

# OVERVIEW OF THE E-3



**MELTZER HELLRUNG**  
IMMIGRATION SOLUTIONS

## OVERVIEW OF THE E-3

The E-3 classification is for Australian citizens sponsored by companies working in occupations that require a bachelor's degree or higher in a specific field or fields. The sponsored employee must hold the relevant degree (or its equivalent) that is necessary to work in the sponsored occupation. The E-3 classification is similar to the H-1B.

Unlike the H-1B, an E-3 candidate can have an application adjudicated at either the USCIS or at a consulate outside the United States. Most individuals apply for E-3 visas outside the United States. The E-3 can be adjudicated at any U.S. consulate, not just those consulates located in Australia.

### THE JOB MUST MEET **ONE** OF THE FOLLOWING CRITERIA TO QUALIFY AS A SPECIALTY OCCUPATION:

- ⇒ Bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position
- ⇒ The degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree
- ⇒ The employer normally requires a degree or its equivalent for the position
- ⇒ The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree

The employer must also demonstrate there is sufficient work available for the candidate to perform.

Under the E-3 classification the sponsoring employer is required to pay at least the prevailing wage for the occupation in the geographic area where the employee will work, as certified by the Department of Labor.

**Period of Approval:** An E-3 approval is valid for up to two years. There is no limit on the number of times an E-3 visa can be issued or renewed.

**E-3 Transfer:** The E-3 is transferrable among U.S. employers. A new application is needed for each new E-3 employer. The employee cannot begin working until the new E-3 application is approved. Unfortunately, premium processing is not available for E-3 visas. For this reason, most employees submit E-3 applications at a consulate.

**E-3 Extension:** Employers can sponsor an extension of E-3 status at the USCIS up to six months ahead of the expiration of the current approval. The employee retains work authorization for up to 240 days past the expiration date while an extension is pending. An employee can apply for a new visa stamp at a U.S. consulate at any time.

**Eligibility for Green Card:** The E-3, unlike the H-1B, is a single intent visa. While employees in E-3 status can be sponsored for a green card, they are unable to travel outside the U.S. between the time an I-140 petition is filed and the time advance parole is issued.

## E-3 APPLICATION PROCESS

### 1 Employer opens a case with Meltzer Hellrung



IN ORDER TO GET STARTED, WE NEED THE FOLLOWING:

- Name of candidate
- Email address
- Job title and job description
- Offered salary
- Work location, including name of client if location is a third-party work site
- Resume

### 2 Meltzer Hellrung files a Labor Condition Application with the Department of Labor



The Department of Labor takes up to eight calendar days to certify the Labor Condition Application (“LCA”). The employer must also complete a public access file based on the filing of the Labor Condition Application. This public access file includes notifying employees of the filing of the LCA and keeping documentation available regarding how the offered wage was determined. Meltzer Hellrung will provide complete guidance regarding the public access file.

### 3 Meltzer Hellrung reaches out to the sponsored individual to complete an online questionnaire and provide the required documentation



We will email the candidate with instructions to complete this step.

### 4 Meltzer Hellrung drafts all necessary forms and letters to file the E-3 petition



We will send these forms to the employer and candidate for review. The employer may choose to share these draft documents with the candidate.

## 5 When all forms and letters have been finalized and all required documents have been provided Meltzer Hellrung will ship the completed petition



If the candidate is in the United States, we can also submit an E-3 dependent application for all dependents of the candidate. E-3 spouses are also eligible to apply for work authorization.

## 6 Governmental review of the E-3 petition



### Option 1: USCIS Review

Generally, the USCIS takes several months to review E-3 petitions. E-3 petitions are not eligible for premium processing service. USCIS may not immediately approve a petition. The USCIS may first issue a Request for Evidence (“RFE”) seeking additional information before issuing a final decision. Should an RFE be issued the USCIS provides about three months to respond. We will send clients a list of documents needed to respond to an RFE, should one be issued.

### Option 2: Consular Review

Once the application is completed, we will ship the application to the candidate, who can then schedule an appointment at a U.S. consulate. The candidate will take the completed application to the consulate and apply for the visa. The interview at the consulate typically takes 5–7 minutes. If the visa is approved the consulate will stamp the passport and return it to the candidate.

*Skip Step 7 and 8 under this option.*

## 7 Decision / Approval of E-3 petition



If the petition is approved, USCIS will send the official I-797 approval notice to Meltzer Hellrung’s office. We will forward that approval notice to the employer. If the candidate is already in the United States, that person’s status will typically automatically change to E-3.

If the petition is denied, we will discuss the options with the employer, including filing an appeal, motion, or refiling the petition. Motions and appeals must be submitted within 33 days of the denial.

## 8 Acquire visa stamp at local U.S. consulate or embassy



This step is only required for individuals who received E-3 status through a USCIS petition and is traveling abroad subsequently. Please note a consular appointment is not needed if the person is currently in the U.S. and a change of status is approved. The consular appointment will only be needed when the individual leaves the U.S. In order to enter the United States in E-3 status the candidate must acquire an E-3 visa stamp from the local consulate or embassy.

### TO DO SO, THE CANDIDATE MUST TAKE THE FOLLOWING STEPS:

- ⇒ File form DS-160 online at [ceac.state.gov/genniv](https://ceac.state.gov/genniv)
- ⇒ Pay consular fee
- ⇒ Schedule an appointment
- ⇒ Attend the appointment with the following documents
  - I-797 approval notice
  - Copy of E-3 petition sent to the USCIS
  - Passport
  - DS-160 confirmation
  - Two most recent pay stubs or employment verification letter

## 9 Enter U.S. and get I-94 from Customs and Border Protection



The I-94 is digital and can be found at [cbp.gov/i94](https://cbp.gov/i94).

## DOCUMENT REQUIREMENTS



Please note that we **do not** need originals of any documents for E-3 purposes. All documents should be scanned and uploaded to the candidate's Edge account.

### DOCUMENTS REQUIRED FROM EMPLOYERS:

- Signed forms
- Recent financial documents, such as tax return, audited financial statement, SEC 10-K filing, or profit and loss statement
- Marketing materials describing the company
- Employment contract with candidate (if applicable)
- Statement of work or client contract if candidate will be placed at a client's work site

### DOCUMENTS REQUIRED FROM ALL CANDIDATES:

- Diploma(s)
- Transcripts
- Education evaluation by professional evaluator if degree(s) were earned at educational institutions outside the U.S. Meltzer Hellrung LLC can help procure an appropriate evaluation if one is needed
- Translations of diploma(s) and transcripts if they are not in English
- Passport and current and prior visa stamps
- I-20 forms if candidate is/was a student in the United States
- EAD card(s) if candidate was ever issued an EAD
- I-797 approval notice if candidate previously had a visa application adjudicated by the USCIS
- DS-2019 if candidate was ever in J-1 status

### DOCUMENTS REQUIRED FROM CANDIDATES CURRENTLY IN THE UNITED STATES:

- I-94 found at [cbp.gov/i94](https://www.cbp.gov/i94)
- Last two pay stubs if candidate is currently employed

## DOCUMENT REQUIREMENTS (continued)



Please note that we **do not** need originals of any documents for E-3 purposes. All documents should be scanned and uploaded to the candidate's Edge account.

### DOCUMENTS REQUIRED FROM CANDIDATES CURRENTLY IN THE UNITED STATES AS A DEPENDENT:

- Spouse's passport
- Spouse's I-94
- Spouse's I-797 approval notice(s)
- Spouse's last two pay stubs
- Marriage certificate

### DOCUMENTS REQUIRED FOR E-3 VISAS FOR DEPENDENT SPOUSE AND CHILDREN UNDER 21:

- Passport for each person, including U.S. visa stamps
- I-94 for each person
- I-797 notices, if any
- EAD card, if any
- Marriage certificate for spouse
- Birth certificate for child

### DOCUMENTS REQUIRED FOR E-3 SPOUSE TO APPLY FOR WORK AUTHORIZATION:

- Passport, including U.S. visa stamps
- I-94
- I-797 notices, if any
- Prior EAD card, if any
- Marriage certificate
- Two passport photos