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Chapter 3 - Documentation and Evidence

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A. Entrepreneur

1. Ownership

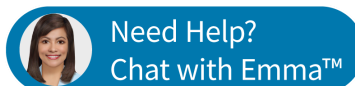
The entrepreneur applying for parole is required to have a substantial ownership interest in the start-up entity. USCIS considers at least 10 percent ownership interest to be substantial at the time of the adjudication of the initial grant of parole and 5 percent to be substantial at the adjudication of re-parole.^[1]

Relevant, probative, and credible evidence of ownership interest may include, but is not limited to:

- Organizational documents (such as articles of incorporation, bylaws, articles of organization, operating agreement, certificate of partnership, or partnership agreement);
- Equity purchase or grant agreements;
- Equity ledger;
- Equity certificates;
- Contracts;
- Bank records;
- Wire transfers; and
- Any other documentation establishing an ownership interest in the start-up entity.

2. Central and Active Role in a Start-up Entity

The applicant is required to have a central and active role in the start-up entity.^[2]



The applicant must provide a detailed and credible description of their central and active role in the start-up entity along with supporting evidence that may include, but is not limited to:

- A copy of the applicant's employment agreement with the start-up entity;
- Documentation from the start-up entity's other founders, the director of human resources, or another employee in a position that can attest to the applicant's role at the start-up entity;
- The applicant's position description; and
- Similar evidence that provides a detailed description of the applicant's central and active role in the start-up entity, including the day-to-day role the applicant is currently performing for the start-up entity.^[3]

3. The Applicant is Well-positioned to Substantially Assist with the Start-up Entity's Growth and Success

Within the applicant's central and active role, the applicant must be well-positioned, due to their knowledge, skills, or experience, to substantially assist the start-up entity with the growth and success of its business.^[4]

Relevant, probative, and credible evidence to demonstrate that the applicant satisfies this threshold may include, but is not limited to:

- The applicant's resume or curriculum vitae (CV);
- Letters from relevant government agencies, qualified investors, or established business associations with an understanding of the applicant's knowledge, skills, or experience that would advance the start-up entity's business;
- News articles or other similar evidence indicating that the applicant has received significant attention and recognition;
- Documentation showing that the applicant or start-up entity has been recently invited to participate in, is currently participating in, or has graduated from one or more established and reputable start-up accelerators;
- Documentation showing that the applicant has played an active and central role in the success of prior start-up entities or other relevant business entities;
- Degrees or other documentation indicating that the applicant has knowledge, skills, or experience that would significantly advance the start-up entity's business;
- Documentation pertaining to intellectual property of the start-up entity, such as a patent, that was obtained by the applicant or as a result of the applicant's efforts and expertise; and
- Similar evidence that the applicant is well-positioned, due to the applicant's knowledge, skills, and experience, to substantially assist the start-up entity with the growth and success of its business.

B. Start-up Entity

A start-up entity is a U.S. business entity that was recently formed (created within the 5 years immediately preceding the filing date of the application), has lawfully done business during any period of operation since its date of formation, and has substantial potential for rapid growth and job creation.^[5]

Evidence to demonstrate the company meets the definition of a start-up entity may include, but is not limited to:

- Organizational documents such as articles of incorporation, bylaws, articles of organization, operating agreements, certificates of partnership, partnership agreements, or other evidence of formation, as applicable;
- Tax records;
- Financial records; and
- Similar evidence that the start-up entity has lawfully done business during any period of operation since its date of formation.

The [Business Structures](#) overview provides more information on the most common business forms or structures, including information on formation, fundamental characteristics, and the tax forms submitted to the Internal Revenue Service.

C. Qualified Investment, Award, or Grant

1. Investment Option

If the applicant is using a qualified investment to demonstrate the start-up entity's potential for rapid growth and job creation, the applicant must provide evidence that a qualified investor is the source of the investment, as well as evidence of the amount and date of the investment in the start-up entity, rather than in a parent, subsidiary, affiliated, or related company.^[6]

Source of the Investment

If the investor is an individual, the applicant must submit evidence showing that the investor is a U.S. citizen or lawful permanent resident (LPR) of the United States. The applicant should submit a copy of a government-issued identity document showing the photograph, name, and date of birth of the investor, along with evidence showing that the investor is a U.S. citizen or LPR of the United States. The copy must clearly show the photo and identity information.

If the investor is an organization, such as a venture capital firm or other U.S. business investing in the start-up entity, the applicant must submit evidence that the organization operates through a legal entity organized under the laws of the United States. Such evidence may include, but is not limited to, organizational documents such as articles of incorporation, bylaws, articles of organization, operating agreement, certificate of partnership, or partnership agreement.

The applicant must also submit evidence showing that the investing organization is majority owned and controlled, directly and indirectly, by U.S. citizens or LPRs of the United States.^[7] Such evidence may include an ownership structure chart outlining the direct and indirect ownership of the organization together with evidence that the individuals ultimately owning and controlling a majority of the organization are U.S. citizens or LPRs of the United States. Many investment firms based in the United States, such as venture capital firms, have a wide range of funding from limited partners that vest control in U.S. citizen partners who manage and even control the fund.

While USCIS does not require the applicant to establish that at least 50 percent of the capital contributed to the fund is sourced from U.S. citizens or LPRs, in the venture capital firm context, the applicant must nevertheless show that the firm is majority owned and controlled, directly and indirectly, by U.S. citizens or LPRs.

To demonstrate the individual investor's or organization investor's successful track record of investment in start-up entities, the applicant must submit evidence such as, but not limited to, bank records, wire transfers, debt agreements, equity purchase agreements, equity certificates, equity ledgers, or capitalization tables.

To satisfy the job creation or revenue generation requirement, the applicant must submit documentation, such as tax records, payroll records, Employment Eligibility Verification ([Form I-9](#)) records, or audited financial statements.

Receipt of the Investment

The applicant must submit evidence that the start-up entity received the investment.^[8] Such evidence may include, but is not limited to:

- Equity purchase agreements;
- Convertible debt agreements;
- Equity certificates;
- Equity ledgers;
- Capitalization tables;
- Audited financial statements;
- Bank records;
- Wire transfers; and
- Other evidence that the investment is a purchase from the start-up entity of its equity, convertible debt, or other security convertible into its equity commonly used in financing transactions within such entity's industry.

These records must demonstrate the trail of lawfully derived capital from a qualified investor into the applicant's start-up entity. The records must demonstrate that the invested capital was used to purchase equity, convertible debt, or other security convertible into an equity interest in the applicant's start-up entity.

2. Government Award or Grant Option

If the applicant is using a qualified government award or grant to establish the start-up entity's substantial potential for rapid growth and job creation, the applicant must submit evidence to establish that the award or grant is for economic development, research and development, or job creation (or other similar monetary award typically given to start-up entities), made by a federal, state, or local government entity that regularly provides such awards or grants to start-up entities.^[9] Such evidence may include records such as:

- Copies of grant or award letters or notices;
- Other documentation from the government entity confirming the issuance of the award or grant, including the amount of the award or grant as well as the recipient;
- Information from news articles or websites demonstrating that the government entity regularly makes such awards or grants to start-up entities; and
- Similar evidence showing that a federal, state, or local government entity made a qualified government award or grant to the start-up entity, and that the government entity regularly makes such awards or grants to start-up entities.

3. Alternative Evidence Option

If the applicant provides sufficient evidence to demonstrate that they meet the regulatory definition of entrepreneur and that the entity meets the regulatory definition of a start-up but only partially meets the requirements for a qualified investment or a qualified award or grant, the applicant may provide other reliable and compelling evidence of the start-up entity's substantial potential for rapid growth and job creation.^[10]

In the final rule setting forth the criteria for the case-by-case evaluation of parole applications from entrepreneurs, DHS recognized that reliable and compelling evidence of the start-up entity's substantial potential for rapid growth may vary depending on the nature of the business and the industry in which it operates. Therefore, applicants providing other reliable and compelling evidence of the start-up entity's potential are not limited to certain types of evidence.^[11]

The preamble to the final rule, however, did recognize that non-monetary contributions and funding from non-U.S. sources are not considered as relevant or probative evidence.^[12]

Additional supporting evidence may include, but is not limited to:

- Number of users or customers;
- Revenue generated by the start-up entity;
- Additional investments or fundraising, including through crowdfunding platforms;
- Social impact of the start-up entity;
- National scope of the start-up entity;
- Positive effects on the start-up entity's locality or region;
- Success using alternative funding platforms, including crowdfunding platforms;^[13]
- The applicant's academic degrees, with an explanation of how the field relates to the start-up entity's focus;
- The applicant's prior success in operating start-up entities as shown by patented innovations, annual revenue, job creation, or other factors;
- Selection of the start-up entity to participate in one or more established reputable start-up accelerators or incubators; and
- Any other reliable and compelling evidence that the start-up entity has substantial potential for rapid growth and job creation.

D. Significant Public Benefit

In addition to meeting the investment, grant, or award criteria, the applicant should submit additional supporting evidence describing their start-up and demonstrating its substantial potential for rapid growth and job creation. Such supporting evidence may include:

- Evidence of investments from any investors (including those that do not meet the definition of qualified investor), or government awards or grants (including those that do not meet the definition of qualified government awards or grants). Such evidence could include bank records, wire transfers, equity purchase agreements, equity certificates, equity ledgers, or capitalization tables;
- Evidence of revenue generation;

- Letters from relevant government agencies, qualified investors, or established business associations with knowledge of the start-up entity’s research, products or services. Letters from the same organizations or individuals confirming that the applicant’s knowledge, skills, or experience would advance the start-up entity’s business;
- Newspaper articles or other similar evidence that the applicant or their start-up entity have received significant attention or recognition;
- Evidence that the applicant or their start-up entity have been recently invited to participate in, are currently participating in, or have graduated from one or more established and reputable start-up accelerators;
- Patent awards or other documents indicating that the applicant or their start-up entity are focused on developing new technologies or cutting-edge research;
- Evidence that the start-up entity is furthering the development of a critical and emerging technology or other science, technology, engineering, and math (STEM) area important to U.S. competitiveness;^[14]
- Evidence that the applicant has played an active and central role in the success of prior start-ups, such as letters from relevant government agencies, qualified investors, or established business associations with knowledge of the applicant’s prior start-up activities;
- Academic degrees or other documentation indicating that the applicant has the knowledge, skills, or experience that would significantly advance their start-up entity’s business;
- Tax or payroll records, I-9 records, or other documents indicating that the applicant’s start-up entity has created qualified jobs before the applicant filed for parole;
- Any other reliable evidence indicating the applicant’s start-up entity’s potential for growth and the applicant’s ability to advance their start-up entity’s business in the United States; or
- Any other evidence that a grant of parole would provide a significant public benefit to the United States based on the applicant’s role as the entrepreneur of a start-up entity, if the other listed evidence does not apply to the applicant’s entrepreneurial activities.

Footnotes

[^ 1] See [8 CFR 212.19\(a\)\(1\)](#).

[^ 2] See [8 CFR 212.19\(a\)\(1\)](#).

[^ 3] See [82 FR 5238, 5246 \(PDF\)](#) (Jan. 17, 2017).

[^ 4] See [8 CFR 212.19\(a\)\(1\)](#).

[^ 5] See [8 CFR 212.19\(a\)\(2\)](#).

[^ 6] See [8 CFR 212.19\(a\)\(5\)](#).

[^ 7] See [8 CFR 212.19\(a\)\(19\)](#).

[^ 8] See [8 CFR 212.19\(b\)\(2\)\(ii\)\(B\)\(1\)](#). For investment threshold amounts according to the application’s filing date, see Chapter 2, Requirements for Consideration, Section B, Qualified Investment or Government Award or Grant, Subsection 1, Investment Option [[3 USCIS-PM G.2\(B\)\(1\)](#)].

[^9] See [8 CFR 212.19\(a\)\(3\)](#).

[^10] See [8 CFR 212.19\(b\)\(2\)\(iii\)](#).

[^11] See [82 FR 5238, 5248 \(PDF\)](#) (Jan. 17, 2017).

[^12] See [82 FR 5238, 5249, 5251-52 \(PDF\)](#) (Jan. 17, 2017).

[^13] While the International Entrepreneur Rule does not exclude any type of funding source for purposes of alternative evidence, it limits the types of investment that will be considered a qualifying investment because the qualifying investment serves in part as an objective way to help ensure and validate that the start-up entity's activities will benefit the United States. See [82 FR 5238, 5251 \(PDF\)](#) (Jan. 17, 2017).

[^14] To identify a critical and emerging technology field, USCIS considers governmental, academic, and other authoritative and instructive sources, and all other evidence submitted by the applicant. One such governmental source is the [Critical and Emerging Technologies List Update \(PDF\)](#) published by the National Science and Technology Council.

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