacy, November 2008, Executive Summary, p. 4.

[3] *Id at p. 5.*

[4] *Id.*

[5] *See* http://www.travel.state.gov/pdf/FY09AnnualReport_TableXVI_B.pdf, 2006 – 29,453, 2007 – 29.298, 2008 – 28, 558, 2009 – 24,033. These numbers include E-2 spouses and children as well as principals.

[6] *See* http://www.travel.state.gov/pdf/FY09AnnualReport_TableXVII.pdf, *and* http://www.travel.state.gov/pdf/FY07AnnualReportTableXVII.pdf. These totals include both E-1 treaty trader and E-2 treaty investor visas.

additional years of visa validity. With the push by the U.S. Embassy to end the payment of nonimmigrant visa reciprocity issuance fees came the mandate by the Visa Office of the DOS in Washington to end their discretionary act of issuing certain nonimmigrant visas for longer than one year, since the Mexican Government would not issue business related visas to U.S. citizens (e.g. FM-3 visas) for more than one year. Thus, while the DOS eliminated the nonimmigrant visa reciprocity fee for Mexican nationals in February of 2010, it also eliminated the multi-year option for visa issuance in the reciprocity schedule for Mexican nationals.[7] This change also reduced the longevity of Mexican E visa holders to a one year visa issuance period. In addition, on June 4, 2010, DOS increased the application fee for E visas to $390.00.[8]

An avenue remains still available to Mexican nationals among others to reduce the burden of frequent visa renewal for limited travel via the automatic visa revalidation provisions of 22 CFR §41.112(d), which allows for the validity of an expired nonimmigrant visa issued under section 101(a)(15) of the Immigration and Nationality Act, as amended ("INA"), to be automatically extended to the date of application for readmission or to be converted post an authorized change of status approved by U.S. Citizenship and Immigration Services ("USCIS") for readmission to the U.S. when the applicant for admission possesses a valid I-94; is applying for readmission after an absence not exceeding thirty days spent solely in a contiguous territory; has maintained and intends to resume nonimmigrant status; is applying for readmission during the period of initial admission or authorized extension of stay; is in possession of a valid passport; does not require a waiver for admission; and has not APPLIED for a new visa while outside the U.S.[9] It is critical to remember that 22 CFR §41.112(d) automatic visa revalidation cannot be invoked for admission on an expired visa, if an application for a visa has been made at a U.S. consular post after departure from the U.S.

In addition, even though the E visa for Mexican national is restricted now to one year, Customs and Border Protection ("CBP") may still admit E visa holders for a period of up to two years even on the last day of visa validity.[10] The period of visa validity has no relation to the period of time CBP at a port of entry may authorize the applicant for admission to remain in the U.S.[11] The interesting point from a border perspective is whether qualifying foreign nationals can double dip on the use of the auto revalidation provisions of 22 CFR §41.112(d) along with the two year admission policy in the E visa context. After all, for example, the E-2 Mexican national will be in possession of the two year E I-94 "endorsed by DHS" to show an unexpired period of "initial admission" or extension of stay and an expired visa post an absence to Mexico for 30 days or less. Both the E visa regulations and the automatic revalidation provisions in title 8 and 22, respectively, reference the "initial" period of admission in contrast with an extension application filed with USCIS. There are no applications for extension of nonimmigrant status filed with CBP at a port of entry. Since all applicants are adjudicated by CBP for their period of admission, the argument is that all admissions are therefore "initial." Thus, in a border context, that two year E admission on the last day of visa validity can be used for readmission purposes using automatic revalidation especially when the I-94 is issued at the land border where all I-94s

[7] U.S. visa reciprocity table for Mexico at: http://travel.state.gov/visa/fees/fees_4881.html?cid=3622

[8] May 24, 2010 DOS Press Release, *Nonimmigrant Visa Application Fees to Increase June 4 found at http://www.state.gov/r/pa/prs/ps/2010/05/142155.htm.*

[9] Note that these provisions for readmission are broader for those holding J or F status to include trips to adjacent islands other than Cuba. In addition, this regulation does not apply to national of DOS designated state sponsors of terrorism.

[10] *See* 8 CFR §214.2(e)(19).

[11] 22 CFR §41.112(a).

are by default – multiple entry I-94s.[12] Convincing a CBP officer of this fact can be difficult at times, but the regulation does bifurcate the policy between changes of status versus admissions.

Renewals of E status

It appears the consular officers as well as USCIS as to E visa renewals are applying a much harsher standard than in the past to applicants for renewal of E status. Recent reports of E renewal denials provide multiple cautionary tales, especially for small businesses on the issue of marginality. The *New York Times* in June of 2009 and in May of 2010 reported on the denials of E-2 status. In the May 2010 article, the reporter described the predicament of Mr. and Mrs. Franks, who were U.K. nationals. The Franks employed three or four U.S. citizens as waiters in their small restaurant in Wells, Maine. Their income in 2008 was $64,000 in 2008 in addition to rental income of $16,800. Their gross profit declined from $50,700 in 2007 to $38,800 in 2008 due to the recession.[13] The article references statistics from William G. Wright, a USCIS spokesperson, who stated that over the last two and a half years, 8,468 requests for E-2 extensions have been filed. From October 1, 2009 to May of 2010, 82 percent of E-2 renewals were approved, while in 2009, 84 percent were approved and in 2008, 91 percent were approved.[14]

The June 2009 article tells the story of Ms. Daeron of France who was denied an E-2 renewal for her bakery in Colebrook, New Hampshire. Again, the denial was based on the problem of marginality. The denial of this visa was eventually overturned by the strong public support exhibited by the 33,000 inhabitants of Colebrook. Thousands of people signed petitions to express that numerous businesses in and around Colebrook might be considered marginal by DOS, but small businesses such as the bakery were not "marginal" to their community.[15]

At the recent national fall conference of the American Immigration Lawyers Association ("AILA"), Patrick Cragun, deputy nonimmigrant visa section chief of the U.S. Embassy in Mexico City, noted than any E-2 investment application under $100,000.00 would always receive a higher level of scrutiny by his officers.[16] In addition, Mr. Cragun confirmed that his office would take a totality of circumstances view as to E-2 renewals in the current U.S. economic downturn and yet he appeared hesitant to confirm that the preservation of jobs would be sufficient to meet marginality concerns of DOS consular officers in Mexico.

Marginality is typically described in terms of an investment in an enterprise for the sole purpose of self support.[17] The *Foreign Affairs Manual* of the DOS does state, however, that, "[a]n enterprise that does not have the capacity to generate such income but that has a present or future capacity to make a significant economic contribution is not a marginal enterprise. The projected future capacity should generally be realizable within five years from the date the alien commences normal business activity of the enterprise."[18] Thus, a business with the capacity to

[12] 8 CFR §235.1(h)(1).

[13] K. Seelye, "Maine Business Is Shut Without a Renewed Visa," *New York Times,* May 28, 2010, http://www.nytimes.com/2010/05/30/us/30visas.html?_r=1.

[14] *Id.*

[15] D. Barry, "A Town Fights to Save an Oasis of Baguettes," *New York Times,* June 1, 2009, http://www.nytimes.com/2009/06/01/us/01land.html.

[16] 9 FAM 41.51 N.10.4 states that investments of 100 percent or higher would normally automatically qualify for a small business of $100,000 or less.

[17] 22 CFR §41.51(b)(1)(i); 9 FAM 41.51 N.11.

[18] 22 CFR §41.51(b)(10); 9 FAM 41.51 N.11.

expand local job opportunities should not be considered as marginal depending upon how the term "significant" is applied as to the area of the investment. As noted in the recommended documents by DOS to address marginality in an E-2 visa application,[19] corporate tax returns, audited financials (if possible), annual reports, payroll registers, W-2 and W-4 tax forms, and cancelled checks for salaries paid are all critical for marginality review by the consular officer. In Texas, the quarterly reports to the Texas Workforce Commission are also useful. Of course, the review of the business plan by expert business consultants can also be important to establish that the plan is realistic for the area.

E-2 Points to Remember

Source of Funds

Concerns related to money laundering and other illicit activities conducted in Mexico have led to increased levels of review by consular officers as to the source of funds for E-2 investment purposes. The author is used to extensive requests to trace investment funds, including wire transfer documentation, purchase orders, bank statements, customs declarations, and cancelled checks. 9 FAM 41.51 N8.1-1 provides that the investor must demonstrate the possession and control of the funds invested and if they were received by "legitimate means." The source of funds though does not have to be outside of the U.S., but the inheritance of a business does not qualify as an investment for E-2 purposes.[20] In some cases, a holding company structure may be used by several investors with insufficient funds to qualify as a principal E-2 investor to create an E-2 qualifying company for E-2 purposes. Then the investors may qualify as E-2 employees in certain cases.

Funds at Risk

For E-2 purposes, at risk funds include only funds in which personal assets are involved, such as personal funds, other unencumbered assets, a mortgage with the foreign national's personal residence used as collateral, or some similar personal liability. A reasonable amount of cash, held in a business bank account or similar fund to be used for routine business operations, may be counted as investment funds.[21] A mortgage debt or commercial loan secured by the assets of the investment enterprise cannot count toward the investment for E-2 purposes.[22]

Investment

Payments for lease or rent purposes for property or equipment may count toward the investment only as to funds for one month, unless more than one month is paid in advance.[23] The value of goods or equipment exported to the U.S. can be part of the qualifying investment if used in the business enterprise.[24] The valuation used can be the amount spent on the items or the value of the good or equipment.[25] Rights to intellectual property may also be considered as capital assets if their value can be reasonably determined.[26] If no market value can be established for a copyright or patent, then the value of current publishing or manufacturing

[19] *See* Attachment A.
[20] 9 FAM 41.51 N 8.1-1.
[21] 9 FAM 41.51 N 8.1-2.
[22] *Id.*
[23] 9 FAM 41.51 N 8.2-1.
[24] 9 FAM 41.51 N 8.2-2.
[25] *Id.*
[26] 9 FAM 41.51 N 8.2-3.

contracts can be utilized.[27] In the case of E-2 applicants tied to established businesses, a significant amount of the investment may be in retained earnings. While in the EB-5 immigrant investment context, USCIS has required the investor to receive the retained earnings as dividend, pay income tax on the income, and then reinvest the funds; the DOS has typically allowed retained earnings to qualify as part of the investment for E-2 purposes.

Ability to Develop and Direct Business

An E-2 treaty investor must seek entry solely to develop and direct the treaty business.[28] In certain franchises, the franchise contract may be too restrictive to establish this element of direction by the foreign investor, but a franchise business may qualify for E-2 status is the franchisee can exemplify sufficient control over the franchise operations.[29]

E-2 Employees

Employees of treaty investors must have the same nationality as the E-2 employer.[30] The position must be executive, supervisory, or require essential skills.[31] As to executive or supervisory positions, the consular officer will review if the position principally requires management skills or key supervisory responsibility; or if the position chiefly involves routine work and only secondarily requires supervision of low-level employees.[32] The E classification is intended for specialists and not for ordinary skilled workers.[33] There are exceptions to this general rule. Some skills may be essential for as long as the business is operating. Others, however, may be necessary for a shorter time, such as in start-up cases.[34] For example, skilled workers are more likely to qualify as those with essential skills for start-up operational and training needs of the U.S. investment, but E-2 employers are expected to replace these employees with U.S. workers in a relatively short time frame of one to two years.[35] Long term essential skill employees are typically expected to be providing such services as: continuous development of product improvement, quality control, or services otherwise unavailable.[36] Consular officials are instructed to consider the following factors for essentiality: (1) degree of proven expertise; (2) uniqueness of the specific skills; (3) function of the job to which the alien is destined; and (4) salary such special expertise can command.[37] The *Foreign Affairs Manual* recommends the use of statements from chambers of commerce, labor organizations, industry trade sources, or state employment services as to the unavailability of U.S. workers regarding the need for services of foreign nationals with essential skills.[38]

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[27] *Id.*
[28] 22 CFR §41.51(b)(1)(ii).
[29] *Matter of Kung,* 17 I&N Dec. 260 (Comm'r 1978). Control over wage levels, hiring and firing authority, and business hours can be used to establish control in franchise business.
[30] 9 FAM 41.51 N. 14.1.
[31] 22 CFR §41.51(b)(2).
[32] 9 FAM 41.51 N. 14.2.
[33] 9 FAM 41.51 N. 14.3-1.
[34] *Id.*
[35] 9 FAM 41.51 N. 14.3-1, N 14.3-3.
[36] 9 FAM 41.51 N. 14.3-1.
[37] *Id.*
[38] *Id.*

Spouses and Children

Spouses of E-2 visa holders are eligible to apply for employment authorization documents ("EAD") but arguably the statute creating this authority made such work authorization incident to E-2 status.[39] Unfortunately, the regulations identifying categories of visas allowing work authorization incident to status have yet to be modified. So, the prudent course of action is for E-2 spouses to still apply for an EAD before commencing work, even if the Social Security Administration ("SSA") has expressed its policy of issuing unrestricted social security numbers to E-2 spouses.[40] Children of E-2 visa holders remain eligible for E-2 dependent status while they remain under 21 and unmarried.[41] Dependents of E-2 visa holders do not have to have the nationality of the treaty country of the principal E-2 visa holder.[42]

Labor Disputes

Mexican and Canadian citizens may not be issued E-2 status if there is a strike or lockout in progress during a labor dispute in the occupational classification at the place or intended place of employment in the U.S., unless the visa applicant shows that his or her entry to the U.S. will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.[43]

Choosing to Extend or Apply for a Visa Renewal

In choosing to continue E-2 status, it is important to evaluate the travel needs, timing, and adjudicative issues relating to the two basic options available to continue E-2 status: (1) an application for an extension filed with USCIS for a two year period maximum; or (2) an application for a new visa at a DOS consular post abroad. There is no "extension" of E-2 visa status via an application to CBP for readmission on E-2 status that results in a new I-94. Counsel must evaluate the current policy of the particular consular post in question regarding E visa applications against the need for international travel by the E-2 visa holder. Further, E-2 extensions filed with USCIS carry risks as well regarding aberrant adjudications and extensive requests for evidence ("RFE"). Some consular posts place greater confidence in E cases in which USCIS has already approved an extension of E-2 status, while other posts place little value on such USCIS review.

Nonimmigrant Intent

Although E visa applicants must possess an intent to depart from the U.S. upon the termination of their period of authorized stay,[44] E-2 visa applicants are not specifically exempt from the application of §214(b) of the INA. An application for initial admission, change of status, or extension of stay for E status may not be denied solely on the basis of an approved request for permanent labor certification or a filed or approved immigrant visa petition.[45] The *Foreign Affairs Manual* states that an applicant for an E visa does not have to have a residence in a

[39] Pub. L. No. 107-124 (Jan. 16, 2002).
[40] SSA POMS AILA Doc. No. 06071465.
[41] 22 CFR §41.51(b)(3).
[42] *Id.*
[43] INA §214(j)(1) and 22 CFR §41.51(b)(14).
[44] 22 CFR §41.51(b)(1)(iii) and 8 CFR §214.2(e)(5).
[45] 8 CFR §214.2(e)(5).

foreign country which he or she does not intend to abandon.[46] In addition, an E-2 applicant may sell his or her residence abroad and move all household effects to the U.S.[47] A statement by the E-2 applicant/petitioner of his or her "unequivocal" intent to return to his or her home country is typically sufficient to establish compliance with the intention to depart the U.S. upon termination of E status.[48]

It is also important to remember that Mexican nationals may use their laser visas (B-1/B-2/BCC visas) in order to make a B-1 entry to consider potential investments in the U.S, but they cannot manage the day-to-day operations of a business using their laser visa/B-1.[49] When requesting admission to the U.S. requiring an I-94 to be issued by CBP or when requesting the issuance of the business visitor visa, the applicant should disclose his or her intention to seek investment opportunities in the U.S.

E Transition to Permanent Residence

Unfortunately, unlike the L-1 intracompany transferee nonimmigrant category, there is no mirror image of the E visa category in U.S. immigrant visa options. Many long term E nonimmigrants in small businesses are left with practically zero option to transition to permanent residence on a business basis. Certainly, the EB-5 category is available, but it contemplates minimal investment levels of $500,000.00 in either the individual or regional investment center contexts. In addition, from a labor certification perspective, if the employer for a labor certification is a closely held corporation or partnership in which the alien has an ownership interest, or if there is familial relationship between the stockholders, corporate officers, incorporators, or partners, and the foreign national; or if the foreign national is one of a small number of employees, then the employer is faced with the challenge of establishing the existence of a bonafide job opportunity.[50]

The first and second employment based preference categories provide limited options for self-employment. For example, in the first preference business category, no offer of employment is required if the investor exhibits extraordinary ability in business.[51] A self-petitioning applicant though in this category must establish that he or she is able to continue to work in his or her area of expertise in the U.S.[52] The second preference business category for those in positions requiring advanced degrees who hold advanced degrees and for foreign nationals of exceptional ability in business allows an exemption from labor certification for those whose work presents a national benefit so great as to be in the national interest.[53]

Prospects for the Future

Some legislators have recently introduced various legislative vehicles to try to provide a more realistic avenue for foreign investors to acquire permanent residence in the U.S. Senators John Kerry (Mass.) and Richard Lugar (Ind.) introduced S. 3029 on February 24, 2010, which is referred to as the "StartUp Visa Act of 2010." This proposed bill would provide a conditional

[46] 9 FAM 41.51 N15.
[47] *Id.*
[48] *Id.*
[49] 9 FAM 41.31 N 9.7.
[50] 20 CFR §656.17(l).
[51] INA §203(b)(1)(A).
[52] 8 CFR §204.5(h)(5)
[53] *See* 8 CFR §204.5(k).

permanent resident status to immigrant investors who receive at least $250,000.00 from a U.S. venture capitalist. Permanent residence would then be possible for those investors who employed at least five workers and reached $1 million in revenue within a year. Last year, on February 24, 2009, U.S. Representative Putnam introduced H.R. 1162, which is referred to as the "E-2 Nonimmigrant Investor Adjustment Act of 2009," which allows E-2 nonimmigrants who had held E-2 status for at least five years, invested at least $200,000.00 and created full-time employment for no fewer than two individuals (or five individuals after the third year in E-2 status) to seek adjustment of status to permanent residence. The American Bar Association ("ABA") has also recently addressed this dilemma. On August 9-10, 2010, the ABA's House of Delegates passed resolutions to urge Congress to enact laws providing an immigration classification to allow foreign nationals to form businesses and seek permanent resident status through such efforts. In particular this ABA resolution 300 supports the StartUp Visa Act of 2010. From a small business perspective, the E-2 Nonimmigrant Investor Adjustment Act is the more user and economy friendly approach.

These logical options though still face the comprehensive immigration reform gauntlet that all legislative fixes face with the patina of an immigration related point. Short-sightedness in this immigrant visa pathway area though is causing the U.S. to shoot itself in the foot during our economic downturn by not paving an easier road to U.S. permanent resident status for foreign investors creating jobs for U.S. workers.

Attachment A

9 FAM 41.51 Exhibit V - Suggested Document Checklist - For Applicants

The following is a list of suggested documentation that may establish and alien's eligibility for an E-1 or E-2 visa as described in 9 FAM 41.51 N1.1 and 9 FAM 41.51 N1.2. This is meant as a guide only and is not a list of required documentation. Other information and evidence may be submitted by the visa applicant to satisfy the consular officer that the alien meets the criteria described in 9 FAM 41.51 N1.1 or 9 FAM 41.51 N1.2.

Please tab and index your supporting documentation and note the corresponding tab number on this form. To facilitate and expedite adjudication of your case, please highlight corroborating figures in annual reports, financial statements, etc.

I. Proof of Nationality of Investor or Applicant

Birth Certificate __

Citizenship certificate __

Photocopy of passport __

Evidence of legal status in home country __

Other nationality documents __

II. Ownership Documents: (either A, B or C)

A. Sole Proprietorship: Tab No.

Shares/stock certificates __

Shares register indicating total and outstanding shares issued __

Minutes of annual shareholders meeting __

Other Evidence __

B. Partnership: Tab No.

Partnership or Joint Venture Agreement __

Shares/stock certificates indicating total shares issued and outstanding shares __

Other evidence __

C. Corporation: Tab No.

Shares/stock certificates indicating distribution of ownership, i.e., shares held by each firm and shares held by individual owners corporate matrix __

If publicly traded on the principal stock exchange of a treaty country, enclose a sample of recently published stock quotations __

Public announcement of corporate acquisition corporate chart showing head office and other subsidiary/branch locations in the U.S. __

Other evidence of ownership __

III. Trade: Tab No.

Purchase orders __

Warehouse/custom declarations __

Bills of lading __

Sales contracts/contracts for services __

Letters of credit __

Carrier inventories __

Trade brochures __

Insurance papers documenting commodities imported into the U.S. __

Accounts receivable & accounts payable ledgers __

Client lists __

Other documents showing international trade is substantial and that 51% of the trade is between U.S. and the treaty country __

IV. Investment: Tab No.

A. For an existing enterprise: (show purchase price)

Tax Valuation __

Market Appraisal __

B. For a New Enterprise: (show estimated start-up cost)

Trade Association Statistics __

Chamber of Commerce Estimates __

Market Surveys __

C. Source of Investment: Tab No.

Personal statement of net worth prepared by a certified accountant

Transactions showing payment of sold property or business (proof of property ownership and promissory notes) and rental income (lease agreements) __

Voided investment certificates or internal bank Vouchers and appropriate bank statement crediting proceeds __

Debit and credit advices for personal and/or business account withdrawals __

Audited financial statement __

Annual report of parent company __

Net worth statements from certificate professional accountants __

D. Evidence of Investment:

1. Existing Enterprise: **Tab No.**

Escrow __

Escrow account statement in the U.S. __

Escrow receipt __

Signed purchase agreement __

Closing and settlement papers __

Mortgage documents __

Loan documents __

Promissory notes __

Financial reports __

Tax returns __

Security agreements __

Assumption of lease agreement __

Business account statement for routine operations __

Other evidence __

2. New Enterprise: **Tab No.**

Inventory listing, shipment invoices of inventory, equipment or business related property __

Receipts for inventory purchases __

Canceled checks or official payment receipts for expenditures __

Canceled check for first month's rent or full annual advance rent payment __

Lease agreement __

Purchase orders __

Improvement expenses __

Initial business account statements __

Wire transfer receipts __

V. Marginally:

A. For Existing Business: Tab No.

U.S. corporate tax returns __

Latest audited financial statement or non-review statements __

Annual reports __

Payroll register __

W-2 and W-4 tax forms __

Canceled checks for salaries paid and/or corresponding payroll account __

B. For New Business: Tab No.

Payroll register, records of salaries paid to employees (if any), employee data including names, rates of pay, copies of W-2's __

Financial projections for next 5 years, supported by a thorough business plan __

Business income and corporate tax returns (proof of registration, ownership, audited financial and review engagements) __

VI. Real & Operating Commercial Enterprise: Tab No.

Occupational license __

Business license/business permits __

Sales tax receipt __

Utility/telephone bills __

Business transaction records __

Current/commercial account statements Letters of credit __

Invoices from suppliers __

Advertising leaflets __

Business brochures/promotional literature __

Newspaper clippings __

VII. Executive/Managerial/Supervisory/Essential Skills: Tab No.

Letter from E-2 enterprise providing specific information on the applicant and the reasons for his/her assignment to the U.S. The letter must explain the employee's role in the U.S. company (job title and duties), the applicant's executive or supervisory responsibilities or, if not a supervisor, his/her specialist role, the level of education and knowledge required by the employee's position, his employment experience, progression of promotion or high level training or special qualifications and the reasons why a U.S. citizen or legal permanent resident cannot fill the position (if the position is not managerial or supervisory) __

Letter from responsible official at U.S. company or office identifying the need for assigned employee. __

Organizational chart showing current staffing pattern at U.S. company __

Evidence of executive, supervisory or specialized knowledge, education, experience, skills or training, such as certificates, diplomas or transcripts. __