



News & Types: Immigration Monthly Updates

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Practices: Immigration

## **DOS ADDS MORE CHALLENGES TO INDIVIDUALS APPLYING FOR VISAS AND UPDATES THE INTERVIEW WAIVER PROGRAM**

On September 6, 2025 the Department of State (DOS) announced that individuals applying for nonimmigrant visas should schedule their appointment at the U.S. consular post in their country of nationality or country of residence. Under the immigration law, noncitizens who have overstayed their visa or had their visa voided/revoked are only eligible to apply for a new visa in their country of nationality (passport country), unless extraordinary circumstances relating to compelling humanitarian or U.S. national interests exist or the DOS has designated an alternate consular post for visa processing. Otherwise before this change, individuals applying for a visa were welcome to schedule an appointment for their in-person visa processing at any U.S. consular post.

This announcement signals the end of “third country national” discretionary visa processing. Often noncitizens in the United States would look to apply for or renew their visa at U.S. consular posts in Canada or Mexico for travel convenience, rather than applying in their home country. Now all visa applicants should apply in either their country of nationality (country issuing their passport) or their country of residence (actual dwelling place outside the United States). If not applying in their country of nationality, but applying in their country of residence, the visa applicant will need to provide documentation of their residency and ties to that country. The consular post has the discretion to accept the application for processing.

This change in processing is consistent with the DOS’ policy effective November 1, 2025 to schedule the interview appointment for an immigrant visa (Green Card) at a U.S. consular post in the country of the applicant’s residence, or in limited instances country of nationality.

Nationals of countries where the U.S. government is not conducting routine visa operations must apply at the consular post designated by the DOS unless their residence is elsewhere.

On September 18, 2025, DOS announced that applicants for certain types of visas may be eligible to have their visa processing interview waived if meeting certain criteria.

Which visa classifications are eligible for an interview waiver?

- Diplomatic and Foreign Government Officials and their immediate family (A-1, A-2, and C-3) but not their personal staff.
- Representatives of Recognized Foreign Government to International Organization and their immediate family (G-1 and G-2).
- Representatives of Non-recognized or Nonmember Foreign Government to International Organization and their immediate family (G-3).
- International Organization Officers or Employees and their immediate family (G-4).
- Persons eligible for NATO visas (NATO-1 through NATO-6), but not their personal staff
- Individuals Assigned to Taipei Economic and Cultural Representative Office and their immediate family (TECRO E-1).
- Applicants for diplomatic- or official-type visas.
- Business Visitors (B-1 or B-1/B-2), Pleasure Visitors (B-2 or B-1/B-2) and Mexican nationals having a Border Crossing Card/Foil (BBCC/BBBCV) applying to renew within 12 months of the prior visa expiration, with some exceptions.
- Temporary Worker Performing Agricultural Services (H-2A) renewing their visa within 12 months of its expiration, with some restrictions.

#### What criteria must be met to be eligible for an interview waiver?

- The application must be submitted to a U.S. consular post in the applicant's country of nationality (passport country) or country of residence.
- The applicant must never have been refused a visa. Applicants who were previously denied a visa may be eligible for an interview waiver if the basis for the denied application was overcome and the visa issued.
- The applicant is eligible for visa issuance under the law.

A U.S. consular post can request an in-person interview of an applicant at anytime and for any reason. Visa applicants are encouraged to review the visa processing information at the U.S. consular post where they will apply.

#### **DOL ANNOUNCES PROJECT FIREWALL WHICH MAY SIGNIFICANTLY INCREASE H-1B LCA INVESTIGATIONS**

The U.S. Department of Labor (DOL) has announced a new coordinated effort called Project Firewall within DOL and in conjunction with other government agencies to ensure employer compliance with H-1B program requirements.

DOL indicated that its Wage and Hour Division (WHD) will now commence random Labor Condition Application (LCA) investigations based upon the DOL Secretary's certification. Previously, LCA investigations were only commenced if WHD received a complaint from an aggrieved party. DOL stated that a Secretary-certified LCA investigation will now be authorized when reasonable cause exists that an H-1B employer is not in compliance.

This is the first time that DOL will be using the Secretary-certified LCA enforcement authority. The number of DOL LCA investigations last peaked during the Obama administration. However, with the new tool of

Secretary-certified LCA investigations, it is assumed that LCA investigations during this Trump administration will surpass the previous records.

Employers that would like to proactively prepare for a potential H-1B LCA investigation should a Masuda Funai Immigration attorney.

**ICYMI: MASUDA FUNAI ISSUES CLIENT ALERT ABOUT THE H-1B PROCLAMATION**

On September 19, 2025, President Trump signed a proclamation restricting entry into the United States for certain H-1B nonimmigrants effective September 21, 2025.

Masuda Funai issued a detailed Client Alert about the proclamation and its implementation on September 22, 2025.

Additional information about the implementation of the proclamation will be contained in future Masuda Funai Client Alerts and Business Immigration Monthly updates.

**HUNGARY: VISA WAIVER PROGRAM AND ESTA RESTORED**

On September 16, 2025, the Department of Homeland Security (DHS) fully restored Hungary's eligibility for the Visa Waiver Program (VWP) and its citizens' eligibility to use the Electronic System for Travel Authorization (ESTA). Starting on September 30, 2025, Hungarians will now be able to apply for an ESTA with a 2-year validity period, which can be used for multiple entries.

In 2021, DHS revoked ESTAs already issued to Hungarians and denied new ESTA applications to Hungarian applicants born outside of Hungary. In 2023, the Biden Administration reduced the ESTA validity period for Hungarian-born Hungarian travelers to 1-year and limited their ESTAs to single use.

The restoration of Hungary's eligibility for the VWP comes after the country completed steps to address certain security concerns that had been raised by the United States, including Hungary's increased efforts to secure its own borders.

**USCIS GIVEN FULL LAW ENFORCEMENT POWERS**

As of September 4, 2025, U.S. Citizenship and Immigration Services (USCIS) personnel have been granted full law enforcement authority, including the right to carry firearms, execute warrants, make arrests, and investigate criminal or civil infractions. This change represents a civil agency stepping into law enforcement roles previously carried out by DHS or Immigration and Customs Enforcement (ICE).

Employers face risks under this shift because the USCIS can now conduct more onsite inspections with greater ease and may take more initiative to investigate fraud in employment immigration filings. The USCIS will be able to pursue criminal charges against employers for falsifying petitions, misleading employees, or submitting fraudulent documentation. Employees are at greater risk of being detained at worksites, even in their homes when remote work is permitted.

In this new enforcement climate, employers must prioritize compliance. Key compliance steps include internally auditing immigration filings for accuracy; maintaining organized and accessible records (such as Forms I-9, H-1B public access files); training staff on how to handle site visits; designating a legal point of contact for government inquiries; and consulting counsel before responding to any USCIS notice. Proactive planning is essential to minimize both legal and reputational risks.

**ICE RAID ON HYUNDAI PLANT**

On September 4, 2025, ICE raided an electric vehicle battery plant construction site in Ellabell, Georgia. The construction of this plant was part of a \$7.6 billion investment into the United States in a joint project between Hyundai and LG. The plant was focused on providing environmentally friendly energy sources for vehicles across Georgia and the United States.

Although the search warrant listed only four “Target Persons” with Spanish-language surnames, the raid ended in the detention of 475 people, most of them South Korean nationals. Many of those detained were engineers and equipment installers in the United States on valid B-1 visas, which can cover technical equipment installation. Authorities claimed some had overstayed or exceeded their visa terms, but many were never charged with immigration violations. Hundreds of those individuals have been repatriated to South Korea after completing administrative processing.

**WHAT IS E-VERIFY+ AND WHO SHOULD USE IT?**

E-Verify+ is a newer, optional enhancement to the traditional E-Verify program, which was introduced by USCIS in an effort to simplify employment eligibility verification and reduce the administrative burden on employers. Participation is voluntary for both employers and employees. Importantly, workers may opt out of E-Verify+ even if their employer offers it.

Under regular E-Verify, employers must complete Form I-9, review original documents in person (or through DHS’s limited remote inspection procedure involving a live video call), and then manually enter employee information into the E-Verify system. This creates room for data-entry errors and adds extra steps, especially for employers managing remote hires.

By contrast, E-Verify+ integrates the I-9 and E-Verify process into a single digital “workflow”. Employees upload documents and sign through a secure personal account, eliminating the need for live video document inspection in the case of remote workers. Employers then review and approve the completed I-9 in the system. Employees can benefit from this, because they are able to reuse their information with future E-Verify+ employers, reducing repeated paperwork.

For the employer, the E-Verify+ system may help to minimize errors and streamline onboarding, but its workflows remain limited. For employers with a relatively uniform workforce, E-Verify+ may be a practical solution. However, those with more diverse or document-intensive employee populations may find E-Verify+’s current capabilities limited and, at times, contrary to the goal of making the onboarding process more efficient.

The use of E-Verify and even E-Verify+ do not insulate employers from I-9 violations, such as unchecked boxes, missing information, or missing signatures. Indeed, additional penalties apply for employers who participate in E-Verify where they improperly use the service to prescreen candidates, or they continue to employ a worker after a Final Non-confirmation has been issued.

**EMPLOYEE PROTECTIONS IN ILLINOIS**

On January 1, 2025, the Illinois Right to Privacy in the Workplace Act went into effect. The general goal of the Act was to protect employees’ personal rights. The law protects workers from employer demands for access to personal accounts, shields lawful off-duty conduct, and bars inquiries into an employee’s past workers’ compensation claims. In the immigration context, it limits employers from using E-Verify to check the status of current employees, requires advance notice of immigration audits, and ensures workers have an opportunity to correct paperwork.

The Act was challenged by the Trump administration, which first sought a preliminary injunction to block the law from going into effect. U.S. District Judge, Sharon Johnson Coleman denied that injunction, allowing the Act to become effective in January 2025.

The Trump administration then filed a broader lawsuit, alleging that the Act interfered with federal immigration enforcement authority. On August 20, 2025, Judge Johnson Coleman dismissed the lawsuit, ruling that Illinois acted within its traditional authority to regulate employment practices. The court emphasized that the Act does not interfere with the federal government’s ability to enforce immigration laws. Instead, the Act represents a permissible use of state power to protect workers’ rights and regulate workplace practices. In her decision, Judge Johnson Coleman warned that adopting the federal government’s sweeping view of its immigration authority “would swallow the historic powers of the states over employment-related issues.”

**USCIS ROLLS OUT NEW CITIZENSHIP TEST**

As part of the naturalization process in the United States applicants are tested on their knowledge of U.S. history, government and civics. The objective of the test is for the future citizen to demonstrate their knowledge of U.S. history, government and civics and an attachment to the principles of the U.S. Constitution and form of government, rather than memorizing the answers to a list of “100 civics questions”. The list of questions will be expanded to 128.

Naturalization applicants who file on or after October 20, 2025, will be subject to the new citizenship testing policy. The Immigration Officer will continue to orally ask up to, but no more than, 20 random questions on U.S. history, government and civics. If the applicant gives incorrect responses to 9 questions, the applicant fails the civics test. If the applicant correctly answers 12 questions, the applicant will pass the civics test.

Naturalization applicants who filed before or on October 19, 2025 will be tested on their knowledge of U.S. history, government and civics under the prior standard where the Immigration Officer orally asked up to ten questions and the applicant passed the test if meeting a 60% successful response threshold.

Applicants over age 65 who have been a permanent resident for at least 20 years qualify for a simpler version of the civics test and will be asked up to 10 questions with a requirement to answer 6 questions correctly.

To help study for the citizenship test, USCIS has made resources available at its Citizenship Resource Center.

## OCTOBER                      2025                      VISA                      BULLETIN                      UPDATE

The DOS recently issued the first Visa Bulletin for fiscal year 2026, which will commence on October 1, 2025. At the start of the fiscal year, 140,000 employment-based Green Cards become available for allocation and creates an opportunity for many non-citizens who have been waiting for years to either apply for permanent resident status or receive their Green Card. Of these countries with historical backlogs in green card approvals, during fiscal year 2024 employment-based Green Cards were issued to 7,855 nationals of Mexico, 10,957 nationals of the Philippines, 18,236 nationals of India, and 29,274 nationals of China.

USCIS advised that is using the “Dates for Filing” chart to determine eligibility for filing applications for adjustment of status in October.

**Who becomes eligible to apply for permanent resident status?** During October 2025, noncitizens in the employment-based classifications as noted below become eligible to concurrently file for an employment-based immigrant classification or, if already approved for an employment-based immigrant classification can apply for permanent resident status through adjustment of status (“AOS”).

### First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **May 15, 2023**. At the start of fiscal year 2025 (October 1, 2024) this date was November 8, 2022
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **April 15, 2023**. At the start of fiscal year 2025 (October 1, 2024) this date was February 1, 2022.

### Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **July 15, 2024**. At the start of fiscal year 2025 (October 1, 2024) this date was March 15, 2023.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or

individuals qualifying for a National Interest Waiver) whose priority date is before **December 1, 2021**. At the start of fiscal year 2025 (October 1, 2024) this date was March 22, 2020.

- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **December 1, 2013**. At the start of fiscal year 2025 (October 1, 2024) this date was July 15, 2012.

### Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **July 1, 2023**. At the start of fiscal year 2025 (October 1, 2024) this date was November 15, 2022.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **January 1, 2022**. At the start of fiscal year 2025 (October 1, 2024) this date was April 1, 2020.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **August 15, 2014**, an advancement of 30 days. At the start of fiscal year 2025 (October 1, 2024) this date was November 1, 2012.

**Who becomes eligible to be interviewed/processed for permanent resident status?** During October, noncitizens in the employment-based classifications as noted below who have their AOS application pending or who will complete the Immigrant Visa processing at a U.S. Consular Post become eligible to have their AOS application approved or their interview scheduled in October 2025.

### First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **December 22, 2022**.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **February 15, 2022**, no change since April 2025.

### Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **December 1, 2023**.

- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **April 1, 2021**.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **April 1, 2013**.

### Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **April 1, 2023**, no change since July 2025.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **March 1, 2021**.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **August 22, 2013**.

For additional information, please see the Masuda Funai Client Advisory “Understanding When Your Priority Date is “Current” to File (and Be Approved) for a Green Card”.

## **MFEM**

## **NEWS**

### **Mr. Bob White Participates on AILA Team Drafting Response to F/J/I Proposed Regulation**

Mr. Bob White, co-Chair of the Masuda Funai Immigration Group, is one of the members of the American Immigration Lawyers Association’s (AILA) team drafting a response to the Trump Administration’s proposed regulation which would severely change the F, J and I nonimmigrant categories. More detailed information about these changes was contained in a Masuda Funai August 28, 2025 Client Alert. If implemented in its current form, the proposed changes would significantly and negatively impact international students and their colleges and universities. Through the response to the comment, AILA is requesting that the Administration either not pursue the proposed regulation or to greatly modify the regulation to minimize the unnecessary consequences to international students and their colleges and universities.

More information about the Seminar (including how to register) is available at 2025 Annual Complimentary Employment, Labor, & Benefits Seminar | Masuda Funai

*Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.*