



IMMIGRATION UPDATE - JUNE 05, 2023

Posted on June 5, 2023 by Cyrus Mehta

Headlines:

[Boycott Florida? Truckers Protest New Law](#) – According to reports, some Latino truckers are threatening to boycott Florida over its passage of a new law. FL 1718, effective July 1, 2023, imposes new penalties and restrictions on undocumented persons and their employers.

[State Dept. Updates Diversity Visa 2024 Guidance on Document Submission](#) – For the Diversity Visa (DV) program for fiscal year 2024 (DV-2024) and onward, selectees only need initially to submit to the Kentucky Consular Center the DS-260 immigrant visa application form for themselves and any accompanying family members.

[OFLC Solicits Input for Annual Determination of Labor Supply States](#) – To make a determination regarding labor supply and the positive recruitment needed to reach qualified workers within a state, the Office of Foreign Labor Certification Administrator requests information from the public regarding the availability of qualified workers and the appropriate, effective means of recruiting those workers.

[Filing Location and Documentation Requirements Changed for Certain Affirmative Asylum Applications](#) – U.S. Citizenship and Immigration Services has changed the filing location and documentation requirements for certain affirmative asylum applications, and will soon release an updated Form I-589, Application for Asylum and for Withholding of Removal.

[Labor Dept. Requests Comments on Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers](#) – The Department of Labor invites public comments on the information collection request by June 30, 2023.

[USCIS Releases Filing Tips for Supporters and Beneficiaries of Uniting for](#)

[Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans](#) – U.S.

Citizenship and Immigration Services (USCIS) released filing tips for supporters and beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans. USCIS said it has been receiving many duplicate filings of Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, and related inquiries.

[ABIL Global: Canada](#) – Housing shortages have led to political pressures and a new law and regulations that could have a chilling effect on the ability of employers to attract foreign talent.

Details:

[Back to Top](#)

Boycott Florida? Truckers Protest New Law

According to reports, some Latino truckers are threatening to boycott Florida over its passage of a new law. FL 1718, effective July 1, 2023, imposes new penalties and restrictions on undocumented persons and their employers. Among other things, it imposes new E-Verify requirements and specifies that certain driver's licenses and permits issued by other states exclusively to "unauthorized immigrants" are not valid in Florida.

Details:

- "Truckers Threaten to Boycott Florida Over Immigration Law," NewsNation (May 16, 2023).
<https://www.newsnationnow.com/us-news/immigration/truckers-threaten-to-boycott-florida-over-immigration-law/>
- "'My Truck Won't Move.' Are Truckers Boycotting Florida Over DeSantis' New Immigration Law?," Tallahassee Democrat (May 19, 2023).
<https://www.tallahassee.com/story/news/politics/2023/05/15/florida-trucker-boycott-floridas-strict-new-immigration-law-draws-response/70217625007/>
- FL 1718. <https://m.flsenate.gov/Session/Bill/2023/1718/BillText/er/PDF>

[Back to Top](#)

State Dept. Updates Diversity Visa 2024 Guidance on Document Submission

The Department of State (DOS) announced on May 30, 2023, that for the

Diversity Visa (DV) program for fiscal year 2024 (DV-2024) and onward, selectees only need initially to submit to the Kentucky Consular Center (KCC) the DS-260 immigrant visa application form for themselves and any accompanying family members. Once a DS-260 is received from the selectee, KCC will review it for completeness and process the data contained in both the application and the entry. After that, the case will be eligible to be scheduled for a visa interview if the selectee's visa case number is current as reflected in the Visa Bulletin, DOS said.

All [supporting documents](#) for DV-2024 selectees will be collected and evaluated in connection with the interview at the embassy or consulate where the visa application is made. DOS said it strongly encourages applicants to be prepared to demonstrate eligibility for the visa at the time of interview by bringing all required documents, which differ by country.

Details:

- Diversity Visa 2024 Update (May 30, 2023).
<https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-2024-update.html>

[Back to Top](#)

OFLC Solicits Input for Annual Determination of Labor Supply States

The 2022 H-2A Final Rule, effective November 14, 2022, implemented a new process for the Department of Labor's Office of Foreign Labor Certification (OFLC) Administrator's determination of labor supply states (*i.e.*, additional states in which an employer's job order will be circulated and, if appropriate, where additional recruitment may be required). Under that rule, the OFLC Administrator will gather and review public input annually about labor supply and related recruitment mechanisms and will publish a labor supply state determination on the OFLC website. The labor supply state determination will become effective on the date of publication for employers who have not begun recruitment after receiving a Notice of Acceptance. It will remain valid until the OFLC Administrator publishes a new determination on the website.

To make a determination regarding labor supply and the positive recruitment needed to reach qualified workers within a state, the OFLC Administrator requests information from the public regarding the availability of qualified

workers and appropriate, effective means of recruiting those workers. Information the OFLC said could be helpful includes, for example:

- The type of qualified workers available (e.g., tomato harvest workers);
- The state and area within the state where the workers may be found (e.g., city, county, regional non-metropolitan area);
- The methods for apprising the workers of a job opportunity (e.g., local newspaper or periodical, posting with a particular community organization engaged with those workers); and/or
- Contact information for the person or entity to be contacted to conduct the recommended recruitment activity.

OFLC seeks this information by July 31, 2023. OFLC will only consider electronic submissions to H2ALaborSupply@dol.gov.

Details:

- OFLC notice. <https://www.dol.gov/agencies/eta/foreign-labor> (scroll to May 31, 2023).

[Back to Top](#)

Filing Location and Documentation Requirements Changed for Certain Affirmative Asylum Applications

U.S. Citizenship and Immigration Services (USCIS) has changed the filing location and documentation requirements for certain affirmative asylum applications, and will soon release an updated Form I-589, Application for Asylum and for Withholding of Removal.

New Filing Location Details

USCIS has changed the filing location for certain affirmative asylum applications submitted by mail. Applicants should now mail Form I-589 to the lockbox that has jurisdiction over their place of residence, instead of to the service center. If filing by mail, an applicant should file at the appropriate lockbox location to ensure timely receipt of the application. However, USCIS said it will accept Forms I-589 submitted to a service center "until we formalize this change through a Federal Register notice." See the "Where to File" section of the [Form I-589 webpage](#) to learn where to file the application.

Applicants who submit a properly filed Form I-589 to a lockbox will receive two

notices: (1) acknowledgement that the lockbox has received and forwarded the Form I-589 to USCIS; and (2) after USCIS accepts the application, a standard Form I-589 receipt notice. Both notices will include the same receipt date that is used to determine eligibility for employment authorization based on a pending asylum application and for purposes of the one-year filing deadline, USCIS said.

The following categories of affirmative asylum applicants must continue to mail their asylum applications directly to the Asylum Vetting Center, following the instructions on the Form I-589 page, USCIS said:

- Loss of Derivative Status After Asylum Approval but Before Adjustment of Status (Nunc Pro Tunc)
- Loss of Derivative Status After Initial Filing but Before Final Decision
- Simultaneous Filing as a Principal Applicant and a Derivative Applicant
- Previously Issued a Final Action by USCIS on a Form I-589
- Previously in Immigration Court Proceedings

USCIS noted that online filing is also [available](#) and encouraged for affirmative asylum applicants who are not in immigration court proceedings and who do not have to submit their applications to the Asylum Vetting Center as indicated above.

New Form I-589 and Documentation Requirements

USCIS has published a new edition of Form I-589, dated 03/01/23. Starting July 31, 2023, USCIS will accept only the 03/01/23 edition of the form. Until then, the agency will continue to accept the 10/12/22 edition of Form I-589.

Effective immediately, when submitting the Form I-589, an applicant no longer needs to submit a passport-style photo, multiple copies of the form, or multiple copies of the supporting documentation. See the [Instructions for Form I-589](#) for more information.

Details:

- USCIS alert (May 31, 2023).
<https://www.uscis.gov/newsroom/alerts/uscis-changes-filing-location-and-documentation-requirements-for-certain-affirmative-asylum>

[Back to Top](#)

Labor Dept. Requests Comments on Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers

The Department of Labor (DOL) is submitting to the Office of Management and Budget for review and approval an Employment and Training Administration (ETA)-sponsored information collection request (ICR) for attestations for employers seeking to employ H-2B nonimmigrant workers. DOL invites public comments on the ICR by June 30, 2023.

The ICR supports the temporary final rule, "Exercise of Time-Limited Authority to Increase the Numerical Limitation for FY 2023 for H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers," which is being promulgated by DOL and the Department of Homeland Security (DHS).

Details:

- DOL notice of availability, 88 Fed. Reg. 34896 (May 31, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-05-31/pdf/2023-11454.pdf>

[Back to Top](#)

USCIS Releases Filing Tips for Supporters and Beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans

U.S. Citizenship and Immigration Services (USCIS) released filing tips for supporters and beneficiaries of Uniting for Ukraine and for Cubans, Haitians, Nicaraguans, and Venezuelans. USCIS said it has received many duplicate filings of Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, and related inquiries. Some potential supporters are filing multiple Forms I-134A for the same beneficiary. "This adds to our workload, which delays processing," USCIS said, noting that potential supporters who wish to support more than one beneficiary must file one Form I-134A for each beneficiary.

USCIS also has been receiving many Forms I-134A with multiple typos and errors, which also slows processing. Common mistakes include misspelling the beneficiary's name, incorrect dates of birth, incorrect passport numbers, and incorrect email addresses.

As of January 6, 2023, potential supporters must use the new Form I-134A,

instead of Form I-134, Declaration of Financial Support. Those who filed before January 6 do not need to submit a new form.

Details:

- USCIS notice (May 2, 2023).
<https://www.aila.org/infonet/uscis-provides-filing-tips-for-supporters>

[Back to Top](#)

ABIL Global: Canada

Housing shortages have led to political pressures and a new law and regulations that could have a chilling effect on the ability of employers to attract foreign talent.

Canada is welcoming more immigrants than ever before. Last year was a record year for processing immigration applications. In 2022, Canada welcomed a record-breaking 431,000 new permanent residents, surpassing the record of 405,000 set in 2021. This number is expected to grow to half a million by 2025. Canadians used to fear immigrants stealing their jobs, but these days some Canadians are concerned that newcomers will take their homes.

The housing shortage has become an acute problem, primarily due to a significant shortage of workers in construction and supporting trades, and a shortage of construction materials. The increase in both temporary and permanent newcomers is also fueling greater demand for housing, and in turn resentment and fear of newcomers.

The federal government could have addressed the housing shortage with sound immigration policy—specifically, to regularize those workers without status in Canada who were already working in construction trades, and to facilitate the selection of construction trade workers as temporary workers and new immigrants. Current immigration policy favors applicants with post-secondary education and strong English or French language skills, which most construction trade workers lack. Immigration Refugee Citizenship Canada (IRCC) might also have considered reducing the number of foreign students admitted to Canada as this category of temporary residents has ballooned since 2015, and many will not have a path to permanent residence in any event. The federal government seems to lack the political will to address many issues related to the foreign student program, likely because the foreign student industry is big business.

Instead, the government of Canada passed the *Prohibition On the Purchase of Residential Property by Non-Canadians Act* (the Act), a new law supposedly to help make more homes affordable for people living in Canada. This law has a serious negative implication for newcomers to Canada, in addition to seriously impeding the ability to attract talent to Canada to address labor shortages. The Act came into force on January 1, 2023, and prevents non-Canadians (those who are neither Canadian citizens nor permanent residents of Canada) from buying residential property in Canada for two years, including preventing non-Canadians from using corporate structures to avoid the prohibition. The Act defines residential property as buildings with three homes or fewer, as well as parts of buildings like a semi-detached house or a condominium unit. The law does not prohibit the purchase of larger buildings with multiple units. The Act includes a \$10,000 fine for any non-Canadian or anyone who knowingly assists a non-Canadian and is convicted of violating the Act. Further, if a court finds that a non-Canadian has done this, they may order the sale of the house.

Clearly the prohibition could have a chilling effect on the ability of Canadian businesses to attract foreign talent, especially when combined with provincial legislation that taxes the purchase of residential properties by foreign nationals. In Ontario, that tax is 25 percent of the value of the property, although the foreign national can apply for a tax rebate if they become a permanent resident within four years of making the purchase. The regulations under the Act set out specific exceptions. These exemptions included properties in very rural locations, but unfortunately few foreign workers and immigrants settle in rural areas. Initially, when enacted on January 1, 2023, foreign workers who held a work permit or were authorized to work under section 186 of the Immigration Refugees Protection Regulations, and had worked in Canada a minimum of three years within the four years preceding the year in which the purchase was made, filed income tax returns, and had not purchased more than one residential property, were exempted.

A ban targeting foreign home buyers will not necessarily prevent speculation in real estate markets, especially since nonresidents only make up 2.2 percent of residential property owners in Ontario and 3.1 percent in British Columbia. Newcomers have to live somewhere, so if they are prohibited from buying a home, they will rent a house or apartment and potentially take up valuable living space for Canadians who may not be able to afford to buy and must rent. Rents in Canada have increased by 10 percent on average across Canada in the

last year.

Amendments to the regulations allow more flexibility in certain circumstances. Work permit holders can now purchase residential property, for example, as long as they have 183 days or more of validity remaining on their work permit at the time of purchase and have not purchased more than one residential property. The initial requirements for tax filings and previous work experience in Canada were repealed. They are still subject to any applicable provincial tax.

For many foreign nationals living in Canada temporarily, becoming a permanent resident of Canada is a priority. Without permanent resident status, they may still be subject to the Act and/or provincial taxes. Typically, most foreign nationals do not qualify for permanent residence until they have worked in Canada for a Canadian company for at least one year. Further, there is no ability to apply for permanent residence at will; instead, applicants must be invited to apply for permanent residence by IRCC. Consequently, there is a great deal of uncertainty around qualifying and when to apply for permanent residence, which makes it difficult to provide newcomers with any assurance about their eligibility to buy residential property in Canada without restrictions. Foreign workers should seek legal advice from a Canadian lawyer about their eligibility for permanent residence soon after they arrive in Canada.

[Back to Top](#)