

Immigration Insights (October 2010)

October 31, 2010

Immigrant Visa Usage and Predictions

Within the U.S. Department of State (DOS) is the Visa Control and Reporting Division that is responsible for the movement of immigrant visa cut-off dates each month and for releasing DOS' monthly Visa Bulletin. The Visa Bulletin and the cutoff dates that are reflected in the Visa Bulletin regulate the availability of Immigrant Visas or "green cards" for immigrants in the family-sponsored or employment-based preference categories. Recently, the head of the DOS Visa Control and Reporting Division shared the following predictions:

- *Family-sponsored categories are underutilized.* Over recent years, the demand for family-based immigrant visas has decreased; DOS predicts that cut-off dates will continue to advance relatively quickly. DOS believes that the decrease in demand is due to the present economic climate in the United States, among other factors.
- *Employment-based second and third categories are oversubscribed.* U.S. Citizenship and Immigration Services (USCIS) and DOS consular posts are requesting more employment-based visa numbers than in previous years. DOS believes the cause of this increase is two-fold. First, the average number of immigrant visas requested per immigrant visa case is 2.5. In the past the average was closer to 1. Second, many EB-3 applicants from India and China are now eligible for, and applying for, immigrant visas in the EB-2 category. This has increased the demand for immigrant visas from the EB-2 category.
- *Short Term Predictions for India and China*
 - EB-2 and EB-3 China - There will be slow movement (1-2 weeks per Visa Bulletin) over the next few months.
 - EB-2 India - There will be little to no movement (up to 1 week per Visa Bulletin)
 - EB-3 India - There will be slow movement (1-2 weeks per Visa Bulletin) over the next few months.

USCIS Launches the Citizenship Resource Center

USCIS recently launched its Citizenship Resource Center, a Web-based portal that centralizes citizenship resources for immigrants, educators and organizations. The website provides information to users to better understand the naturalization process as well as helpful tools and resources including information on eligibility and testing, the application process, study materials and free USCIS information sessions. The Citizenship Resource Center can be found at <http://www.uscis.gov/portal/site/uscis/citizenship>.

Is USCIS Monitoring Foreign Nationals via Social Networking?

As the popularity of social networking sites such as Facebook, MySpace and others sites increases, foreign nationals should be aware that U.S. Citizenship and Immigration Services (USCIS)'s Office of Fraud Detection and National Security (FDNS) has targeted social networking sites as part of its fraud investigations.

USCIS established the FDNS in part to conduct site visits of employers that sponsor foreign nationals for work-related visas. FDNS site visits are conducted to investigate immigration benefit fraud and to ensure that benefits are not granted to persons who threaten national security or public safety. FDNS also conducts what it calls "unannounced cyber 'site visits'" on petitioners and beneficiaries. In a statement obtained via the Freedom Of Information Act (FOIA), USCIS observed that

Narcissistic tendencies in many people fuels a need to have a large group of "friends" link to their pages and many of these people accept cyber-friends they don't even know. This provides an excellent vantage point for FDNS to observe the daily life of beneficiaries and petitioners who are suspected of fraudulent activities.

So, is USCIS monitoring foreign national "status" updates? The answer is clearly, "Yes, they are."

H-1B Program Still Open But Availability is Declining

As of October 22, 2010, USCIS had received approximately 44,300 cap subjected H-1B petitions, and 16,200 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. Over the last two months, USCIS has received approximately 1500 new petitions per week.

November 2010 Visa Bulletin -- EB-2 and EB-3 Crawl Forward

The U.S. State Department (DOS)'s [November Visa Bulletin](#) reflects very little movement in the permanent resident or "green card" Employment Second Preference (EB2) and Third Preference (EB3) categories. The EB2 "all chargeability" category remains current, while the cutoff date for EB2 China advances only one week to June 1, 2006. The cutoff date for EB2 India shows no movement and remains at May 8, 2006. The EB3 all-chargeability date advances two weeks to January 22, 2005, and EB3 China date also advances two weeks to November 22, 2003. The cutoff date for EB-3 India advances only one week to January 22, 2002. The Employment First Preference category remains current across-the-board.

Document Retention in the Immigration Context

Many employers wonder how long they must retain immigration-related documents. Our quick reference chart outlining an employer's obligations with regard to document retention in the immigration context can be found [here](#).