

## BRAZIL

### Overview



- Business visitors to Brazil typically use the Temporary II Business Visa, valid for generally up to 90 days.
- Brazil has several different work authorization subcategories, all of which fall under the Temporary V Work category. The appropriate work authorization type will depend on the specific nature of the assignment to be performed in Brazil.
- The main work authorization category is the Work Contract Visa, which can be applied for abroad. There are minimum salary requirements. The authorization is valid for two years, after which the foreign national must apply for conditional permanence.

### Red Flags

- If a local employer attempts to bring a large foreign workforce to replace local workers (even if the Brazilian company manages to maintain specified quotas for Work Contract Visas), the Ministry of Labor will examine the applications under additional scrutiny and may even deny them. When a company intends to bring a large number of foreign nationals (e.g. to work as technicians on a project), scheduling a meeting with the Ministry of Labor is recommended to explain the need for the specific foreign workers in Brazil.
- Brazil's immigration rules are constantly changing, though immigration officials are striving to streamline the country's highly bureaucratic and complex process. There are frequent technology and system errors on the immigration offices' websites.
- Under the Work Contract Visa, the foreign national must enter into an employment contract with the Brazilian entity and be placed on local payroll. This is not the case for technical visas, in which case the foreign national must remain on home payroll.
- Especially during election years, Brazilian government workers tend to go on strike quite often, normally demanding higher salaries. When government entities are closed or only operating with limited staff, processing delays frequently result.
- Work visa renewals can take six to eight months to process; applications for permanent residence can take eight to twelve months to process.

### Business Travel

#### Name of Visa

Temporary II Business Visa ("Vitem II")

#### Allowable Activities

The following activities may be conducted as a business visitor provided that foreign nationals do not receive compensation from sources within Brazil (except for "per-diem" expenses):

- Attending internal and external meetings, discussions, "fact-finding" meetings, seminars or conferences;
- Undertaking sales or marketing activities, such as making sales calls to potential clients, provided the employee represents a commercial entity outside of Brazil;
- Meeting clients to discuss future projects or negotiate future contracts;
- House hunting; and
- Meeting employees of the company the foreign national will be working for in the future.

This non-comprehensive list is designed to provide basic information about allowable business visitor activities, is of a general nature and does not constitute legal advice. Immigration laws may change without notice, and there may be other allowable business visitor activities under certain circumstances. Please refer to your Business Visa Matrix assessment or ask your Fragomen immigration professional for information that meets your specific needs.

|   |  |
|---|--|
| <b>Business Visitor Restrictions</b>      | <p>Business travelers who engage in only allowable business activities may still require work authorization if any of the following conditions will apply to their trip. If any of these conditions apply, please contact your Fragomen representative for fact-specific guidance.</p> <ul style="list-style-type: none"> <li>• Being placed on the local company's payroll;</li> <li>• Receiving remuneration from the local company;</li> <li>• Signing an employment contract or otherwise establishing an employment relationship with the local entity; or</li> <li>• Making frequent, repeated business trips to the host country.</li> </ul>  |
| <b>Maximum Stay for Visitors</b>          | Generally 90 days.   |
| <b>Entering For Work</b>                  |  |
| <b>Short-Term Work Option</b>             | The 90-day Technical Visa is typically obtained for foreign nationals who will perform short-term technical activities and impart a certain level of training and expertise to Brazilian nationals.  |
| <b>Main Work Authorization Category</b>   | Work Contract Visa.  |
| <b>Total Application Lead Time</b>        | Generally, 71 to 90 days.  |
| <b>Process</b>                            | <p>The Work Contract Visa process takes place while the foreign national is abroad. No expedited processing option are available, and change of status from visitor to work authorized is not permitted.</p> <ul style="list-style-type: none"> <li>• A Brazilian corporate sponsor must prepare a work authorization application on behalf of the foreign national directly with the Brazilian Ministry of Labor.</li> <li>• Once approved, the approval is published in the Brazilian law journal (<i>Diário Oficial</i>), and the Ministry of Foreign Affairs sends an approval notice to the Brazilian consulate with jurisdiction over the foreign national's country of citizenship or legal residence.</li> <li>• Once the consulate receives the approval notice, the foreign national must submit a visa application. The exact requirements and processing times for the consular visa application typically vary among the different Brazilian consulates.</li> </ul> |
| <b>Quotas/Ratios</b>                      | The Brazilian company cannot have a workforce comprised of more than 1/3 foreign employees. Also, the salaries of these foreign employees cannot exceed 1/3 of the Brazilian company's total payroll.  |
| <b>Labor Market Tests</b>                 | None.  |
| <b>Required Employment Relationship</b>   | The Brazilian company must execute a work contract with the foreign national employee. The Brazilian company must also be duly registered with the Brazilian Federal Revenue Services and demonstrate that all corporate income taxes have been paid. The company must pay employees through local payroll.  |
| <b>Minimum Salary Requirements</b>        | <ul style="list-style-type: none"> <li>• The foreign national's salary must be comparable to what a Brazilian national would earn in a similar position.</li> <li>• Total salary must be equal to or higher than the salary earned by the foreign national abroad</li> <li>• For intracompany transfers: split salaries are allowed, but at least a portion of the salary must be paid in Brazil</li> </ul>  |
| <b>Work Authorization Validity Period</b> | Maximum of two years initially; must apply for conditional permanent residence thereafter.   |

|  |  |
|--|--|
| <b>Cost (Gov't)</b>                    | USD 170-370 (fees vary by applicant's nationality)   |
| <b>Accompanying Family Members</b>     | <ul style="list-style-type: none"> <li>• Long-term, unmarried partners (opposite- or same-sex) may be eligible for spousal status on a discretionary basis.</li> <li>• Children under the age of 18 (in limited circumstances, children between the ages of 18-21)</li> </ul>  |
| <b>Workplace Language</b>              | Portuguese   |
| <b>Penalties for Noncompliance</b>     |  |
| <b>Penalties for Employers</b>         | Brazilian companies may be subject to fines of 2,484 Brazilian Reais (BRL) for each foreign national they employ without proper work authorization. Repeated violations can result in fines of up to BRL12,420. Brazilian companies may also be fined for failing to register their foreign employees, and the concerned employees may lose their work visas.  |
| <b>Penalties for Foreign Nationals</b> | Foreign nationals who violate the terms of their stay are subject to cancellation of their visa and immediate deportation. In addition, foreign nationals who intend to work and reside in Brazil may be barred from re-entering Brazil in the future if they fail to register with the Federal Police within 30 days of arrival to Brazil. Foreign nationals who remain in Brazil beyond the permitted period of stay will be fined BRL 8.28 per day, payable on departure. The maximum fine is BRL 827.75. |

The information contained herein is current as of June 2014. It is offered for informational purposes only and does not constitute legal advice or give rise to an attorney-client relationship between you and our firm. The information: (i) must be regarded as a practical guide for general information and not a process guide for determining the specific immigration requirements of the countries covered, (ii) should not be a substitute for a more in-depth analysis of applicable facts and circumstances (including, without limitation, criminal or health-related circumstances) conducted by competent professionals, and (iii) does not represent an opinion from Fragomen or any of its agents with regard to the laws of any of the jurisdictions concerned. The information herein does not guarantee the outcome or approval of any particular immigration application. These materials are subject to copyright by our firm with all rights reserved and shall not be disclosed in whole or in part in any form to any third party absent Fragomen's advance written consent.