



## U.S. Immigration Benefits for Professional Translators and Interpreters

Linguists are an invaluable asset to the U.S.—a fact that has been recognized by the federal government, which offers preferential immigration treatment through the United States Citizenship and Immigration Services under certain circumstances.

**M**any foreign-born linguists working in the U.S. are unaware that they might be eligible to take advantage of immigration benefits offered by the federal government in recognition of their invaluable work to this country. Under certain circumstances, the federal government offers preferential immigration treatment through the United States Citizenship and Immigration Services (USCIS), the government agency that oversees lawful immigration to the United States. This means that foreign-born interpreters and translators may be eligible for H-1B Specialty Worker Visas, Green Cards with and without sponsors, or Special Immigrant Visas.

How does the process work? Co-written by an immigration attorney and a certified translator, this article explains the benefits and drawbacks of each program and how to pursue these immigration options.

### H-1B SPECIALTY WORKERS

H-1B visas, which are fairly well known, can be pursued by translators and interpreters of any nationality.<sup>1</sup> H-1Bs are “specialty worker visas” for foreign professionals with a degree or the equivalent (three years of experience is the equivalent of one year of higher education) who perform work that requires a related degree. For example, a medical publishing company might be

successful in petitioning for a translator who performs highly sophisticated or complex translations if the company normally requires its translators to have a degree. On the other hand, a doctor’s office that serves a multilingual population would not likely receive H-1B approval for its bilingual receptionist who does not have a degree or one related to translation.

There are 65,000 H-1B visas available per fiscal year, although USCIS generally runs out of them within a few days after applications are accepted on April 1 (six months before the start of the federal government’s next fiscal year). However, nonprofit research institutes and institutions of higher learning are usually not subject to the fiscal cap.

Prospective employers file a “Labor Condition Application” through the Department of Labor Employment and Training Administration’s “iCERT” portal—usually, but not necessarily, with the assistance of an immigration attorney.<sup>2</sup> In addition, the following information must be submitted to the USCIS Service Center with jurisdiction:

- Department of Homeland Security Form I-129 “Petition for a Nonimmigrant Worker”
- Proof of the linguist’s credentials
- A statement regarding the employer’s need for this employee

Approximately 225 H-1B visas were filed for the 2015–2016 fiscal year on behalf of translators and interpreters for positions in New York, California, Texas, Florida, and Illinois. Job titles ranged from “interpreter and translator” to “technical writer,” “editor,” and “author.”<sup>3</sup>

Adjudication can take anywhere from 15 days with premium processing (for a one-time \$1,225 filing fee) to several months without the expedite fee. The visa can be granted from abroad or from within the U.S. The H-1B is generally valid for up to six years, but there are stringent limitations. For instance, H-1B holders may work only for their petitioner, and the status does not lead to permanent residency or citizenship.

## Useful Links for Information on Immigration Benefits

### United States Citizenship and Immigration Services

Glossary of Terms  
[www.uscis.gov/tools/glossary](http://www.uscis.gov/tools/glossary)

### United States Citizenship and Immigration Services

National Interest Waiver Requirements  
<http://bit.ly/national-interest-waiver>

### United States Citizenship and Immigration Services

Naturalization Requirements Exceptions and Accommodations  
<http://bit.ly/USCIS-citizenship-exceptions>

### United States Department of Labor

H-1B, H-1B1 and E-3 Specialty (Professional) Workers  
[www.foreignlaborcert.doleta.gov/h-1b.cfm](http://www.foreignlaborcert.doleta.gov/h-1b.cfm)

### United States Department of Labor

iCERT Visa Portal System  
<https://icert.doleta.gov>

### United States Department of Labor

Program Electronic Review Management  
[www.foreignlaborcert.doleta.gov/perm.cfm](http://www.foreignlaborcert.doleta.gov/perm.cfm)

## EB-3/PERM

Employers may petition for Lawful Permanent Residency (the Green Card) for a translator or interpreter under the Employment Based Third Preference (EB-3), also known as Program Electronic Review Management (PERM).<sup>4</sup> This can be onerous and expensive for the employer, as it requires multiple recruitment steps that may only be paid by the employer. The PERM process is also lengthy, especially considering that the Department of Labor (DOL) and USCIS are involved.

PERMs first require the DOL to certify the offered wage—an online process that takes approximately three months. Once the wage is certified, the employer must place two Sunday classified ads with a newspaper of major circulation, an online posting for 30 days, and an in-house posting for 10 days. In all

likelihood, professional positions such as translators and interpreters will require two additional postings that can include a radio or professional trade journal ad, on-campus recruitment, or an in-house incentive program.

The labor certification application must be filed no less than 30 days, but no more than 180 days, after the last recruitment step. It can take 10 months to a year for the DOL to process such cases, during which time the applicant does not have immigration status. For that reason, the applicant may need to wait abroad or already possess temporary status, such as F-1 Student or H-1B, if filing from within the United States. If a case is certified and a visa is available, a full adjustment of case status may be submitted to the USCIS, where the file could take several additional months to process.

## EB-2/NATIONAL INTEREST WAIVERS

The Employment Based Second Preference (EB-2)—also known as the National Interest Waiver (NIW)—is a little known and not widely used immigration benefit.<sup>5</sup> Because many translators are independent contractors and/or work part-time, they are precluded from sponsoring themselves via the traditional PERM/EB-3 route. The NIW can lead to a Green Card and, potentially, U.S. citizenship, and does not require employer sponsorship. However, the legal standard is high, and cases can take anywhere from a few months to over a year to be resolved, especially for Chinese and Indian applicants. Premium processing is not available for these cases.

To file for an EB-2, the translator or interpreter should document possession of an advanced degree (which more than 25% of linguists possess) and/or three of the following factors:

- A college degree
- At least 10 years of experience
- Licensure
- A history of high remunerations
- Membership in a professional association
- Recognition of past achievements
- Comparable evidence may also be submitted (such as certification by a national body in lieu of licensure)

In addition, applicants must also prove that their work has substantial intrinsic merit, that the benefit they provide is national in scope, and that the national interest would be affected negatively if the case were denied.

The translator or interpreter may live and work legally in the U.S. while the case is pending, and he or she is not tied to a particular employer upon approval. One example of a previously approved case is a multilingual technical writer in the nuclear field who had a master's degree in rhetorical and communication theory. However, another application submitted by a bilingual counselor at a university was denied.

Those who receive residency via an employment-based route can file for U.S. citizenship after five years.

## SPECIAL IMMIGRANT VISAS

“Special Immigrant” Visas (SIVs) are available to Afghan and Iraqi translators or interpreters if they have worked directly for the U.S. Armed Forces or under the authority of the Chief of Mission for a period of at least one year at any time since October 7, 2001.<sup>6</sup> (The Iraqi Refugee Assistance project estimates that around 50,000 Iraqi and Afghan nationals have served as translators/interpreters over the past decade.) To qualify, an applicant must have experienced a serious threat due to their employment by the U.S. government and be otherwise eligible. A background check is required. The following documentation must be sent to the USCIS Nebraska Service Center:

- Department of Homeland Security Form I-360
- A favorable written recommendation from the U.S. officer for whom the translator or interpreter supported

Upon approval, a SIV is issued at a U.S. embassy or consulate abroad.

Special Immigrant Visa petitions can take months or years to process due to complex policies, heavy security screening, statutorily dictated timeframes, and the numerical restriction of 50 visas per year. If successful, special immigrants become lawful permanent residents upon arrival to the U.S., and may eventually become U.S. citizens. Their families may accompany

them and are not included in the fiscal cap. For more information, please see “Special Immigrant Visas (SIVs) for Iraqi and Afghan Translators/Interpreters,” on the website of the U.S. Department of State Bureau of Consular Affairs.<sup>7</sup>

## CAREFUL RESEARCH IS KEY

The immigration options available to foreign-born translators and interpreters are varied. Each has its own regulations, fees, and pros and cons. Professional translators and interpreters should explore their options carefully before filing for a U.S. immigration benefit. ●

## NOTES

- <sup>1</sup> “Understanding H1-B Requirements” (U.S. Citizenship and Immigration Services), <http://bit.ly/USCIS-H-1B-requirements>.
- <sup>2</sup> U.S. Department of Labor iCERT Visa Portal System, <https://icert.doleta.gov>.
- <sup>3</sup> 2015 H1-B Visa Reports: Interpreters and Translators, <http://bit.ly/H1-B-visas-translators-interpreters>.
- <sup>4</sup> EB-3—Program Electronic Review Management (U.S. Department of Labor), [www.foreignlaborcert.doleta.gov/perm.cfm](http://www.foreignlaborcert.doleta.gov/perm.cfm).
- <sup>5</sup> National Interest Waiver Requirements (U.S. Citizenship and Immigration Services), <http://bit.ly/national-interest-waiver>.
- <sup>6</sup> “Immigrant and Non-immigrant Visas Issued at Foreign Service Posts” (U.S. Department of State Bureau of Consular Affairs), <http://bit.ly/StateDepartment-visas-issued>.
- <sup>7</sup> “Special Immigrant Visas (SIVs) for Iraqi and Afghan Translators/Interpreters” (U.S. Department of State Bureau of Consular Affairs), <http://bit.ly/StateDepartment-SIVS>.

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## IN MEMORIAM

### GREGORY RABASSA, ATA GODE MEDALIST AND LEGENDARY TRANSLATOR March 9, 1922–June 13, 2016

(Note: The following is an excerpt from a piece published in *The New York Times* on June 14, 2016, <http://bit.ly/Rabassa>.)

Gregory Rabassa, 94, esteemed translator of Latin American writers Julio Cortazar, Vargas Llosa, Jorge Amado, and Gabriel García Márquez, died on June 13, 2016. Rabassa, a longtime ATA member, was the recipient of ATA’s Gode Medal (1980), the U.S. National Book Award for Translation (1967), the PEN Translation Prize (1977), and the National Medal of Arts (2006), among others.

Literary critics often cite Rabassa’s work, and particularly his English translation of Nobel Prize laureate Gabriel García Márquez’s *One Hundred Years of Solitude*, as playing a pivotal role in the Latin American literary movement of the 1960s. Márquez often praised Rabassa, saying he regarded the translation of *One Hundred Years of Solitude* as a work of art in its own right. “He’s the godfather of us all,” Edith Grossman, the acclaimed translator of *Don Quixote* and several of Márquez’s books, told *The Associated Press*. “He’s the one who introduced Latin American literature in a serious way to the English-speaking world.”

In 2001, Rabassa received a lifetime achievement award from the PEN American Center for contributions to Hispanic literature. He received a National Medal of Arts in 2006 for translations that “continue to enhance our cultural understanding and enrich our lives.”

Language was a lifelong fascination for Rabassa, whose father was Cuban and mother from New York City’s Hell’s Kitchen. He was born in Yonkers, New York, in 1922, and raised on a farm in Hanover, New Hampshire, near Dartmouth College, where he earned a bachelor’s degree in Romance languages.

He served as a cryptographer during World War II, later joking that in deciphering secret messages it was his job to change English into English.

After the war, Rabassa studied Spanish and Portuguese as a graduate student at Columbia University and translated



Gregory Rabassa with the manual typewriter he used to do his work. (Photo by Chester Higgins, Jr./*The New York Times*)

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Spanish- and Portuguese-language works for the magazine *Odyssey*. He broke into mainstream publishing in the 1960s when an editor at Pantheon Books asked him to translate Julio Cortazar’s *Hopscotch*, for which he won a National Book Award for translation in 1967. Around the same time, Márquez asked Rabassa to translate *One Hundred Years of Solitude*. Rabassa’s other translations included Márquez’s *The Autumn of the Patriarch*, Vargas Llosa’s *Conversation in the Cathedral*, and Jorge Amado’s *Captains of the Sand*.

Rabassa taught at Columbia University from the late 1940s to the late 1960s, when he joined the faculty of Queens College and the Graduate Center of the City University of New York. He retired in 2007. ●