CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - SEPTEMBER 06, 2022

Posted on September 6, 2022 by Cyrus Mehta

Headlines:

USCIS Announces Push to Use as Many Employment-Based Green Cards as Possible by September 30 – The overall employment-based annual limit for immigrant visas in FY 2022 is approximately twice as high as usual, primarily due to consular closures abroad during the COVID-19 pandemic. U.S. Citizenship and Immigration Services said it is "dedicated to ensuring we use as many available employment-based visas as possible in FY 2022," which ends on September 30, 2022.

DHS Implements, Expands Work Authorization for Liberian DED – The Department of Homeland Security is providing employment authorization, including procedures for obtaining related documentation, for covered individuals effective June 27, 2022, through June 30, 2024.

USCIS Updates Guidance on Religious Workers – For both special immigrant and R-1 nonimmigrant religious worker petitions, the update clarifies the circumstances under which certain related petitioners may meet compensation requirements even if the attesting employer will not directly compensate the religious worker.

USCIS Resumes Cuban Parole Program Operations – U.S. Citizenship and Immigration Services is resuming operations under the Cuban Family Reunification Parole program, beginning with pending applications.

OFLC Receives Labor Dept. Award to Modernize Permanent Labor Certification Program – The Department of Labor's (DOL) Office of Foreign Labor Certification was awarded a $7.2 million investment from the DOL's Technology Modernization Fund.

ABIL Global: Colombia – **There is a new regime for visa procedures and**

processing.

Details:

Back to Top

USCIS Announces Push to Use as Many Employment-Based Green Cards as Possible by September 30

U.S. Citizenship and Immigration Services (USCIS) announced that the overall employment-based annual limit for immigrant visas in fiscal year (FY) 2022 is approximately twice as high as usual, primarily due to consular closures abroad during the COVID-19 pandemic. USCIS said it is "dedicated to ensuring we use as many available employment-based visas as possible in FY 2022," which ends on September 30, 2022.

USCIS explained that the annual limit for employment-based immigrant visa use in FY 2021 was 262,288, nearly double the typical annual total. Overall, USCIS and the Department of State (DOS) combined to use 195,507 employment-based immigrant visas in FY 2021. DOS issued 19,779 employment-based immigrant visas, and USCIS used 175,728 employment-based immigrant visas through adjustment of status, more than 52% higher than the average before the pandemic. Despite agency efforts, 66,781 visas went unused at the end of FY 2021, USCIS said. DOS has determined that the FY 2022 employment-based annual limit is 281,507 (slightly more than double the typical annual total) due to unused family-based immigrant visa numbers from FY 2021 being allocated to the current fiscal year's available employment-based green cards. Through July 31, 2022, the two agencies have combined to use 210,593 employment-based immigrant visas (FY 2022 data is preliminary and subject to change). USCIS approved more than 10,000 employment-based adjustment of status applications in the week ending August 14, 2022, and DOS continues its high rate of visa issuance as well, USCIS noted.

Among other things, USCIS noted (emphasis in original):

If your underlying petition is approved and a visa is available to you, but you know that your previously filed Form I-485 does not have a valid Form I-693, Report of Medical Examination and Vaccination Record, **we recommend you visit a civil surgeon and have a valid Form I-693 on hand** when we send the request to you. This is particularly important if you recently received a notice

that your application was transferred from a USCIS service center to a USCIS field office and you know your application does not have a valid Form I-693. If you are a noncitizen with pending adjustment of status applications, do **not** send an unsolicited Form I-693 to us.... The "60-day rule," which has been temporarily waived, does not apply to Forms I-693 signed by the civil surgeon after you have filed Form I-485.

Details:

- "Fiscal Year 2022 Employment-Based Adjustment of Status FAQs," USCIS, updated Aug. 26, 2022, https://www.uscis.gov/green-card/green-card-processes-and-procedures/fiscal-year-2022-employment-based-adjustment-of-status-faqs

Back to Top

DHS Implements, Expands Work Authorization for Liberian DED

The Department of Homeland Security (DHS) plans to provide employment authorization for certain individuals covered by Liberian Deferred Enforced Departure (DED).

Through a notice to be published in the Federal Register on September 6, 2022, DHS is providing work authorization, including procedures for obtaining related documentation, for covered individuals effective June 27, 2022, through June 30, 2024. DHS is automatically extending the validity of DED-based employment authorization documents (EADs) bearing a Category Code of A-11 and a "Card Expires" date of March 30, 2020, January 10, 2021, or June 30, 2022, through June 30, 2024. The notice provides instructions for DED-eligible individuals, including on how to apply for EADs and for travel authorization.

Eligible individuals include noncitizens who are Liberian nationals, or individuals having no nationality who last habitually resided in Liberia, regardless of country of birth, who were covered by DED as of June 30, 2022; as well as to Liberian nationals, or individuals having no nationality who last habitually resided in Liberia, regardless of country of birth, who have been continuously physically present in the United States since May 20, 2017. They must meet all eligibility criteria.

Details:

- Advance copy of DHS Federal Register notice, https://www.govinfo.gov/content/pkg/FR-2022-09-06/pdf/2022-19207.pdf
- USCIS news release, Sept. 2, 2022, https://www.uscis.gov/newsroom/news-releases/uscis-extends-and-expands-employment-authorization-for-individuals-covered-by-ded-for-liberia
- Memorandum on Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians, June 27, 2022, https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/27/memorandum-on-extending-and-expanding-eligibility-for-deferred-enforced-departure-for-liberians/

Back to Top

USCIS Updates Guidance on Religious Workers

U.S. Citizenship and Immigration Services (USCIS) has issued policy guidance to reorganize and expand on existing guidance related to special immigrant and nonimmigrant religious workers.

For both special immigrant and R-1 nonimmigrant religious worker petitions, the update clarifies the circumstances under which certain related petitioners may meet compensation requirements even if the attesting employer will not directly compensate the religious worker.

The update also reorganizes the special immigrant religious worker guidance in the USCIS Policy Manual for clarity and provides more comprehensive information about the special immigrant religious worker filing process, verification of evidence, and site inspection process.

Details:

- USCIS alert, Aug. 30, 2022, https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-related-to-religious-workers

Back to Top

USCIS Resumes Cuban Parole Program Operations

U.S. Citizenship and Immigration Services (USCIS) is resuming operations under the Cuban Family Reunification Parole (CFRP) program, beginning with pending

CFRP program applications.

The CFRP program, established in 2007, allows certain eligible U.S. citizens and lawful permanent residents who receive an invitation letter to apply for parole for their family members in Cuba. If USCIS approves these family members for parole, they may come to the United States before their immigrant visa priority dates become current. CFRP processing was suspended due to a significant drawdown in U.S. government personnel from U.S. Embassy Havana for security reasons in 2017 and the closure of the USCIS field office in Havana in 2018.

Details:

- USCIS alert, Sept. 1, 2022, https://www.uscis.gov/newsroom/alerts/uscis-resumes-cuban-family-reunification-parole-program-operations
- USCIS information letter, https://www.uscis.gov/sites/default/files/document/web-content/SampleCFRPProgamInformationLetter.pdf

Back to Top

OFLC Receives Labor Dept. Award to Modernize Permanent Labor Certification Program

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) announced that it was awarded an investment from the DOL's Technology Modernization Fund (TMF). The $7.2 million TMF investment "will improve DOL's permanent labor certification services, helping to increase efficiency, improve customer experience, and address fraud and security risks overall," TMF said.

Brian Pasternak, Administrator, Office of Foreign Labor Certification, said, "By integrating the permanent labor certification process into the Foreign Labor Application Gateway, which uses Login.gov, we will make it easier, faster, and cheaper for employers to access permanent labor certification services and create a more seamless immigrant visa processing experience." Gundeep Ahluwalia, DOL's Chief Information Officer, said, "The Department has developed a close working relationship with the TMF with past TMF awards and appreciates the opportunity to build technologies that ease the burden on U.S.

employers."

Details:

- OFLC notice, Aug. 24, 2022, https://www.dol.gov/agencies/eta/foreign-labor
- "TMF Invests in Improving Public-Facing Services, Bolstering Cybersecurity," General Services Administration, Aug. 3, 2022, https://bit.ly/3xhJMcf

Back to Top

ABIL Global: Colombia

There is a new regime for visa procedures and processing.

On July 22, 2022, the Ministry of Foreign Affairs issued Resolution 5477 regarding the procedural, administrative, and processing aspects of visas in Colombia. The resolution is effective October 20, 2022.

Among other things, the resolution provides for a digital nomad visitor visa. The resolution also creates an Internationalization Promotion Visa, for foreigners with a master's, doctorate, or postdoctorate degree in basic or applied sciences, engineering, mathematics, or related fields, whose profiles meet Colombia's priorities or contribute to the adoption and/or adaptation of technologies that strengthen Colombia's competitiveness. Although the Technical Assistance Visitor Visa will be valid for up to two years, the stay is limited to 180 continuous or discontinuous days in 365 days counted from issuance of the visa. The Resident Investor Visa will disappear, and a foreigner will need to apply for a Migrant Visa and be able to apply for a Resident Visa on the basis of accumulated time. The resolution also creates a Seasonal Agricultural Worker Visitor Visa, and regroups student visas into a single category, the Visitor Visa for Students.

Details:

- "15 Things You Should Know About the New Regime Applicable to Visas in Colombia," Tannus & Asociados, https://tannus.co/en/15-things-you-should-know-about-the-new-regime-applicable-to-visas-in-colombia/

Back to Top