

E-2 BUSINESS PLANS (US APPLICANTS)

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E-2 Requirements for Investors within the US (from [8 C.F.R. § 214.2\(e\)](#))

An immigrant may be classified as a non-immigrant treaty investor (E-2) if he or she has (1) invested or is actively in the process of investing a substantial amount of capital in a bona fide enterprise in the United States, and (2) is seeking entry solely to develop and direct the enterprise.

A business plan is one form of evidence that can be used to help demonstrate that the E-2 petitioner 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>Has invested or is actively in the process of investing</i>	<ul style="list-style-type: none"> • An investment is the treaty investor's placing of capital, including funds and other assets at risk in the commercial sense with the objective of generating a profit. • The capital must be subject to partial or total loss. • Capital in the process of being invested or capital that has been invested must be irrevocably committed to the enterprise. 	<ul style="list-style-type: none"> • Business description describes a for-profit commercial venture • Financials show business capital costs that require the full amount of the E-2 investment • Financials itemize capital expenditures already made
<i>a substantial amount of capital</i>	<p>A substantial amount of capital 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; • 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. Generally, the lower the cost of the enterprise, the higher, proportionately, the investment must be to be considered a substantial amount of capital. 	<ul style="list-style-type: none"> • Financials identify the amount and nature of E-2 investment • Financials describe the total cost of purchasing or establishing the enterprise, and they reference third-party support for the cost calculation
<i>in a bona fide enterprise in the United States (not a marginal enterprise)</i>	<ul style="list-style-type: none"> • The enterprise must be a real, active, and operating commercial or entrepreneurial undertaking that produces services or goods for profit. The enterprise must meet applicable legal requirements for doing business in the particular jurisdiction in the United States. • 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 	<ul style="list-style-type: none"> • Business description details the goods or services offered, and lists the licenses and permits received • Structure description indicates that the enterprise has been formed and is in good standing • Market analysis demonstrates opportunity and feasibility

	<p>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 income-generating capacity should generally be realizable within 5 years from the date the alien commences the normal business activity of the enterprise.</p>	<ul style="list-style-type: none"> • Five-year financial projections show profit and are backed by external sources • Description of history and schedule shows real activity • Staffing section gives detail on employee positions and wages, illustrating the enterprise's economic contribution in terms of employment
<p><i>Is seeking entry solely to develop and direct the enterprise</i></p>	<ul style="list-style-type: none"> • An alien seeking classification as a treaty investor must demonstrate that he or she does or will develop and direct the investment enterprise. Such an applicant must establish that he or she controls the enterprise by demonstrating ownership of at least 50 percent of the enterprise, by exercising operational control through a managerial position or other corporate device, or by other means. 	<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 E-2 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