

Immigration Insights (September 2010)

September 29, 2010

Department of State Announces 2012 Diversity Visa Lottery Registration Period

Each year the U.S. Department of State ("DOS") runs a lottery program that encourages "seed" immigration from countries that have been under-represented in recent immigration trends. U.S. immigration law makes 55,000 Diversity Visas (DV) available each fiscal year to persons from countries with historically low rates of immigration to the United States. DOS will open the DV-2012 Diversity Visa Lottery program registration period on Tuesday, October 5, 2010. Applicants must submit entries for the DV-2012 lottery electronically between noon on Tuesday, October 5, 2010 and noon on Wednesday, November 3, 2010, Eastern Time.

The link to the application form, E-DV, can be found [here](#). Detailed information about the entry requirements as well as answers to frequently asked questions may be located [here](#). Starting next year, DOS will use a new system to notify DV winners." From May 1, 2011 onward, DV-2012 applicants will be able to use their unique confirmation number provided upon registration to check online through Entry Status Check at www.dvlottery.state.gov to determine if they have been selected. DOS will also administer instructions and appointments for immigrant visa interviews through that portal.

Our clients and friends should be aware that many scam artists and identity thieves create websites and send emails claiming they can register applicants and boost their odds of being selected. Such claims are patently false. Anyone can go to DOS' DV website to register according to the rules, and using a vendor to accomplish initial registration will not positively influence one's odds. Persons selected under the DV program should at least consider retaining an immigration lawyer because the rules for using the selection to gain permanent residence are deceptively complex, and DOS alerts approximately 90,000 winners for only 55,000 slots, making getting through the process as efficiently and nimbly as possible important to increase the odds that a selection will result in attainment of permanent residence status.

USCIS Delays in Adjudicating Requests for EADs and Advance Parole

Many applicants for U.S. permanent resident status no longer hold H-1B, L-1, O-1 or other temporary/nonimmigrant status because their employers choose not to seek extensions of the applicants' nonimmigrant status, especially given that USCIS charges for and issues employment authorization cards and travel documents as part of the permanent resident application.

Applicants for permanent residence may apply to renew their employment authorization documents (EADs) and travel authorization documents (known as Advance Parole) as long as their permanent residence applications are pending with USCIS. However, this circumstance puts the burden on permanent residence applicants who are employed to ensure that there is no gap in their work authorization.

USCIS policy prohibits applicants from filing EAD and Advance Parole renewal applications more than 120 days before their EADs and Advance Paroles will expire. USCIS encourages applicants to file such

applications at least 90 days in advance to avoid any gap in EAD or Advance Parole.

With USCIS' recent migration to a lockbox filing approach (rather than filing applications directly with USCIS, applicants must file with a contractor that runs a lockbox for USCIS), the lockbox contractor is routinely taking four to six weeks just to accept applications and issue Receipt Notices. Even after Receipt Notices are issued, there is additional delay in routing accepted applications from the lockbox to USCIS for actual adjudication. As a result, EAD and Advance Parole applications are now taking much longer than 90 days to be decided, with delays sometimes stretching five months and longer. There is no indication that the lockbox problems will be resolved anytime soon.

DOS Seeks Online Comments About the DS-160 -- Nonimmigrant Visa Application

Many of our clients and their employees have been very frustrated by the Department of State (DOS)'s new DS-160 nonimmigrant visa application form that may be completed only on-line. The principal complaint is that the application website "times out" every few minutes even if one is actively working on the application, so applicants must save their work every few minutes to avoid losing data. DOS is accepting comments on both the content, and usage burden of applications of the form, so if you have complaints, you may share your experiences with DOS at VisaRegs@state.gov. Subject line must read *DS-160 Reauthorization* and be submitted by November 7, 2010.

H-1B Program Still Open But Availability is Declining

As of September 24, 2010, USCIS had received approximately 39,600 cap subjected H-1B petitions, and receipted 14,400 H-1B petitions for foreign nationals with advanced U.S. degrees. The quota is 65,000 for "regular" H-1B petitions, and 20,000 for those with advanced degrees from U.S. schools.

USCIS Increases Filing Fees

U.S. Citizenship and Immigration Services ("USCIS") announced an increase in most filing fees effective November 23, 2010. In a few situations, USCIS has lowered filing fees. Petitions and applications received by USCIS on or after November 23, 2010 must bear the new filing fees or USCIS will reject the petition or application.

The following schedule lists the adjusted fees that will take effect on November 23, 2010, alongside the existing fees in effect until that date:

Form No.	Application/Petition Description	Existing Fees (through Nov. 22, 2010)	Adjusted Fees (beginning Nov. 23, 2010)
I-90	Application to Replace Permanent Resident Card	\$290	\$365
I-102	Application for Replacement/Initial Nonimmigrant Arrival-Departure Document	\$320	\$330
I-129/129CW	Petition for a Nonimmigrant Worker	\$320	\$325

Form No.	Application/Petition Description	Existing Fees (through Nov. 22, 2010)	Adjusted Fees (beginning Nov. 23, 2010)
I-129F	Petition for Alien Fiancé(e)	\$455	\$340
I-130	Petition for Alien Relative	\$355	\$420
I-131	Application for Travel Document	\$305	\$360
I-140	Immigrant Petition for Alien Worker	\$475	\$580
I-191	Application for Advance Permission to Return to Unrelinquished Domicile	\$545	\$585
I-192	Application for Advance Permission to Enter as Nonimmigrant	\$545	\$585
I-193	Application for Waiver of Passport and/or Visa	\$545	\$585
I-212	Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal	\$545	\$585
I-290B	Notice of Appeal or Motion	\$585	\$630
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	\$375	\$405
I-485	Application to Register Permanent Residence or Adjust Status	\$930	\$985
I-526	Immigrant Petition by Alien Entrepreneur	\$1,435	\$1,500
I-539	Application to Extend/Change Nonimmigrant Status	\$300	\$290
I-600/600A I-800/800A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petition	\$670	\$720
I-601	Application for Waiver of Ground of Excludability	\$545	\$585
I-612	Application for Waiver of the Foreign Residence Requirement	\$545	\$585
I-687	Application for Status as a Temporary Resident under Sections 245A or 210 of the Immigration and Nationality Act	\$710	\$1,130
I-690	Application for Waiver of Grounds of Inadmissibility	\$185	\$200
I-694	Notice of Appeal of Decision under Sections 245A or 210 of the Immigration and Nationality Act	\$545	\$755
I-698	Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603)	\$1,370	\$1,020
I-751	Petition to Remove the Conditions of Residence	\$465	\$505
I-765	Application for Employment Authorization	\$340	\$380
I-817	Application for Family Unity Benefits	\$440	\$435
I-824	Application for Action on an Approved Application or Petition	\$340	\$405
I-829	Petition by Entrepreneur to Remove Conditions	\$2,850	\$3,750
I-881	Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-110)	\$285	\$285
I-907	Request for Premium Processing Service	\$1,000	\$1,225
	Civil Surgeon Designation	\$0	\$615
I-924	Application for Regional Center under the Immigrant Investor Pilot Program	\$0	\$6,230
N-300	Application to File Declaration of Intention	\$235	\$250
N-336	Request for Hearing on a Decision in Naturalization Proceedings	\$605	\$650

Form No.	Application/Petition Description	Existing Fees (through Nov. 22, 2010)	Adjusted Fees (beginning Nov. 23, 2010)
N-400	Application for Naturalization	\$595	\$595
N-470	Application to Preserve Residence for Naturalization Purposes	\$305	\$330
N-565	Application for Replacement Naturalization/Citizenship Document	\$380	\$345
N-600/ 600K	Application for Certification of Citizenship/ Application for Citizenship and Issuance of Certificate under Section 322	\$460	\$600
	Immigrant Visa	\$0	\$165
Biometrics	Capturing, Processing, and Storing Biometric Information	\$80	\$85