



IMMIGRATION UPDATE - JANUARY 09, 2023

Posted on January 9, 2023 by Cyrus Mehta

Headlines:

[USCIS Issues Proposed Rule to Raise Fees and Fund Asylum Program With New \\$600 Employer Petition Fee](#) – The Department of Homeland Security also proposes to fund the asylum program with a controversial new Asylum Program Fee of \$600 to be paid by employers.

[DHS Implements New Processes for Cubans, Haitians, and Nicaraguans and Eliminates Cap for Venezuelans](#) – The Department of Homeland Security (DHS) announced a new process for qualifying Cubans, Haitians, and Nicaraguans with U.S.-based supporters to travel by air to and temporarily reside in the United States. Such individuals may also apply for work authorization. DHS also eliminated the numerical cap for a similar process for Venezuelans announced previously.

[OFLC Completes Random Assignments of H-2B Applications for Second Half of FY 2023 Visa Cap](#) – The Department of Labor's Office of Foreign Labor Certification has completed the process to randomly assign all H-2B applications submitted during the initial three-day filing window, January 1-3, 2023, requesting an April 1, 2023, work start date for the second half of the fiscal year 2023 H-2B statutory visa cap.

[Omnibus Spending Legislation Includes Several Immigration-Related Provisions](#) – Included is \$800 million in competitive grants under a new U.S. Customs and Border Protection "Shelter and Services" program for state and local governments and nonprofits dealing with an influx of migrants.

[U.S. Embassy in Havana Resumes Full Immigrant Visa Processing](#) – On January 4, 2023, the U.S. Embassy in Havana resumed full immigrant visa processing, including all visa categories. The embassy also announced that the United

States is expanding consular operations in Havana and restarting the Cuban Family Reunification Parole Program.

[ABIL Global: Mexico](#) – Mexico has introduced a new online process for the multi-purpose immigration form.

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USCIS Issues Proposed Rule to Raise Fees and Fund Asylum Program With New \$600 Employer Petition Fee

U.S. Citizenship and Immigration Services (USCIS) published a proposed rule on January 4, 2023, to raise fees. The Department of Homeland Security (DHS) also proposes to fund the asylum program with a controversial new Asylum Program Fee of \$600 to be paid by employers who file either a Form I-129, Petition for a Nonimmigrant Worker, or Form I-140, Immigrant Petition for Alien Worker. DHS said it has determined "that the Asylum Program Fee is an effective way to shift some costs to requests that are generally submitted by petitioners who have more ability to pay, as opposed to shifting those costs to all other fee payers." This new \$600 fee would be in addition to processing fees for those petitions.

USCIS said it "cannot maintain adequate service levels with the effects of the budget cuts and its current level of spending without lasting impacts on operations." The proposed rule states that if USCIS fees are not adjusted, "USCIS processing times and backlogs will not improve."

The proposed changes include, among others, incorporating biometrics costs into the main benefit fee and removing the separate biometrics fee; requiring separate filing fees for Form I-485, Application to Register Permanent Residence or Adjust Status, and associated Form I-131, Application for Travel Document (advance parole), and Form I-765, Application for Employment Authorization; establishing separate fees for Form I-129 by nonimmigrant classification; revising the premium processing timeframe interpretation from calendar days to business days; and creating lower fees for forms filed online.

The proposed fee hikes include, among others:

- **Application for Employment Authorization – Online**, from current \$410 to new \$555

- **Application for Employment Authorization – Paper**, from current \$410 to new \$650
- **Application for Employment Authorization – Online and Paper** (with biometric services), from current \$495 to new \$650
- **H-1B Pre-Registration Fee**, from current \$10 to proposed \$215
- **I-129 Petition for a Nonimmigrant Worker: H-1 Classifications**, from current \$460 to proposed \$780
- **I-129 Petition for L Nonimmigrant Worker**, from current \$460 to proposed \$1,385
- **I-129 Petition for O Nonimmigrant Worker**, from current \$460 to proposed \$1,055
- **I-140 Immigrant Petition for Alien Worker**, from current \$700 to proposed \$715
- **H-2A Petition – Named Beneficiaries**, from current \$460 to proposed \$1,090
- **H-2A Petition – Unnamed Beneficiaries**, from current \$460 to proposed \$530
- **H-2B Petition – Named Beneficiaries**, from current \$460 to proposed \$1,080
- **H-2B Petition – Unnamed Beneficiaries**, from current \$460 to proposed \$580
- **I-526 Immigrant Petition by Standalone Investor**, from current \$3,675 to proposed \$11,160
- **Immigrant Petition by Regional Center Investor**, from current \$3,675 to proposed \$11,160
- **Application for Regional Center Designation**, from current \$17,795 to proposed \$47,695
- **I-485 Application to Register Permanent Residence or Adjust Status (with biometric services)**, from current \$1,225 to proposed \$1,540

Comments on the proposed rule are due by March 6, 2023. USCIS will hold a public engagement session on January 11, 2023, from 2 to 3:30 p.m. ET. For more information or to register, see

<https://www.uscis.gov/outreach/upcoming-national-engagements/uscis-virtual-listening-session-on-proposed-rule-to-adjust-certain-immigration-fees>.

Details:

- Proposed rule, 88 Fed. Reg. 402 (Jan. 4, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-01-04/pdf/2022-27066.pdf>
- USCIS news release, Jan. 3, 2023.
<https://www.uscis.gov/newsroom/news-releases/uscis-issues-proposed-rule-to-adjust-certain-immigration-and-naturalization-fees>
- Proposed Fee Rule Frequently Asked Questions, USCIS,
<https://www.uscis.gov/proposed-fee-rule-frequently-asked-questions>

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DHS Implements New Processes for Cubans, Haitians, and Nicaraguans and Eliminates Cap for Venezuelans

The Department of Homeland Security (DHS) announced a new process, effective January 6, 2023, for certain qualifying Cubans, Haitians, and Nicaraguans with U.S.-based supporters to travel by air to and temporarily reside in the United States. Such individuals may also apply for work authorization. DHS also eliminated the numerical cap for a similar process for Venezuelans announced previously.

Under the new process, qualifying nationals of Cuba, Haiti, and Nicaragua who are outside the United States and lack U.S. entry documents can be considered, on a case-by-case basis, for advance authorization to travel to the United States and seek a temporary period of humanitarian parole for up to two years if they:

- Have a supporter in the United States who will provide financial and other support;
- Undergo and clear "robust security vetting";
- Meet other eligibility criteria; and
- Warrant a favorable exercise of discretion.

DHS said it "strongly encourages Cubans, Haitians, Nicaraguans, and Venezuelans seeking entry in the U.S. who do not have and are not eligible for a visa to instead seek entry via this process, as this will be the safest and most effective way to pursue a temporary stay in the United States. Individuals complete the process electronically and should not approach the border to access this process."

U.S.-based individuals may submit Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, on behalf of named nationals

of Cuba, Haiti, or Nicaragua. Neither the U.S. supporter nor the beneficiary must pay the U.S. government a fee for the Form I-134A or participation in this process, DHS said.

Implementation of changes to the parole process for Cubans, Haitians, Nicaraguans, and Venezuelans, effective January 6, 2023, is expected to be announced in notices to be published in the Federal Register on January 9, 2023. DHS began using the Form I-134A for these processes on January 6, 2023.

Details:

- USCIS alert, Jan. 6, 2023.
<https://www.uscis.gov/newsroom/alerts/dhs-implements-new-processes-for-cubans-haitians-and-nicaraguans-and-eliminates-cap-for-venezuelans>
- "Processes for Cubans, Haitians, Nicaraguans, and Venezuelans" page, USCIS. <https://www.uscis.gov/CHNV>
- Form I-134A, Online Request to be a Supporter and Declaration of Financial Support. <https://www.uscis.gov/i-134a>
- "Implementation of changes to the parole process for [Venezuelans](#), [Haitians](#), [Nicaraguans](#), and [Cubans](#), DHS, Jan. 9, 2023 (advance copies).

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OFLC Completes Random Assignments of H-2B Applications for Second Half of FY 2023 Visa Cap

The Department of Labor's Office of Foreign Labor Certification (OFLC) has completed the process to randomly assign all H-2B applications submitted during the initial three-day filing window, January 1-3, 2023, requesting an April 1, 2023, work start date for the second half of the fiscal year 2023 H-2B statutory visa cap.

OFLC received a total of 8,693 H-2B applications requesting 142,796 worker positions during this filing period (between January 1-3, 2023). This was an increase from 2022, when it received a total of 7,875 H-2B applications covering 136,555 worker positions. The agency said it will provide written notification to employers (and the employer's authorized attorney or agent) with their H-2B Assignment Group. On January 9, 2023, OFLC will also publish on its website the list of the H-2B applications assigned to each Assignment Group.

Details:

- OFLC Conducts Randomization Process on H-2B Applications Submitted Requesting an April 1, 2023, Work Start Date," OFLC, Jan. 4, 2023.
<https://www.dol.gov/agencies/eta/foreign-labor>

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Omnibus Spending Legislation Includes Several Immigration-Related Provisions

The Consolidated Appropriations Act, 2023 (H.R. 2617, Public Law No. 117-328, Dec. 29, 2022) includes various immigration-related provisions, such as \$800 million in competitive grants under a new U.S. Customs and Border Protection "Shelter and Services" program for state and local governments and nonprofits dealing with an influx of migrants, to help cover the costs of supportive services to migrants, like shelter, transportation, food, first aid, and COVID-19 testing; an extension of the Special Immigrant Visa program, which primarily benefits Afghans, through 2024; millions of dollars in enhancements to border security technology and enforcement; \$133 million to meet the refugee admissions goal of 125,000 for fiscal year 2023; and a new grant program to provide "humanitarian assistance that bolsters the operational capabilities of the U.S. Border Patrol."

Details:

- Text of H.R. 2617.
<https://www.appropriations.senate.gov/imo/media/doc/JRQ121922.PDF>
- Explanatory statements and bill summaries.
<https://www.appropriations.senate.gov/news/majority/chairman-patrick-leahy-d-vt-releases-fiscal-year-2023-omnibus-appropriations-bill>
- Department of Homeland Security explanatory statement.
<https://www.appropriations.senate.gov/imo/media/doc/Division%20F%20-%20Homeland%20Statement%20FY23.pdf>
- "Federal Spending Bill to Include \$800 Million in Grants for Cities Dealing With Migrant Crisis," Politico, Dec. 20, 2022.
<https://www.politico.com/news/2022/12/20/omnibus-spending-bill-migrants-00074785>
- "Congress Reaches Deal to Save U.S. Visa Program for War Interpreters," Stars and Stripes, Dec. 20, 2022.

<https://www.stripes.com/theaters/us/2022-12-20/siv-afghan-ndaa-8486433.html>

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U.S. Embassy in Havana Resumes Full Immigrant Visa Processing

On January 4, 2023, the U.S. Embassy in Havana resumed full immigrant visa processing, including all visa categories. The embassy also announced that the United States is expanding consular operations in Havana and restarting the Cuban Family Reunification Parole Program.

Since 2017, the U.S. Embassy in Georgetown, Guyana, was serving as the primary processing location for Cuban immigrant visa applicants while the U.S. Embassy in Havana was closed due to unexplained health-related incidents.

Details:

- Press Release, U.S. Embassy, Havana, Cuba, Dec. 30, 2022.
<https://cu.usembassy.gov/resumption-of-visa-services/>
- "U.S. Embassy in Cuba Reopening Visa and Consular Services," NBC News, Jan. 4, 2023.
<https://www.nbcnews.com/news/latino/us-embassy-cuba-reopening-visa-consular-services-rcna64217>

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ABIL Global: Mexico

Mexico has introduced a new online process for the multi-purpose immigration form.

Due to recent adjustments implemented by the immigration authorities (National Immigration institute), the FMM form (multi-purpose immigration form that was usually delivered by airlines to travelers to Mexican national territory or handed out at any port of entry) will no longer be delivered. Only the usual entry stamp will be stamped in the traveler's passport indicating the date of entry and the maximum number of days of authorized stay.

Foreigners who require an FMM form to carry out an immigration procedure may scan a QR code at the port of entry. Once the QR code has been scanned and the foreigner has entered the corresponding website, he or she must

create an account and provide the requested data and documents to obtain an Electronic Migratory Multiple Form.

Upon entering Mexican territory, the foreigner must clearly state the purpose of the trip to the immigration authorities and show the corresponding documentation. Otherwise, the immigration officer may register an incorrect immigration status that would prevent the foreigner from continuing with the immigration process.

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