



IMMIGRATION UPDATE - JUNE 23, 2022

Posted on June 23, 2022 by Cyrus Mehta

Headlines:

[USCIS Transfers Certain H-1B Petitions to California Service Center](#) – Certain H-1B petitions and fiscal year 2023 H-1B cap petitions awaiting intake at the Vermont Service Center are being transferred to the California Service Center for data entry and adjudication.

[DHS, DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits](#) – The Secretaries of Homeland Security and State, in consultation with the Attorney General, announced three new exemptions that can be applied on a case-by-case basis.

[OFLC Announces 60-Day Public Comment Period on Prevailing Wage Application Forms](#) – The Department of Labor's Office of Foreign Labor Certification announced a 60-day public comment period relating to "proposed minor revisions" to the Application for Prevailing Wage Determination information collection.

[USCIS Announces 30-Day Public Comment Period on Proposed Revisions to Premium Processing Service Request Form](#) – U.S. Citizenship and Immigration Services announced a 30-day public comment period relating to proposed revisions to Form I-907, Request for Premium Processing Service.

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USCIS Transfers Certain H-1B Petitions to California Service Center

Certain H-1B petitions and fiscal year (FY) 2023 H-1B cap petitions awaiting

intake at the Vermont Service Center (VSC) are being transferred to the California Service Center (CSC) for data entry and adjudication. U.S. Citizenship and Immigration Services (USCIS) said it is transferring those cases "in response to the H-1B receipt issuance delays at the VSC."

USCIS said, "Please allow time for the CSC to process the transferred cases and do not submit duplicate petitions out of concern that your previous submission did not arrive or has been misplaced. If your petition is transferred, you will not receive a transfer notice, but you will receive a receipt notice as soon as your petition is receipted. Petitions will be worked to completion at the CSC once transferred. For inquiries about case status, please use the petition receipt number."

The agency said that receipt issuance delays continue "in other workloads across some service centers. We are actively trying to reduce these delays."

Petitions should continue to be filed based on the addresses provided on the [Direct Filing Addresses for Form I-129, Petition for a Nonimmigrant Worker](#) page, USCIS said.

Details:

- USCIS alert, June 16, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-transfers-certain-h-1b-petitions-to-the-california-service-center>

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DHS, DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits

The Secretaries of Homeland Security and State, in consultation with the Attorney General, announced three new exemptions that can be applied on a case-by-case basis to ensure that Afghans who would otherwise be eligible for the benefit or protection they are seeking are not automatically denied. Among other things, the exemptions will "ensure that individuals who have lived under Taliban rule, such as former civil servants, those required to pay service fees to the Taliban to do things like pass through a checkpoint or obtain a passport, and those who fought against the Taliban are not mistakenly barred because of overly broad applications of terrorism-related inadmissibility grounds (TRIG) in our immigration law," a Department of Homeland Security (DHS) media release

said.

DHS Secretary Alejandro Mayorkas said that "doctors, teachers, engineers, and other Afghans, including those who bravely and loyally supported U.S. forces on the ground in Afghanistan at great risk to their safety, should not be denied humanitarian protection and other immigration benefits due to their inescapable proximity to war or their work as civil servants." He said the exemptions will "allow eligible individuals who pose no national security or public safety risk to receive asylum, refugee status, or other legal immigration status, demonstrating the United States' continued commitment to our Afghan allies and their family members." Secretary of State Antony Blinken said the Department of State remains "committed to our Afghan allies and processing Special Immigrant Visa applications as expeditiously as possible, while always protecting our national security."

DHS said the new exemptions "may" apply to:

- Afghans who supported U.S. military interests, specifically Afghan allies who fought or otherwise supported those who fought in the resistance movement against the Taliban and Afghans who took part in the conflict against the Soviet occupation of Afghanistan.
- Individuals employed as civil servants in Afghanistan at any time from September 27, 1996, to December 22, 2001, or after August 15, 2021. This could include teachers, professors, postal workers, doctors, and engineers, among others. It does not include individuals who held high-level positions, worked for certain ministries, or directly assisted violent Taliban activities or activities in which the individual's civil service was motivated by an allegiance to the Taliban.
- Individuals who provided insignificant or certain limited material support to a designated terrorist organization. This could apply in limited circumstances where the support is incidental to a routine social or commercial transaction; incidental to certain humanitarian assistance; provided in response to a reasonably perceived threat of physical or economic harm, restraint, or serious harassment; and where the support provided is considered minimal and inconsequential. Due to the Taliban's presence and control of entities, roads, and utilities, many individuals who lived in Afghanistan needed to interact with the Taliban in ways that, absent such an exemption, render them inadmissible to the United States

under U.S. law, DHS said.

Details:

- DHS news release, June 14, 2022, <https://www.uscis.gov/newsroom/all-news/dhs-and-dos-announce-exemptions-allowing-eligible-afghans-to-qualify-for-protection-and-immigration>

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OFLC Announces 60-Day Public Comment Period on Prevailing Wage Application Forms

The Department of Labor's Office of Foreign Labor Certification (OFLC) announced a 60-day public comment period relating to "proposed minor revisions" to the Application for Prevailing Wage Determination information collection. The information collection "ensures employers provide information about their job opportunities and terms of employment necessary to determine prevailing wages," OFLC explained.

OFLC is seeking a three-year approval of the information collection and related retention requirements associated with the Form ETA-9141, Application for Prevailing Wage Determination; Form ETA-9141, General Instructions; Form ETA-9141, Appendix A, Request for Additional Worksite(s); Form ETA-9165, Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OES Survey; and Form ETA-9165, General Instructions.

Written comments must be submitted by August 15, 2022, in accordance with the instructions provided in the notice.

Details:

- OFLC media release, June 14, 2022, <https://www.dol.gov/agencies/eta/foreign-labor>
- "Agency Information Collection Activities for Prevailing Wage Determination Information Collection," OFLC notice, 87 Fed. Reg. 35999 (June 14, 2022).

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USCIS Announces 30-Day Public Comment Period on Proposed Revisions to Premium Processing Service Request Form

U.S. Citizenship and Immigration Services (USCIS) announced a 30-day public comment period relating to proposed revisions to Form I-907, Request for Premium Processing Service. The information collection notice was previously published on March 30, 2022, allowing for a 60-day public comment period. USCIS received eight comments and is extending the comment period for an additional 30 days.

Written comments must be submitted by July 15, 2022, in accordance with the instructions provided in the notice.

Details:

- "Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Premium Processing Service," USCIS notice, 87 Fed. Reg. 36140 (June 15, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-06-15/pdf/2022-12877.pdf>

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Cyrus Mehta was the Discussion Leader on a panel entitled *Lessons Learned from the Great Downgrade Rush of 2020* at the 2022 American Immigration Lawyers Annual Conference and Webcast on Immigration Law in New York on June 14, 2022.

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