

**Immigration Accountability Executive Action Was Announced By President Obama. Are You or Someone You Know a Beneficiary? (Part IV) - Changes to Allow for Speedy Immigration Processing (To Decrease Priority Date Backlogs) and to Increase the Flexibility of Business Immigration Processes.**

After years, President Obama has finally announced his plan for Administrative Relief. It is not an "Executive Decision". It is not an immigration Bill (although it is hoped that it may lead to one). The program will go under the name "Immigration Accountability Executive Action".

The following is a short description of some of the highlights of another part of the President's plan.

Pre-registration will be available to allow people adjustment of status benefits when an I-140 is approved but no priority date is available (estimated to benefit 410,000). This will be done by regulation. NOTE that this was mentioned in a briefing to advocates on Thursday, November 20, 2014, at the White House just prior to the President's speech but is not explicitly mentioned in the memorandum issued by the Department of Homeland Security, Jeh Johnson, to the USCIS Director, Leon Rodriguez. In the White House Fact Sheet, the following is stated under the current system, employees with approved LPR applications often wait many years for their visa to become available. DHS will make regulatory changes to allow these workers to move or change jobs more easily.

Secretary Johnson in an 11/20 memo to USCIS Director, Leon Rodriguez, directs USCIS to take the following actions:

- USCIS should continue and enhance work with the Department of State to ensure that all immigrant visas authorized by Congress are issued to eligible individuals when there is sufficient demand for the visas.
- USCIS is directed to work with the Department of State to improve the system for determining when immigrant visas are available to applicants during the fiscal year. The DOS Visa Bulletin is being modified to simplify this.
- USCIS should look at other regulatory or policy changes to better assist and provide stability to the beneficiaries of approved employment-based immigrant visa petitions. Specifically, USCIS will consider amending its regulations to ensure that approved, long-standing visa petitions remain valid in certain cases when an applicant seeks to change employers.

Secretary Johnson has also asked USCIS to issue a policy memo that provides additional guidance in portability cases where workers are moving to employers they claim are in the "same or similar" occupations. The intent is to remove unnecessary restrictions to natural career progression and give workers increased flexibility and stability.

These changes are to be implemented by guidance and regulation and no timeframe is being mentioned yet. In addition, Secretary Johnson's memo also addressed the following points:

- Visa modernization. In the White House briefing of 11/20/2014, mention was made of a Presidential Memorandum directing agencies to look at modernizing the visa system and whether past unused visa numbers can be recaptured.
- Using advance parole will not trigger inadmissibility. Secretary Johnson has asked DHS General Counsel to issue written legal guidance on the meaning of the Arrabelly decision which held that travel on an advance parole was not a "departure" within the meaning of the INA and did not trigger the ground of inadmissibility that bars admission after the accrual of unlawful presence.
- The National Interest Waiver category is "underutilized" and Secretary Johnson has ordered USCIS to issue guidance and regulations to clarify the standard by which a national interest waiver can be granted, with the aim of promoting its greater use for the benefit of the US economy. This change is said to be primarily targeted at making it easier for entrepreneurs to qualify.
- Parole in place being expanded to certain entrepreneurs. Secretary Johnson has ordered that pursuant to the "significant public benefit" parole authority under Section 212 of the INA, USCIS will grant parole status, on a case-by-case basis, to inventors, researchers, and founders of start-up enterprises who may not yet qualify for a national interest waiver but who have been awarded substantial US investor financing or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting-edge research. There will be a regulation and it will include income and resource thresholds to ensure people will not access public benefits.

These changes are to be implemented by guidance and regulation and no timeframe is being mentioned yet.

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