



MID-JUNE 2016 IMMIGRATION UPDATE

Posted on June 21, 2016 by Cyrus Mehta

Headlines:

1. [House Holds Hearing on H-2B Temporary Foreign Worker Program](#) – Sen. Chuck Grassley (R-Iowa) noted, among other things, that according to USCIS statistics, as of June 2, 2016, the agency had already approved petitions for 12,727 returning H-2B workers, "with 1,171 potential additional returning workers in the pipeline."
2. [State Dept. Releases DV-2017 Results](#) – Approximately 83,910 applicants have been registered and notified and may now apply for an immigrant visa. Applicants registered for the DV-2017 program were selected at random from 12,437,190 qualified entries (19,344,586 with derivatives).
3. [EB-4 Visa Limits Reached for Special Immigrants From Mexico](#) – Starting July 1, 2016, applicants from Mexico who filed Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on or after January 1, 2010, will not be able to obtain an immigrant visa or adjust status until new visas become available.
4. [USCIS Clarifies CW-1 Extension of Stay Petitions](#) – USCIS clarified that although extension of stay petitions for current CW-1 workers are counted toward the CW-1 cap, these petitions will be accepted under certain circumstance.

Details:

1. House Holds Hearing on H-2B Temporary Foreign Worker Program

The U.S. House of Representatives held a hearing on June 8, 2016, entitled "The H-2B Temporary Foreign Worker Program: Examining the Effects on Americans' Job Opportunities and Wages." Testifying were Michael Cunningham, Executive Director and Secretary/Treasurer, Texas State Building and Construction Trade

Council; Meredith Stewart, Staff Attorney, Southern Poverty Law Center; Daniel Costa, Director of Immigration Law and Policy Research, Economic Policy Institute; Stephen G. Bronaers, Partner, Edgeworth Economics; and Steven A. Camarota, Director of Research, Center for Immigration Studies. Presiding was Sen. Chuck Grassley (R-Iowa).

Sen. Grassley noted, among other things, that according to statistics from U.S. Citizenship and Immigration Services (USCIS), as of June 2, 2016, the agency had already approved petitions for 12,727 returning H-2B workers, "with 1,171 potential additional returning workers in the pipeline." That's a potential total, so far, of 13,898 returning workers this fiscal year, he noted. "That number exceeds by almost 75% the Congressional Budget office's estimate of only 8,000 H-2B returning workers this fiscal year," Sen. Grassley said.

The American Immigration Lawyers Association (AILA) released a related statement. AILA President Victor Nieblas Pradis noted, "The H-2B visa program is capped at 66,000 visas per year, and that numerical cap has not once been changed since the visa category was established in 1990, despite changing market demands. Small and seasonal businesses seek qualified American workers to fill seasonal or temporary short-term positions, but when those positions remain unfilled, U.S. employers need the H-2B program to meet their business demands. I very much hope that the hearing today gives a fair shake to this vital program." He added, "Ultimately, however, what would best meet the needs of the U.S. economy is a real essential worker visa, one that would allow a sufficient number of these workers to come to the U.S. and would include an opportunity to apply for permanent status if they so desired. We hope that today's hearing will bring Congress closer to understanding the critical need for a workable essential worker visa."

Sen. Grassley's statement and witness testimony are at <http://www.judiciary.senate.gov/meetings/the-h-2b-temporary-foreign-worker-program-examining-the-effects-on-americans-job-opportunities-and-wages>.

AILA's statement is at <http://www.aila.org/advo-media/press-releases/2016/statement-h-2b-temp-worker-program-hearing>.

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2. State Dept. Releases DV-2017 Results

The Department of State's Visa Bulletin for July 2016 includes the diversity visa lottery 2017 (DV-2017) results.

The bulletin notes that the Kentucky Consular Center in Williamsburg, Kentucky, has registered and notified the winners of the DV-2017 diversity lottery. Approximately 83,910 applicants have been registered and notified and may now apply for an immigrant visa. Because it is likely that some of the first 50,000 persons registered will not pursue their cases to visa issuance, the State Department noted, this larger figure should ensure that all DV-2017 numbers will be used during fiscal year 2017 (October 1, 2016, until September 30, 2017).

The bulletin explains that applicants registered for the DV-2017 program were selected at random from 12,437,190 qualified entries (19,344,586 with derivatives) received during the application period that ran from October 1, 2015, until November 3, 2015. The visas have been apportioned among six geographic regions with a maximum of seven percent available to persons born in any single country.

During the visa interview, principal applicants must provide proof of a high school education or its equivalent, or show two years of work experience in an occupation that requires at least two years of training or experience within the past five years. Those selected will need to act on their immigrant visa applications quickly, the bulletin notes. Applicants should follow the instructions in their notification letters.

Registrants living legally in the United States who wish to apply for adjustment of status must contact U.S. Citizenship and Immigration Services for information on the requirements and procedures. Once the visa numbers have been used, the program for fiscal year 2017 will end. Selected applicants who do not receive visas by September 30, 2017, will derive no further benefit from their DV-2017 registration. Similarly, spouses and children accompanying or following to join DV-2017 principal applicants are only entitled to derivative diversity visa status until September 30, 2017.

Dates for the DV-2018 program registration period will be widely publicized in the coming months. Those interested in entering the DV-2018 program should check the Department of State's Visas webpage at <https://travel.state.gov/content/visas/en.html>.

The Visa Bulletin for July 2016 includes a chart showing the statistical

breakdown by foreign-state chargeability of those registered for the DV-2017 program. See

<https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-july-2016.html>.

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3. **EB-4 Visa Limits Reached for Special Immigrants From Mexico**

The Department of State's Visa Bulletin for July 2016 reflects a final action date of January 1, 2010, for EB-4 visas for special immigrants from Mexico. This means that starting on July 1, 2016, applicants from Mexico who filed Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on or after January 1, 2010, will not be able to obtain an immigrant visa or adjust status until new visas become available.

Mexico has reached its EB-4 visa limit as congressionally mandated for fiscal year 2016, which ends September 30. Information on EB-4 visa availability for fiscal year 2017 will appear in the Department of State's October Visa Bulletin, which will be published this September.

EB-4 visas are for special immigrants. These are individuals who may be eligible for lawful permanent resident status based on specific classifications, including Special Immigrant Juvenile (SIJ).

The following are details on what this action means to EB-4 applicants from Mexico:

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. Petitioners from any country, including Mexico, may continue to file an I-360. There is no annual limit on the number of I-360 petitions USCIS may approve.

Form I-485, Application to Register Permanent Residence or Adjust Status. The final action date is January 1, 2010. This final action date will become effective July 1. USCIS will accept all properly filed I-485 submissions under the EB-4 classification until **June 30, 2016**, and will continue to adjudicate applications while visas remain available.

For those who file Form I-485 under the EB-4 classification **on or after July 1, 2016**:

- USCIS will process and make a decision on the I-485 **only** if the applicant

filed his or her I-360 petition before January 1, 2010, and the I-360 is ultimately approved.

- USCIS will reject and return other I-485 applications but will continue to process I-360 petitions (even if submitted together with an I-485 that gets rejected).

For EB-4 applicants from other countries, as of July 1, 2016, there is a final action date of January 1, 2010, for special immigrant applicants for adjustment of status from El Salvador, Guatemala, and Honduras. Applicants from El Salvador, Guatemala, and Honduras should refer to Employment-Based Fourth Preference (EB-4) Visa Limits Reached for Special Immigrants from El Salvador, Guatemala, and Honduras. See

<https://www.uscis.gov/news/employment-based-fourth-preference-eb-4-visa-limits-reached-special-immigrants-el-salvador-guatemala-and-honduras>.

The announcement is at

<https://www.uscis.gov/news/alerts/employment-based-fourth-preference-eb-4-visa-limits-reached-special-immigrants-mexico>. The Visa Bulletin is at <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>.

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4. USCIS Clarifies CW-1 Extension of Stay Petitions

U.S. Citizenship and Immigration Services (USCIS) announced on May 20, 2016, that it had received a sufficient number of petitions to reach the numerical limit (cap) of 12,999 workers who may be issued CW-1 visas or otherwise provided with CW-1 status for fiscal year (FY) 2016. May 5 was the final receipt date for CW-1 worker petitions requesting an employment start date before October 1, 2016. USCIS subsequently clarified that although extension of stay petitions for current CW-1 workers are counted toward the CW-1 cap, these petitions will be accepted under certain circumstances.

All CW-1 workers are subject to the cap **unless** the worker has already been counted toward the cap in the same fiscal year. The U.S. government's fiscal year begins on October 1 and ends the following September 30.

If CW-1 workers were already counted toward the CW-1 cap for FY 2016, meaning that their previous employment start dates were on or after October 1, 2015, their employers can file a petition to change employer or extend CW-1

status in FY 2016, even though the FY 2016 CW-1 cap was reached on May 5, 2016.

Additionally, USCIS said it is currently accepting CW-1 petitions requesting employment start dates on or after October 1, 2016, which are counted toward the FY 2017 CW-1 cap.

USCIS encourages CW-1 employers to file a petition for a CW-1 nonimmigrant worker up to 6 months in advance of the proposed employment start date, and as early as possible within that time frame. USCIS said it will reject a petition filed more than 6 months in advance.

The notice is at

<https://www.uscis.gov/news/alerts/clarification-cw-1-extension-stay-petitions>.

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