

E-2 BUSINESS PLANS (CONSULATE)

February 2017

E-2 Requirements for Investors Applying from Overseas (from [9 FAM 402.9](#))

E-2 Treaty Investor visas are for citizens of countries with which the United States maintains treaties of commerce and navigation. An applicant can apply for an E-2 visa to come to the United States to develop and direct the operations of an enterprise in which the applicant has invested a substantial amount of capital.

A business plan is one form of evidence that can be used to help demonstrate that the E-2 applicant and E-2 enterprise meet program requirements.

Table 1. E-2 Requirements and Business Plan Content

E-2 Requirement	E-2 Requirement Detail	Business plan content to demonstrate eligibility
<i>Applicant must have invested or be actively in the process of investing</i>	<ul style="list-style-type: none"> The concept of investment connotes the placing of funds or other capital assets at risk, in the commercial sense, in the hope of generating a financial return. For the alien to be “in the process of investing”, the alien must be close to the start of actual business operations, not simply in the stage of signing contracts (which may be broken) or scouting for suitable locations and property. Mere intent to invest, or possession of uncommitted funds in a bank account, or even prospective investment arrangements entailing no present commitment, will not suffice. 	<ul style="list-style-type: none"> Business description describes a for-profit commercial venture Business description describes a suitable location already secured Financials show business capital costs that require the full amount of the E-2 investment Financials itemize capital expenditures already made Development schedule sets milestones and estimates the time before operations may commence
<i>Enterprise is a real and operating commercial enterprise</i>	<ul style="list-style-type: none"> The enterprise must be a real and active commercial or entrepreneurial undertaking, producing some service or commodity. It cannot be a paper organization or an idle speculative investment held for potential appreciation in value, such as undeveloped land or stocks held by an investor without the intent to direct the enterprise. The investment must be a commercial enterprise, and therefore it must be for profit, eliminating non-profit organizations from consideration. 	<ul style="list-style-type: none"> Business description describes a for-profit commercial venture Business description details the service or commodity offered Structure description indicates that the enterprise has been formed and is in good standing Market analysis demonstrates opportunity and feasibility Description of business history and schedule shows real activity
<i>Applicant’s investment is substantial</i>	<p>Investment of a substantial amount of capital for E-2 visa purposes constitutes an amount that is:</p> <ul style="list-style-type: none"> Substantial in proportion to the total cost of either purchasing an established enterprise, or creating the type of enterprise under consideration; 	<ul style="list-style-type: none"> Financials identify the amount and nature of E-2 investment Financials show the amount of qualifying funds invested and the cost of an established business or, if a newly created business, the actual cost needed

	<ul style="list-style-type: none"> • Sufficient to ensure the treaty investor's financial commitment to the successful operation of the enterprise; and • Of a magnitude to support the likelihood that the treaty investor will successfully develop and direct the enterprise. 	<p>to establish such a business to the point of being operational</p> <ul style="list-style-type: none"> • Financials reference third-party support for cost calculation (invoices, contracts, appraisals, industry standards, etc.) • Business description and management sections demonstrate that the investor is necessary for the success of the enterprise
<i>Investment is more than a marginal one solely for earning a living</i>	<ul style="list-style-type: none"> • A marginal enterprise is an enterprise that does not have the present or future capacity to generate more than enough income to provide a minimal living for the treaty investor and his or her family. An 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. 	<ul style="list-style-type: none"> • Financials show five-year pro forma income statement with positive net profit • Financials calculate break-even point and potential return on investment • Staffing section gives detail on employee positions and wages, illustrating the enterprise's economic contribution in terms of employment
<i>Applicant is in a position to develop and direct the enterprise</i>	<ul style="list-style-type: none"> • In all treaty investor cases, it must be shown that nationals of a treaty country own at least 50 percent of an enterprise. • If the applicant is the investor who is coming solely to develop and direct the enterprise, then the applicant must show that he or she controls or will control the enterprise. Normally such control is shown through at least 50 percent ownership by the applicant, but it can also be shown by possession of operational control (through a managerial position or other corporate device) or by other means. Note, however, that merely occupying a managerial position is not sufficient to meet this requirement if the applicant does not and will not control the enterprise. 	<ul style="list-style-type: none"> • Table of ownership percentages • Organizational structure chart • Job descriptions for managers, including applicant, showing allocation of management responsibilities and operational control

Table 2. Sample Business Plan Outline (E-2)

Business plan section	Key business plan content and objectives
<i>Company Description</i>	<ul style="list-style-type: none"> • Describe a for-profit commercial venture • Identify a business location already secured • Indicate that the enterprise has been formed and is in good standing

<i>Products and Services</i>	<ul style="list-style-type: none"> • Describe the current and future goods or services offered
<i>Market Analysis</i>	<ul style="list-style-type: none"> • Describe the market opportunity • Support the reasonableness of sales projections
<i>Development and Operations</i>	<ul style="list-style-type: none"> • Show the business development schedule • List milestones already reached and describe progress toward full operations • List the licenses and permits received
<i>Management and Organization</i>	<ul style="list-style-type: none"> • Show the investor's ownership and management participation via an organizational structure chart and table of ownership percentages • Demonstrate that the investor is necessary for the success of the enterprise
<i>Personnel Plan</i>	<ul style="list-style-type: none"> • Provide detail on employee positions and wages, illustrating the enterprise's economic contribution in terms of employment • Provide job descriptions • Outline the allocation of management responsibilities and operational control
<i>Development Costs and Capital Sources</i>	<ul style="list-style-type: none"> • Describe the cost to purchase or establish an operational business, referencing third-party support for cost calculations • Itemize capital expenditures already made • Identify the amount and nature of E-2 investment
<i>Financial Projections</i>	<ul style="list-style-type: none"> • Provide a 5-year pro forma income statement, as well as sales assumptions and evidence that the projections are reasonable • Show profit potential