



IMMIGRATION UPDATE - MAY 01, 2023

Posted on May 1, 2023 by Cyrus Mehta

Headlines:

[USCIS Announces Results of FY 2024 H-1B Initial Registration Period Amid Fraud Concerns](#) – USCIS said that the large number of eligible registrations for beneficiaries with multiple eligible registrations, which was much larger than in previous years, "has raised serious concerns that some may have tried to gain an unfair advantage by working together to submit multiple registrations on behalf of the same beneficiary."

[OFLC Posts 'Unofficial' Form ETA-9089 Preview Copy](#) – The Department of Labor posted an "unofficial watermarked preview copy" of Form ETA-9089 "to allow stakeholders to become familiar with changes to the form."

[DHS, DOS Announce New Actions to Manage Regional Migration](#) – The Departments of Homeland Security and State announced new measures "to further reduce unlawful migration across the Western Hemisphere, significantly expand lawful pathways for protection, and facilitate the safe, orderly, and humane processing of migrants."

[DHS Changes Parole Process for Haitians, Cubans](#) – Haitians and Cubans who have been interdicted at sea after April 27, 2023, will be ineligible for the parole process implemented in January 2023.

[DOS Suspends Visa Services in Sudan](#) – On April 22, 2023, the U.S. Embassy in Khartoum suspended its operations, and DOS ordered the departure of U.S. direct-hire employees and their dependents due to the continued threat from armed conflict in Sudan.

[CBP Requests Comments on Trusted Traveler Information Collection](#) – U.S. Customs and Border Protection issued a 30-day notice requesting comments

by May 30, 2023, on revisions to its information collection for its "Trusted Traveler" programs.

Details:

[Back to Top](#)

USCIS Announces Results of FY 2024 H-1B Initial Registration Period Amid Fraud Concerns

U.S. Citizenship and Immigration Services (USCIS) announced the results of the fiscal year (FY) 2024 H-1B initial registration period and expressed concerns about fraud.

During the registration period for the FY 2024 H-1B cap, USCIS saw a significant increase in the number of registrations submitted compared to prior years. For FY 2024, total registrations were 780,884, with 110,791 registrations selected. For FY 2023, there were 483,927 total registrations, with 127,600 selected. The total number of H-1B visas that can be issued each year is 85,000.

USCIS said that the large number of eligible registrations for beneficiaries with multiple eligible registrations, which was much larger than in previous years, "has raised serious concerns that some may have tried to gain an unfair advantage by working together to submit multiple registrations on behalf of the same beneficiary. This may have unfairly increased their chances of selection." USCIS said that each petitioner signs an attestation under penalty of perjury, and that if the agency finds that the attestation was not true and correct, it may deny the petition or revoke approval, and may refer the petitioner for investigation and law enforcement action. "Based on evidence from the FY 2023 and FY 2024 H-1B cap seasons, USCIS has already undertaken extensive fraud investigations, denied and revoked petitions accordingly, and is in the process of initiating law enforcement referrals for criminal prosecution," the agency said.

The American Immigration Lawyers Association (AILA) noted that an "eye-popping 408,891 registration applications were for individuals on whose behalf multiple employers submitted a registration, a 147% increase in multiple registrations from last fiscal year." AILA President Jeremy McKinney said, "These numbers starkly highlight both how the H-1B system doesn't meet legitimate demand, and how the registration system has been left vulnerable to

exploitation." AILA called for measures including ensuring that every available visa is used; promulgating a rule by USCIS and the Department of State to change how the H-1B lottery is run, basing it on individuals with bona fide job offers rather than registrations; and executing USCIS's announced plan to thoroughly investigate and, if appropriate, prosecute those who submit fraudulent registrations.

Details:

- "USCIS Announces FY 2024 H-1B Registration Numbers," AILA (Apr. 28, 2023).
<https://www.aila.org/infonet/uscis-announces-fy2024-h-1b-registration-numbers>
- "H-1B Visa Registration Numbers Show Demand Far Exceeds Supply; Changes Are Necessary to Ensure Integrity of the System," AILA (Apr. 28, 2023).
<https://www.aila.org/advo-media/press-releases/2023/h-1b-visa-registration-numbers>

[Back to Top](#)

OFLC Posts 'Unofficial' Form ETA-9089 Preview Copy

After the Department of Labor's Office of Labor Certification (OFLC) announced on April 21, 2023, that it will begin accepting the revised Form ETA-9089, Application for Permanent Employment Certification, in the Foreign Labor Application Gateway (FLAG) system on May 16, 2023, OFLC posted an "unofficial watermarked preview copy" of the form "to allow stakeholders to become familiar with changes to the form."

OFLC will no longer accept any new applications submitted via the legacy PERM Online System after May 15, 2023, at 6:59 pm ET. OFLC also will no longer accept the previous version of Form ETA-9089 after May 15, 2023, either electronically or by mail.

OFLC said that the preview copy of the form and appendices are for informational purposes only. "These versions of the form and appendices may not be submitted to OFLC at any time; any submission to OFLC using these forms will be rejected." OFLC said it will post on its Forms page (<https://www.dol.gov/agencies/eta/foreign-labor/forms>) the official, fillable PDF versions of the Form ETA-9089 and its appendices on May 16, 2023.

Details:

- "OFLC Posts Unofficial Watermarked Preview Copy of Revised Form ETA-9089 to Allow Stakeholders to Become Familiar With Changes to the Form," OFLC (Apr. 27, 2023). <https://www.dol.gov/agencies/eta/foreign-labor>

[Back to Top](#)

DHS, DOS Announce New Actions to Manage Regional Migration

On April 27, 2023, the Departments of Homeland Security (DHS) and State (DOS) announced new measures "to further reduce unlawful migration across the Western Hemisphere, significantly expand lawful pathways for protection, and facilitate the safe, orderly, and humane processing of migrants." DHS said the measures will be implemented "in close coordination with regional partners, including the governments of Mexico, Canada, Spain, Colombia, and Guatemala."

DHS noted that the Centers for Disease Control and Prevention's (CDC) temporary Title 42 public health order will lift at 11:59 p.m. on May 11, 2023, and that the United States will return to Title 8 immigration authorities at that time. Individuals who cross into the United States at the southwest border without authorization or having used a lawful pathway, and without having scheduled a time to arrive at a port of entry, would be presumed ineligible for asylum under a new proposed regulation, absent an applicable exception.

The measures announced on April 27, 2023, include imposing stiffer consequences for failing to use lawful pathways; humanely managing migration flows with regional partners; and facilitating safe, orderly, and humane processing of migrants, DHS said. Some key measures and additional lawful pathways being implemented include:

- Expanded access to the CBPOne mobile application for migrants in Central and Northern Mexico, who can use it to schedule an appointment to present themselves at a port of entry rather than trying to enter between ports;
- New family reunification parole processes for El Salvador, Honduras, and Guatemala, and modernizing existing family reunification processes for Cuba and Haiti;
- Doubling the number of refugees admitted from the Western

Hemisphere;

- Continuing to accept up to 30,000 individuals per month from Venezuela, Nicaragua, Cuba, and Haiti under expanded parole processes;
- Opening regional processing centers across the Western Hemisphere to facilitate access to lawful pathways; and
- Launching an aggressive 60-day anti-smuggling campaign in the Darien corridor.

Details:

- "Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration," DHS (Apr. 27, 2023). <https://bit.ly/3LmW7Sq>

[Back to Top](#)

DHS Changes Parole Process for Haitians, Cubans

The Department of Homeland Security announced that Haitians and Cubans who have been interdicted at sea after April 27, 2023, will be ineligible for the parole process implemented in January 2023.

As described in the January 2023 notice, to be eligible, individuals must: (1) have a supporter in the United States who agrees to provide financial support for the duration of the beneficiary's parole period; (2) pass national security and public safety vetting; (3) fly at their own expense to an interior port of entry (POE), rather than entering at a land POE; and (4) possess a valid, unexpired passport.

In addition to the amendment above rendering those interdicted at sea ineligible, individuals are ineligible for this process if they have been ordered removed from the United States within the prior five years; have entered unauthorized into Mexico or Panama after January 9, 2023; have entered unauthorized into the United States between POEs after January 9, 2023 (except for individuals permitted a single instance of voluntary departure or withdrawal of their application for admission to still maintain their eligibility for this process); or are otherwise deemed not to merit a favorable exercise of discretion.

Details:

- DHS notices, 88 Fed. Reg. 26327 (Haiti) and 26329 (Cuba) (Apr. 28, 2023).

[Back to Top](#)

DOS Suspends Visa Services in Sudan

The U.S. Embassy in Khartoum is no longer providing nonimmigrant or immigrant visa services in Sudan due to the current security situation, the Department of State (DOS) announced. On April 22, 2023, the U.S. Embassy suspended its operations, and DOS ordered the departure of U.S. direct-hire employees and their dependents due to the continued threat from armed conflict in Sudan.

All immigrant and diversity visa interviews are canceled until further notice. Inquiries about pending post-interview immigrant visa cases can be emailed to KhartoumIV@state.gov. DOS said that mailbox will be unmonitored "until we can begin to resume normal or alternative operations," however. The embassy also is "unable to conduct passport or document passback at this time."

Applicants for U.S. nonimmigrant visas may apply in any country in which they are physically present and where appointments are available.

Details:

- DOS notice (Apr. 24, 2023). <https://bit.ly/3ni48A0>

[Back to Top](#)

CBP Requests Comments on Trusted Traveler Information Collection

On April 28, 2023, U.S. Customs and Border Protection (CBP) issued a 30-day notice requesting comments on revisions to its information collection for its "Trusted Traveler" programs. They include the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), which allows dedicated processing at specified southwest land border ports of entry; the Free and Secure Trade program (FAST), which provides dedicated processing for known, low-risk commercial drivers; and Global Entry (GE), which allows pre-approved, low-risk, air travelers dedicated processing clearance upon arrival into the United States.

The purpose of all of these programs is to provide prescreened travelers dedicated processing into the United States. The benefit to the traveler is less time spent in line waiting to be processed. This information collection also includes the U.S. APEC Business Travel Card (ABTC) Program, which is a voluntary program that allows U.S. citizens to use fast-track immigration lanes at airports in the 20 other Asia Pacific Economic Cooperation (APEC) member countries.

These collections of information include the data collected on the applications and kiosks for these programs. Applicants may apply to participate in these programs by using the Trusted Traveler Program Systems website (TTP) at <https://ttp.cbp.dhs.gov/> or at Trusted Traveler Enrollment Centers. After arriving at the Federal Inspection Services area of the airport, participants in Global Entry can undergo a self-serve inspection process using a Global Entry kiosk, which are being transitioned to GE Portals. During the self-service inspection, participants have their photograph and fingerprints taken, submit identifying information, and answer several questions about items they are bringing into the United States.

Comments must be submitted by May 30, 2023.

Details:

- CBP notice, 88 Fed. Reg. 26325 (Apr. 28, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-04-28/pdf/2023-09024.pdf>

[Back to Top](#)