



MAY 2017 IMMIGRATION UPDATE

Posted on May 1, 2017 by Cyrus Mehta

Headlines:

1. [President Trump Signs 'Buy American and Hire American' Executive Order](#) – Among other things, the order calls for the Secretaries of State, Labor, and Homeland Security, along with the Attorney General, to "propose new rules and issue new guidance, to supersede or revise previous rules and guidance if appropriate," to protect U.S. workers in the administration of the immigration system, "including through the prevention of fraud or abuse."
2. [Congress Extends EB-5 Regional Center Program for a Week](#) – USCIS will continue to accept Form I-526 petitions based on investments through EB-5 regional centers through May 5, 2017.
3. [USCIS Says Employers Should Review Form I-9s for SSN Glitch](#) – Employers who used Form I-9, Employment Eligibility Verification, downloaded between November 14 and November 17, 2016, should review the forms to ensure that their employees' Social Security numbers appear correctly in Section 1.
4. [Redesigned Green Cards, EADs To Be Issued Beginning May 1](#) – The redesigns use enhanced graphics and fraud-resistant security features.
5. [Visa Bulletin for May Discusses Expiration, Imminent Unavailability of Certain Visa Categories](#) – Several visa categories are due to expire or become unavailable soon.
6. **Firm In The News...**

Details:

1. **President Trump Signs 'Buy American and Hire American' Executive Order**

On April 18, 2017, President Donald Trump signed a "Buy American and Hire American" executive order. The order sets the policy of the executive branch as, among other things, rigorously enforcing and administering laws governing entry into the United States of workers from abroad. The order also calls for new rules and guidance to "protect the interests of United States workers."

Among other things, the order calls for the Secretaries of State, Labor, and Homeland Security, along with the Attorney General, to "propose new rules and issue new guidance, to supersede or revise previous rules and guidance if appropriate," to protect U.S. workers in the administration of the immigration system, "including through the prevention of fraud or abuse."

The order also calls for reforms "to help ensure that H-1B visas are awarded to the most-skilled or highest-paid petition beneficiaries." U.S. Citizenship and Immigration Services (USCIS) recently released a policy memorandum changing guidance on the H-1B specialty occupation designation for computer programmers.

President Trump announced the executive order during a visit to Snap-On Tools in Wisconsin on April 18. He said, "The 'Buy and Hire American' order I'm about to sign will help protect workers and students like those of you in the audience today. This historic action declares that the policy of our government is to aggressively promote and use American-made goods and to ensure that American labor is hired to do the job. It's America first, you better believe it." He said the order declares that "Made in America content" will be maximized in all federal projects, and that U.S. trade agreements will be investigated accordingly. He said that "widespread abuse" in the U.S. immigration system "is allowing American workers of all backgrounds to be replaced by workers brought in from other countries to fill the same job for sometimes less pay. This will stop." That includes, he said, "taking the first steps to set in motion a long-overdue reform of H-1B visas." He said that H-1B visas are currently awarded in "a totally random lottery" but that instead "they should be given to the most-skilled and highest-paid applicants, and they should never, ever be used to replace Americans." President Trump also said the North American Free Trade Agreement (NAFTA) "has been very, very bad for our country," and that his administration was going to "make some very big changes" or "get rid of NAFTA for once and for all."

The order is at

<https://www.whitehouse.gov/the-press-office/2017/04/18/presidential-executive-order-buy-american-and-hire-american>. A related press statement is at <https://www.whitehouse.gov/the-press-office/2017/04/18/president-trump-promotes-buy-american-and-hire-american>. A White House "Background Briefing" on the executive order is at <https://www.whitehouse.gov/the-press-office/2017/04/17/background-briefing-buy-american-hire-american-executive-order>. The USCIS memo on computer programmers is at <https://www.uscis.gov/sites/default/files/files/nativedocuments/PM-6002-0142-H-1BComputerRelatedPositionsRecission.pdf>.

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2. Congress Extends EB-5 Regional Center Program for a Week

The U.S. Congress passed a one-week stopgap funding bill to prevent a government shutdown and the expiration of the EB-5 regional center program. The continuing resolution will keep the U.S. federal government open through May 5, 2017, and U.S. Citizenship and Immigration Services will continue to accept Form I-526 petitions based on investments through EB-5 regional centers through that date.

It is unclear whether Congress will be able to resolve outstanding issues related to EB-5 program reform by May 5. It is possible that Congress will pass another continuing resolution extending funding until a later date. Stay tuned.

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3. USCIS Says Employers Should Review Form I-9s for SSN Glitch

U.S. Citizenship and Immigration Services (USCIS) announced on April 17, 2017, that employers who used Form I-9, Employment Eligibility Verification, downloaded between November 14 and November 17, 2016, should review the forms to ensure that their employees' Social Security numbers appear correctly in Section 1. The agency said there was a glitch when the revised I-9 was first published on November 14, 2016, whereby numbers entered in the Social Security number field "were transposed when employees completed and printed Section 1 using a computer. For example, the number 123-45-6789 entered in the Social Security number field would appear as 123-34-6789 once the form printed." USCIS said employers using an I-9 that contains this glitch

should download and save a new I-9 at uscis.gov/i-9.

USCIS also said that employers who notice that their employees' Social Security numbers are not written correctly "should have their employees draw a line through the transposed Social Security number in Section 1, enter the correct Social Security number, and then initial and date the change." Employers should include a written explanation with the I-9 about why the correction was made.

USCIS said it immediately repaired and reposted the form on November 17, 2016.

The announcement is at <https://www.uscis.gov/i-9-central/whats-new>.

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4. Redesigned Green Cards, EADs To Be Issued Beginning May 1

U.S. Citizenship and Immigration Services announced a redesign of the Permanent Resident Card ("green card") and the Employment Authorization Document (EAD) as part of the "Next Generation Secure Identification Document Project." USCIS began issuing the new cards on May 1, 2017. The redesigns use enhanced graphics and fraud-resistant security features.

The new green cards and EADs:

- Display the individual's photos on both sides
- Show a unique graphic image and color palette:
 - Green cards will have an image of the Statue of Liberty and a predominately green palette (green cards also will no longer have an optical stripe on the back)
 - EAD cards will have an image of a bald eagle and a predominately red palette
- Have embedded holographic images
- No longer display the individual's signature

Some green cards and EADs issued after May 1, 2017, may still display the existing design format because USCIS will continue using existing card stock until current supplies are depleted. Both the existing and the new green cards and EADs will remain valid until the expiration date shown on the card.

Certain EADs held by individuals in temporary protected status (TPS) and other

designated categories have been automatically extended beyond the validity date on the card. For additional information on which EADs are covered, see [https://www.uscis.gov/humanitarian/temporary-protected-status#Automatic%20Employment%20Authorization%20Document%20\(EAD\)%20Extension](https://www.uscis.gov/humanitarian/temporary-protected-status#Automatic%20Employment%20Authorization%20Document%20(EAD)%20Extension) and <https://www.uscis.gov/working-united-states/automatic-employment-authorization-document-ead-extension>.

USCIS noted that some older green cards do not have an expiration date; such cards remain valid. The agency said that individuals who have such cards may want to consider applying for a replacement card bearing an expiration date. "Obtaining the replacement card will reduce the likelihood of fraud or tampering if the card is ever lost or stolen," USCIS noted.

The announcement is at

<https://www.uscis.gov/news/news-releases/uscis-will-issue-redesigned-green-cards-and-employment-authorization-documents>.

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5. Visa Bulletin for May Discusses Expiration, Imminent Unavailability of Certain Visa Categories

Several visa categories are due to expire or become unavailable soon. The Department of State's Visa Bulletin for May 2017 includes the following information:

Scheduled Expiration of Two Employment Visa Categories

Employment Fourth Preference Certain Religious Workers (SR):

Pursuant to the continuing resolution signed on December 10, 2016, the non-minister special immigrant program expires on April 28, 2017. No SR visas may be issued overseas, or final action taken on adjustment of status cases, after midnight April 27, 2017. Visas issued prior to this date will only be issued with a validity date of April 27, 2017, and all individuals seeking admission as a non-minister special immigrant must be admitted (repeat, admitted) into the U.S. no later than midnight April 27, 2017.

The final action date for this category has been listed as "Unavailable" for May. If there is legislative action extending this category for FY-2017, the final action date would immediately become "Current" for May for all countries except El Salvador, Guatemala, Honduras, and Mexico which

would be subject to a July 15, 2015 final action date.

Employment Fifth Preference Categories (I5 and R5):

The continuing resolution signed on December 10, 2016 extended this immigrant investor pilot program until April 28, 2017. The I5 and R5 visas may be issued until close of business on April 28, 2017, and may be issued for the full validity period. No I5 or R5 visas may be issued overseas, or final action taken on adjustment of status cases, after April 28, 2017.

The final action dates for the I5 and R5 categories have been listed as "Unavailable" for May. If there is legislative action extending them for FY-2017, the final action dates would immediately become "Current" for May for all countries except China-mainland born I5 and R5 which would be subject to a June 1, 2014 final action date.

Special Immigrant Visa Availability

The Department expects to exhaust the Special Immigrant Visas allocated by Congress under the Afghan Allies Protection Act of 2009, as amended, not later than June 1, 2017. As a result, the Final Action Date for the SQ category for certain Afghan nationals employed by or on behalf of the U.S. government in Afghanistan will become "Unavailable" effective June 2017. No further interviews for Afghan principal applicants in the SQ category will be scheduled after March 1, 2017, and further issuances will not be possible after May 30, 2017.

The SQ category for certain Iraqi nationals employed by or on behalf of the U.S. government in Iraq is not affected and remains current, though the application deadline was September 30, 2014.

The FY-2017 annual limit of 50 Special Immigrant Visas in the SI category was reached in December 2016 and the Final Action Date remains "Unavailable." As included in the January 2017 Visa Bulletin, further issuances in the SI category will not be possible until October 2017, under the FY-2018 annual limit.

The May 2017 Visa Bulletin is at

<https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2017/visa-bulletin-for-may-2017.html>.

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6. **Firm In The News**

Cyrus Mehta was a Speaker on *Ethics Lecture*, organized by the New York Legal Assistance, Group, New York, NY, April 20, 2017.

Cyrus Mehta was quoted in "H-1B Briefing at White House Highlights Infosys, TCS, Cognizant Outsize Role in Lottery," published by Firstpost on April 23, 2017. Regarding the Trump administration's comparisons and assertions about H-1Bs driving down U.S. wages, Mr. Mehta noted that "techie in Wisconsin and a techie in Silicon Valley will not be earning the same; there will be a difference. Additionally, a very senior-level H-1B worker in Wisconsin may be earning less than a junior-level person in Silicon Valley. They're not factoring in regional differences," he said. The article is at

<http://www.firstpost.com/world/h1b-briefing-at-white-house-highlights-infosys-tcs-cognizant-outsize-role-in-lottery-3399158.html>. Mr. Mehta also spoke in a wide-ranging discussion on H-1B visas. A video of that conversation is at <https://www.facebook.com/firstpostin/videos/1419298931463091/>.

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