

Business Immigration Weekly

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MasudaFunai

DOS Releases October 2009 Visa Bulletin – Most Categories Experience Retrogression

The U.S. Department of State (DOS) recently released its October 2009 Visa Bulletin. In October 2009, the start of the government's new fiscal year, none of the categories will return to the April 2009 Visa Bulletin cut-off dates, when visa numbers were last available. The visa numbers in the EB-2 China category will advance slightly to March 2005 while the EB-2 India category will advance by one year to January 2005. All of the EB-3 categories will go from being unavailable to available. However, the EB-3 Other Workers category will advance slightly from the April 2009 Visa Bulletin, while the EB-3 professionals category will experience retrogression by one year due to the uncertainty surrounding how many visa numbers the USCIS requires based on its current backlog of old priority date cases.

The following is a comparison of the employment-based immigrant visa category advancements since the beginning of the most recent period of retrogression:

	Oct 2005	Jan 2007	Oct 2008	April 2009	Sep 2009	Oct 2009
EB-3 World	03/01/01	08/01/02	01/01/05	03/01/03	U	06/01/02
EB-2 China	05/01/00	08/22/05	04/01/04	02/15/05	01/08/05	03/22/05
EB-3 China	05/01/00	08/01/02	10/01/01	03/01/03	U	02/22/02
EB-2 India	11/01/99	01/08/03	04/01/03	02/15/04	01/08/05	01/22/05
EB-3 India	01/01/98	05/08/01	07/01/01	11/01/01	U	04/15/01
EB-3 Other Workers	10/01/00	10/01/00	01/01/03	03/01/01	U	06/01/01 (all countries except India) 4/15/01 (India)

Additional information about the advancement of the employment-based immigrant visa priority dates will be contained in our firm's future Immigration Updates when they become available. The current Visa Bulletin is available at: http://travel.state.gov/visa/frvi/bulletin/bulletin_4575.html.

E-Verify FAR Rule Now Effective

September 8, 2009 marked the effective date of the U.S. Citizenship and Immigration Services' (USCIS) rule requiring certain federal contractors and subcontractors to use the E-Verify system to verify their employees' eligibility to work in the United States if their contract includes the Federal Acquisition Regulation (FAR) E-Verify clause. The E-Verify FAR rule requires the use of the E-Verify system to cover federal contractors and subcontractors, including those who receive American Recovery and Reinvestment Act funds. Federal contracts awarded on or after September 8, 2009, and which are subject to rule, will include a clause committing government contractors to use E-Verify. Companies awarded a contract with the E-Verify clause on or after September 8, 2009 will be required to enroll in E-Verify within



30 days of the contract award date. With certain exceptions, E-Verify must be used to confirm that all new hires, whether employed on a federal contract or not, and existing employees directly working on these contracts are legally authorized to work in the United States.

DOL Coordinates FEIN Information on the PERM and iCERT System

The U.S. Department of Labor (DOL) recently announced that it has enhanced its iCERT system to include FEIN verifications that have been completed in the PERM system. Under the PERM process, the DOL has been requiring employers to provide verification of business existence, which also includes a request to provide FEIN evidence. According to the DOL, any FEIN verification completed during the PERM employer existence verification process will not be incorporated into the iCERT database. This means that if an employer completed the FEIN verification previously through the PERM system, the iCERT system should be able to confirm this information without the need to have the employer complete the verification in the iCERT system for the H-1B process. The DOL has indicated that new FEIN verifications are being introduced into the iCERT system daily as PERM employer existence verifications are completed. The DOL advises that because this is a data transfer from the PERM system to the iCERT system, employers wait a day or two from the time the PERM employer existence notification is received to submit an LCA application through iCERT. Furthermore, employers can now submit FEIN data verification to the DOL in advance of the LCA filing to speed up the FEIN verification process.

H-1B and H-2B Quota for Fiscal Year 2010 Year

The U.S. Citizenship and Immigration Services (USCIS) announced updates on the status of the FY 2010 H-1B Quota and the first half of FY 2010 H-2B Quota. H-1B visas continue to be available. Out of the total limit of 65,000 visas per fiscal year, 45,100 qualifying petitions have been filed. The Master's or higher Degree exemption of 20,000 has tentatively been met. USCIS continues to accept H-1B petition filings under both the regular H-1B quota and the Master's or higher Degree exemption quota and will continue to do so until the quotas have been met.

USCIS began accepting H-2B petitions for the first half of FY 2010. As of August 7, 2009, 8,974 petitions have been received out of a total quota of 33,000. Currently, 8,183 have already been approved and 791 are awaiting adjudication.

For more information about this or any other immigration law topic, please contact Bob White at 847.734.8811 or via email at rwhite@masudafunai.com. Weekly Immigration Updates are provided in the Immigration Group Section of our Firm's website at www.masudafunai.com.



About the Immigration Group

The Immigration Group of Masuda Funai provides immigration representations to publicly traded companies, privately held corporations, educational institutions, not-for-profit organizations and foreign nationals in business immigration matters. As one of the larger immigration groups in the United States, we annually file more than 2,500 petitions on behalf of approximately 275 different corporate employers from such diverse industries as automotive-related, computer consulting, machine tool manufacturing, electronics, construction and equipment, banking and financial, health care and high tech.

Attorneys in the Immigration Group include:

Kathleen M. Gaber, Chair
Esther Contreras
Bryan Y. Funai
Colin Hara
Eldon H. Kakuda

About Masuda Funai

Masuda Funai is a full-service law firm representing international and domestic companies operating and investing in the United States. Our 45 attorneys located in Chicago, Schaumburg and Los Angeles counsel clients in every aspect of business, including establishing, acquiring, and financing operations; ownership, development and leasing of real estate; transfer of overseas employees to the U.S.; employment, labor, and benefits counseling and dispute resolution; intellectual property, copyright and trademark; business litigation; creditors' rights and business risk management; structuring the distribution and sale of products and services throughout the U.S.; and estate planning and administration.

Dayne Kono
Stephen M. Proctor
Fazila Vaid
Robert S. White

CHICAGO

203 North LaSalle Street
Suite 2500
Chicago, Illinois 60601-1262
TEL 312.245.7500
FAX 312.245.7467

LOS ANGELES

19191 South Vermont Avenue
Suite 420
Torrance, California 90502-1051
TEL 310.630.5900
FAX 310.630.5909

SCHAUMBURG

1475 East Woodfield Road
Suite 800
Schaumburg, Illinois 60173-5485
TEL 847.734.8811
FAX 847.734.1089

www.masudafunai.com