

# IMMIGRATION PLANNING: TOP 5 OPTIONS FOR MANUFACTURING COMPANIES TO HIRE FOREIGN NATIONALS

Insights

Apr 5, 2023

The manufacturing industry has been facing a significant skilled labor shortage for years, and the COVID-19 pandemic has only exacerbated this issue. With the industry in constant need of skilled workers, manufacturers often need to rely on foreign workers to fill critical roles. Of course, navigating the complex immigration process can be challenging, but a well-planned, long-term immigration strategy can help your company access this critical workforce. What are the top five options manufacturing companies have when hiring foreign nationals to fill key roles?

## 1. F-1 Visas for Recent Graduates of U.S. Universities

Manufacturers looking to hire foreign students who have recently graduated from U.S. universities will find they can easily access this new talent pool through the Optional Practical Training (OPT) program.

The OPT program allows foreign students under F-1 visas to work in the U.S. for up to 12 months after graduation. Very few limitations generally apply to the type of employers the student can work for during the OPT period, as long as the work is related to their field of study. For those with a science, technology, engineering, and mathematics (STEM) degree, the OPT program can be extended for another 24 months, making the total OPT work eligibility period three years, so long as the employer meets certain requirements and responsibilities, such as being enrolled in E-Verify.

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Although OPT is a great bridge, it is a temporary solution that does not necessarily provide a clear path to long-term work visas or green cards. Therefore, U.S. employers should plan ahead for other visa options in order to keep the foreign employee beyond the OPT program.

## **2. H-1B Visas for Specialty Occupations**

After OPT, the H-1B visa is one of the most common work visas for foreign professional employees. The H-1B visa allows U.S. employers to hire foreign workers with at least a bachelor's degree or the equivalent in a specialized field, such as engineering, science, technology, finance, or accounting. However, the H-1B program has a limited number of visas available each year, and the selection process for first time H-1B applicants can be highly competitive.

You should note that the registration period for new H-1B applications starts on March 1 each year, and employers that wish to enter an applicant for the program should plan well in advance of this date.

## **3. TN Visas for Canadian and Mexican Citizens**

Employees who are citizens of Canada or Mexico may have a better option through the TN visa. This visa permits such employees to work in certain professional fields in the U.S., and not all occupations require a bachelor's degree. Unlike the H-1B visa, the TN visa does not have a numerical limit and can be applied for at any time. In the manufacturing industry, the TN visa has been widely used for engineers, scientific technicians or technologists, and computer systems analysts.

## **4. L-1 Visas for Employees of Multinational Corporations**

For multinational corporations with operations outside of the U.S., L-1 visas can be used to transfer experienced foreign employees from their overseas offices to their U.S. operations. This is a useful option for companies that need to bring employees with managerial experience from abroad or with specific expertise about the company that is not readily available in the local labor market. To qualify, the foreign worker must have worked for at least one year for the U.S. employer's foreign parent, subsidiary, or affiliate. However, the foreign worker's nationality does not have to match the country where they gained the qualifying

experience. For example, a Chinese citizen who worked only for the U.S. employer's foreign affiliate in Canada for at least one year can be transferred to the U.S. under the L-1 visa provided that all other requirements are met.

## 5. Trainee Visas

Another less explored option for U.S. employers is the trainee visa. Although this visa is not intended for employment, it can be a great option for manufacturers that have specialized manufacturing processes or equipment requiring unique skills that are not readily available in the U.S. workforce.

By bringing in foreign workers for training under H-3 or J-1 trainee visas, manufacturers can provide an opportunity for foreign workers to gain valuable experience and training the U.S. in processes and techniques that are unique to the company. Trainee visas can also be particularly useful for manufacturers planning to expand their operations overseas. Once the foreign workers who are trained in the U.S. gain more than a year of experience with the company's foreign affiliate, they may also be eligible for the L-1 intracompany transferee visa discussed above.

## Conclusion

The skilled labor shortage in the manufacturing industry is a significant challenge that requires a comprehensive approach. By developing a long-term immigration plan, manufacturing companies can better access a global pool of skilled employees and secure the talent they need to succeed.

We will continue to monitor developments and provide guidance that matches your company's needs. Make sure you are subscribed to the [Fisher Phillips Insight System](#) to get the most up-to-date information. If you have further questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Immigration Practice Group](#).