

## IMMIGRATION INSIDER

Vol. 19, No. 9 ▪ September 3, 2023

### INSIDE THIS ISSUE

[New York Leaders Press Biden Administration to Expedite Work Permits, DHS Notifies Migrants](#) – New York City Mayor Eric Adams, along with city and union leaders, business leaders, and the governor of New York, pressed the Biden administration to expedite work permits and other types of aid for an estimated 100,000 migrants transported to the city from the southern U.S. border.

[USCIS Announces Re-Parole Process for Certain Afghans](#) – U.S. Citizenship and Immigration Services said it will accept and consider, on a case-by-case basis, re-parole requests from certain noncitizen Afghans paroled into the United States.

[Participants Sought for USCIS 'myAccount' Usability Study](#) – USCIS seeks input to help it improve the user experience and the design of its myAccount application. USCIS would like to hear from a diverse group of people to gather feedback.

[DOJ Sues SpaceX for Discriminating Against Asylees and Refugees in Hiring](#) – The lawsuit alleges that SpaceX routinely discouraged asylees and refugees from applying and refused to hire or consider them because of their citizenship status.

[USCIS Updates Policy Guidance on CSPA 'Sought to Acquire' Requirement](#) – U.S. Citizenship and Immigration Services (USCIS) has clarified how it will apply the extraordinary circumstances exception to the "sought to acquire" requirement under the Child Status Protection Act in light of a policy change updating when an immigrant visa becomes available for the purpose of calculating an applicant's CSPA age.

[OFLC Issues Round 4 FAQs for H-1B, H-1B1, and E-3 Programs; Rescinds COVID-19 FAQs](#) – The Department of Labor's Office of Foreign Labor Certification (OFLC) has issued Round 4 of its frequently asked questions (FAQs) related to the Labor Condition Application for the H-1B, H-1B1 and E-3 programs. Also, OFLC has rescinded in full all COVID-19 FAQs.

[USCIS Confirms Evidentiary Requirements for Physician National Interest Waivers](#) – U.S. Citizenship and Immigration Services has issued policy guidance to confirm the evidentiary requirements for physicians seeking a national interest waiver of the job offer requirement based on work in an underserved area or at a U.S. Department of Veterans Affairs facility.

[USCIS Launches New Online Appointment Request Form](#) – U.S. Citizenship and Immigration Services announced a new online form for individuals, attorneys, and accredited representatives to request an in-person appointment at their local field office without having to call the USCIS Contact Center.

[OFLC Issues FAQ for Employers on Effects of Hawaii Wildfires](#) – The Department of Labor's Office of Foreign Labor Certification has issued frequently asked questions for employers and their authorized attorneys or agents related to effects of the Hawaii wildfires, including extensions and methods of communication.

[DHS, USCIS Reopen Field Office in Havana, Cuba](#) – The Havana office will assist with U.S. immigration benefits and services. Services at the Havana Field Office will be available only by appointment.

[Ukraine TPS Extended, Redesignated; Special Student Relief Announced](#) – The Department of Homeland Security (DHS) is extending and redesignating Ukraine for Temporary Protected Status. DHS also announced special student relief for Ukraine.

[Sudan TPS Extended, Redesignated; Special Student Relief Announced](#) – The Department of Homeland Security (DHS) is extending and redesignating Sudan for Temporary Protected Status. DHS also announced special student relief for Sudan.

[F-1 EADs May Take One to Two Weeks to Process After Adjudication, CIS Ombudsman Says](#) – The CIS Ombudsman is reminding stakeholders that premium processing times are separate from work permit production timelines.

[September Visa Bulletin Includes DV-2024 Results, Availability of Employment-Based Visas, Determination of Numerical Limit on Immigrants](#) – The Department of State's Visa Bulletin for September includes Diversity Visa 2024 lottery results, availability of employment-based visas during September, and determination of the numerical limit on immigrants for fiscal year 2023.

[USCIS Reminds Employers About New I-9 Alternative Procedure](#) – U.S. Citizenship and Immigration Services reminded employers that the new version of Form I-9, Employment Eligibility Verification, is now available for use. Among other changes, the new version incorporates an alternative procedure for E-Verify employers to remotely examine employee documents.

[CBP Mobile App Facilitates More Than 170,000 Appointments in Six Months](#) – The CBP One app is free and available to migrants in Central and Northern Mexico to schedule appointments to present themselves at a port of entry along the southwest border with the United States.

[State Dept. Releases Fact Sheet on Reunification Parole With Work Authorization](#) – The Department of State released a fact sheet on new family reunification parole processes for individuals from El Salvador, Guatemala, Honduras, and Colombia, and updated processes for individuals from Cuba and Haiti. Eligible individuals paroled into the United States under these processes can apply for work authorization.

[ABIL Global: Australia](#) – Home Affairs Minister Clare O'Neil announced critical changes to the Australian migration framework as part of her address to the National Press Club in Canberra on April 27, 2023.

## ALSO IN THIS ISSUE

[New Publications & Items of Interest](#)

[ABIL Member/Firm News](#)

[Government Agency Links](#)

[About ABIL](#)

## New York Leaders Press Biden Administration to Expedite Work Permits, DHS Notifies Migrants

New York City Mayor Eric Adams, along with city and union leaders, business leaders, and the governor of New York, pressed the Biden administration to expedite work permits and other types of aid for an estimated 100,000 migrants transported to the city from the southern U.S. border.

The New York City Council released a statement: "As an increasing number of people seeking asylum in the United States arrive in our city, it is critical that they be permitted to work legally to support themselves, their families, and our city. People seeking asylum can contribute immensely to our economy, and it is imperative that we facilitate this outcome." New York Governor Kathy Hochul met with senior administration officials to discuss the situation and request expedited work authorization and funding for related costs.

The Biden administration has assessed that "a substantial number of recent migrants who arrived in New York City are currently work eligible but have not yet applied to get a work permit." The administration plans to work with New York State and New York City in September "on a month of action to help close the gap between noncitizens who are eligible for work authorization and those who have applied, to meet labor needs in New York." The administration said individuals "will receive direct communication by SMS and email, in English, Spanish, Haitian Creole, and other languages. This effort will include sending teams working across several lines of effort to support eligible migrants to apply for work authorizations."

On August 31, 2023, the administration sent reminders via text and email to thousands of eligible migrants across the United States to apply for work authorization. "You are receiving this message because you were paroled into the U.S. You can apply for a work permit online," one notice states. A notification for asylum-seekers says, "You are receiving this message because you applied for asylum and might soon be eligible to apply for a work permit." A Department of Homeland Security (DHS) spokesperson confirmed that DHS has "launched a first-of-its-kind national campaign for noncitizens who are work-eligible but have not yet applied for employment authorization."

An open letter that business leaders—including CEOs of many major corporations—sent August 28, 2023, to President Biden and congressional leaders said, "We write to support the request made by New York Governor Hochul for federal funding for educational, housing, security, and health care services to offset the costs that local and state governments are incurring with limited federal aid. In addition, there is a compelling need for expedited processing of asylum applications and work permits for those who meet federal eligibility standards."

### Details:

- [NYC Mayor Eric Adams Pushes Feds to Help Migrants Get Work Permits](#), ABC News (Aug. 31, 2023).
- [Top CEOs Call on Biden Administration to Address Migrant Influx in New York](#), ABC News (Aug. 29, 2023).
- [Readout of White House Meeting with Governor Hochul](#), White House (Aug. 30, 2023).
- ['Let Them Work': Hochul Pressures Biden Over New York's Migrant Surge](#), Politico (Aug. 24, 2023).
- [Open Letter to the President & Congressional Leaders from Concerned Business Leaders Regarding the Asylum-Seekers Humanitarian Crisis](#) (Aug. 28, 2023).

[Back to Top](#)

## USCIS Announces Re-Parole Process for Certain Afghans

U.S. Citizenship and Immigration Services (USCIS) recently announced that the Office of Refugee Resettlement (ORR) has issued [updated guidance](#) clarifying that ORR benefits and services will be available to eligible Afghan parolees who have a pending re-parole application, a pending asylum application, or a pending adjustment of status application with USCIS. This guidance applies to eligible Afghan parolees whose initial period of parole expires while their applications are pending with USCIS, the agency said.

USCIS has announced that it will accept and consider, on a case-by-case basis, re-parole requests under § 212(d)(5) of the Immigration and Nationality Act (INA) from certain noncitizen Afghans paroled into the United States with "OAR" or "PAR" classes of admission.

These re-parole requests (from self-petitioners only) are exempt from:

- The filing fee for re-parole application;
- The filing fee for the Employment Authorization Document application; and
- The requirement to file Form I-134, Declaration of Financial Support.

The USCIS alert explains eligibility requirements and application procedures, how to apply for fee-exempt re-parole, and how to request an employment authorization document.

### Details:

- "[Re-Parole Process for Certain Afghans](#)," USCIS alert (Aug. 21, 2023).
- "[Continuation of ORR Services for Certain Afghans Who Have Filed for Re-Parole, Asylum, or Adjustment of Status](#)," ORR Policy Letter 23-06 (Aug. 1, 2023).

[Back to Top](#)

## Participants Sought for USCIS 'myAccount' Usability Study

U.S. Citizenship and Immigration Services (USCIS) is conducting a usability study for USCIS' myAccount application, a platform designed to streamline access to U.S. government websites such as myUSCIS. USCIS seeks input to help it improve the user experience and the design of its application. USCIS would like to hear from a diverse group of people to gather feedback on myAccount. Recruitment for this test will close on Friday, September 15, 2023.

To participate, email [myuscisfeedback@uscis.dhs.gov](mailto:myuscisfeedback@uscis.dhs.gov) with the subject line, "myAccount Usability Testing," and include age, gender identity, and racial and ethnic category. USCIS will randomly select participants for a 30-minute to one-hour session where it will ask for feedback on proposed designs. If you are selected, a single 30-minute to one-hour long session will be scheduled between Monday, September 25 and Friday, September 29. During the usability testing session, you will have the opportunity to join a video call from a computer (not a mobile device) via Microsoft Teams. Webcam usage is welcome but not mandatory. However, USCIS will require you to share your screen as you review the designs and allow the agency to record your audio and screen. Questions can be sent to [myuscisfeedback@uscis.dhs.gov](mailto:myuscisfeedback@uscis.dhs.gov).

[Back to Top](#)

## DOJ Sues SpaceX for Discriminating Against Asylees and Refugees in Hiring

The Department of Justice (DOJ) filed a lawsuit on August 24, 2023, against Space Exploration Technologies Corporation (SpaceX) for discriminating against asylees and refugees in hiring. The lawsuit alleges that from at least September 2018 to May 2022, SpaceX routinely discouraged asylees and refugees from applying and refused to hire or consider them because of their citizenship status, in violation of the Immigration and Nationality Act (INA).

DOJ noted that SpaceX "recruits and hires for a variety of positions, including welders, cooks, crane operators, baristas and dishwashers, as well as information technology specialists, software engineers, business analysts, rocket engineers and marketing professionals. The jobs at issue in the lawsuit are not limited to those that require advanced degrees." DOJ alleged that in job postings and public statements over several years, "SpaceX wrongly claimed that under federal regulations known as 'export control laws,' SpaceX could hire only U.S. citizens and lawful permanent residents." DOJ explained that export control laws "impose no such hiring restrictions. Moreover, asylees' and refugees' permission to live and work in the United States does not expire, and they stand on equal footing with U.S. citizens and lawful permanent residents under export control laws."

DOJ said it seeks "fair consideration and back pay for asylees and refugees who were deterred or denied employment at SpaceX due to the alleged discrimination." The agency also seeks civil penalties in an amount to be determined by the court and policy changes. DOJ invites affected people to contact the agency's Civil Rights Division's Immigrant and Employee Rights Section (IER) at [IERSpaceXcase@usdoj.gov](mailto:IERSpaceXcase@usdoj.gov) or 1-888-473-3845.

### Details:

- [DOJ press release](#) (Aug. 24, 2023).

[Back to Top](#)

## USCIS Updates Policy Guidance on CSPA 'Sought to Acquire' Requirement

U.S. Citizenship and Immigration Services (USCIS) announced on August 24, 2023, that it is updating the [USCIS Policy Manual](#) to clarify how it will apply the extraordinary circumstances exception to the "sought to acquire" requirement under the Child Status Protection Act (CSPA) in light of a February 14, 2023, policy change updating when an immigrant visa becomes available for the purpose of calculating an applicant's CSPA age.

USCIS explained that the CSPA protects certain beneficiaries from losing their eligibility for immigrant visas and adjustment of status because they age during the immigration process and no longer qualify as a child for immigration purposes. To benefit from the CSPA, noncitizens must seek to acquire lawful permanent resident status within 1 year of when an immigrant visa becomes available, USCIS noted. The update:

- Explains that USCIS considers the February 14 policy change to be an extraordinary circumstance that may excuse an applicant's failure to meet the "sought to acquire" requirement;
- Clarifies that the agency may excuse an applicant's failure to meet the requirement if they did not apply to adjust status because they could not calculate their CSPA age under the prior policy or their CSPA age would have been calculated as over 21, but they are now eligible for CSPA age-out protection under the new policy; and
- Clarifies that the agency considers applicants to have met the requirement if their application to adjust their status was pending on February 14 and they applied to adjust status within one year of a visa becoming available based on the Final Action Dates chart under the policy guidance that was in effect when they applied.

USCIS explained that under the policy guidance in effect before February 14, 2023, some noncitizens may not have applied to adjust status because a visa was not available to calculate their CSPA age under the prior policy or their CSPA age would have been calculated to be over 21 years old. If these noncitizens apply to adjust their status under the new policy issued on February 14, USCIS said, they may not be able to meet the one-year "sought to acquire" requirement. "However, noncitizens who do not meet this requirement may still benefit from the CSPA if they can establish that their failure to meet the requirement was the result of extraordinary circumstances," USCIS noted.

USCIS said it welcomes feedback on this guidance and will consider any comments received in future updates. Comments can be submitted via the [Policy Manual Feedback](#) page.

**Details:**

- [USCIS alert](#) (Aug. 24, 2023).

[Back to Top](#)

### **[OFLC Issues Round 4 FAQs for H-1B, H-1B1, and E-3 Programs; Rescinds COVID-19 FAQs](#)**

The Department of Labor's Office of Foreign Labor Certification (OFLC) has issued Round 4 of its frequently asked questions (FAQs) related to the Labor Condition Application (LCA/ETA Form 9035/9035E) for the H-1B, H-1B1 and E-3 visa programs.

Also, as of August 24, 2023, OFLC has rescinded in full all COVID-19 FAQs, which includes Round 1 (published March 20, 2020); Round 2 (published April 1, 2020); Round 3 (published April 9, 2020); and Round 4 (published June 3, 2020). The processing centers have resumed normal operations. All other FAQs not related to COVID-19 remain in full effect, OFLC said.

**Details:**

- [OFLC FAQ on H-1B, H-1B1, and E-3 Programs](#) (Aug. 24, 2023).
- [OFLC Rescinds All FAQs Regarding COVID-19](#) (scroll to Aug. 24, 2023).

[Back to Top](#)

### **[USCIS Confirms Evidentiary Requirements for Physician National Interest Waivers](#)**

U.S. Citizenship and Immigration Services (USCIS) has issued policy guidance, effective August 16, 2023, to confirm the evidentiary requirements for physicians seeking a national interest waiver of the job offer requirement based on work in an underserved area or at a U.S. Department of Veterans Affairs facility.

The updated guidance confirms that for physician national interest waiver petitions, the required contracts and public health letters must be dated within six months immediately before the petition filing date only for work that the physician has not yet started. The six-month requirement does not apply to work that the physician has already started or has completed before the petition filing date, USCIS said.

**Details:**

- [USCIS Policy Alert](#) (Aug. 16, 2023).

[Back to Top](#)

## USCIS Launches New Online Appointment Request Form

On August 21, 2023, U.S. Citizenship and Immigration Services (USCIS) announced a new online form for individuals, attorneys, and accredited representatives to request an in-person appointment at their local field office without having to call the USCIS Contact Center.

The [online appointment request form](#) allows individuals or legal representatives to request an in-person appointment at a field office, for ADIT stamps, Emergency Advance Parole, Immigration Judge Grants, and more, USCIS said. The USCIS Contact Center will review submitted forms and the availability of in-person appointments at a specific field office. The agency said that individuals "may request a specific date and time for an in-person appointment, but USCIS cannot guarantee that the requested appointment date will be scheduled. USCIS will confirm and schedule the individual for an available in-person appointment date and time."

### Details:

- [USCIS alert](#) (Aug. 21, 2023).

[Back to Top](#)

## OFLC Issues FAQ for Employers on Effects of Hawaii Wildfires

The Department of Labor's Office of Foreign Labor Certification (OFLC) has issued frequently asked questions (FAQs) for employers and their authorized attorneys or agents related to effects of the Hawaii wildfires, including extensions and methods of communication.

Among other things, the FAQs note that OFLC will continue to contact employers and their authorized attorneys or agents primarily using email and—where email addresses are not available—will use U.S. mail, if available. If an employer is impacted by internet and power outages, employers may contact OFLC using the phone numbers listed in the FAQs. For each of OFLC's programs, the agency said the most effective means of communicating with OFLC is through the established Foreign Labor Application Gateway (FLAG) or the PERM Case Management System. If an employer or its authorized attorney or agent is unable to communicate with OFLC through FLAG or the PERM system, alternative methods of contacting OFLC regarding each of OFLC's programs are provided in the FAQs.

OFLC said it will grant extensions of time and deadlines for affected employers and/or their authorized attorneys or agents, including for delays caused by the wildfires in Hawaii and those resulting from businesses preparing to adjust their normal operations due to the wildfires in Hawaii. OFLC said it may extend deadline flexibility to employers and/or their authorized attorneys or agents who are outside a Federal Emergency Management Agency-designated "major disaster" area but are impacted in such a way as to affect their ability to meet OFLC deadlines. OFLC said it will evaluate such requests on a case-by-case basis.

### Details:

- [OFLC FAQ re Hawaii Wildfires](#) (Aug. 18, 2023).

[Back to Top](#)

## DHS, USCIS Reopen Field Office in Havana, Cuba

On August 17, 2023, the Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), announced the reopening of an international field office in Havana, Cuba.

According to a DHS news release, "USCIS' renewed presence in Cuba is part of an effort to restore USCIS' footprint outside the United States. These efforts are consistent with the Biden-Harris Administration's commitment to facilitate safe, legal, and orderly migration while discouraging irregular and dangerous maritime migration." Under the previous administration, DHS explained, USCIS closed the Havana Field Office on December 10, 2018, due to a reallocation of agency resources and the long-term suspension of operations in 2017 after the Department of State ordered all non-essential personnel and families to leave Cuba.

The Havana office will assist with U.S. immigration benefits and services, including conducting interviews and processing cases for pending Cuban Family Reunification Parole (CFRP) cases and refugee/asylee relative petitions. The USCIS Havana Field Office also will provide other limited services, which may include refugee processing and other limited appointment-only services such as collecting biometrics for U visa applications. Services at the Havana Field Office will be available only by appointment.

**Details:**

- [DHS notice](#) (Aug. 17, 2023).
- [USCIS notice](#) (Aug. 17, 2023).

[Back to Top](#)

## **Ukraine TPS Extended, Redesignated; Special Student Relief Announced**

The Department of Homeland Security (DHS) is extending and redesignating Ukraine for Temporary Protected Status (TPS). The extension allows approximately 26,000 current beneficiaries to retain TPS through April 19, 2025, if they continue to meet TPS eligibility requirements. An estimated 166,700 additional individuals may be eligible for TPS under the redesignation of Ukraine. This population includes nationals of Ukraine (and individuals without nationality who last habitually resided in Ukraine) in the United States in nonimmigrant status or without lawful immigration status, DHS said. DHS also announced special student relief for Ukraine.

The **extension** is for 18 months, beginning on October 20, 2023, and ending on April 19, 2025. Existing TPS beneficiaries who wish to extend their status through April 19, 2025, must re-register during the 60-day re-registration period (August 21, 2023, through October 20, 2023). Recognizing that not all re-registrants may receive a new Employment Authorization Document (EAD) before their current EAD expires, U.S. Citizenship and Immigration Services (USCIS) is automatically extending previously issued Ukraine TPS-related EADs through October 19, 2024.

The **redesignation** of Ukraine allows additional Ukraine nationals (and individuals having no nationality who last habitually resided in Ukraine) who have been continuously residing in the United States since August 16, 2023, to apply for TPS for the first time during the initial registration period (August 21, 2023, through April 19, 2025).

The Federal Register notice explains the eligibility criteria, timelines, and procedures necessary for current beneficiaries to re-register and renew their employment authorization documents (EADs), and for new applicants to submit an initial application under the redesignation and apply for an EAD.

Also, effective October 20, 2023, through April 19, 2025, DHS is **suspending certain regulatory requirements for F-1 nonimmigrant students** whose country of citizenship is Ukraine, regardless of country of birth (or individuals having no nationality who last habitually resided in Ukraine), and who are experiencing severe economic hardship as a result of the current war in Ukraine. Such students may request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain their F-1 nonimmigrant student status. DHS said



it will deem an F-1 nonimmigrant student granted such employment authorization to be engaged in a "full course of study" for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in the notice.

**Details:**

- [Federal Register TPS notice](#) (advance copy; to be published August 21, 2023).
- [Federal Register special student relief notice](#) (advance copy; to be published August 21, 2023).
- [DHS news release](#) (Aug. 18, 2023).

[Back to Top](#)

## **Sudan TPS Extended, Redesignated; Special Student Relief Announced**

The Department of Homeland Security (DHS) is extending and redesignating Sudan for Temporary Protected Status (TPS). The extension allows approximately 1,200 current beneficiaries to retain TPS through April 19, 2025, if they continue to meet TPS eligibility requirements. An estimated 2,750 additional individuals may be eligible for TPS under the redesignation of Sudan. This population includes nationals of Sudan (and individuals without nationality who last habitually resided in Sudan) in the United States in nonimmigrant status or without lawful immigration status, DHS said. DHS also announced special student relief for Sudan.

The **extension** is for 18 months, beginning on October 20, 2023, and ending on April 19, 2025. Existing TPS beneficiaries who wish to extend their status through April 19, 2025, must re-register during the 60-day re-registration period (August 21, 2023, through October 20, 2023).

The **redesignation** of Sudan allows additional Sudanese nationals (and individuals having no nationality who last habitually resided in Sudan) who have been continuously residing in the United States since August 16, 2023, to apply for TPS for the first time during the initial registration period, which begins on the date of publication in the Federal Register and is effective through April 19, 2025.

The Federal Register notice explains the eligibility criteria, timelines, and procedures necessary for current beneficiaries to re-register and renew their Employment Authorization Documents (EADs), and for new applicants to submit an initial application under the redesignation and apply for an EAD.

Also, effective October 20, 2023, through April 19, 2025, DHS is **suspending certain regulatory requirements for F-1 nonimmigrant students** whose country of citizenship is Sudan, regardless of country of birth (or individuals having no nationality who last habitually resided in Sudan), and who are experiencing severe economic hardship as a direct result of the current crisis in Sudan. Such students may request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain their F-1 nonimmigrant student status. DHS said it will deem an F-1 nonimmigrant student granted such employment authorization to be engaged in a "full course of study" for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in the notice.

**Details:**

- [Federal Register TPS notice](#) (advance copy; to be published August 21, 2023).
- [Federal Register student relief notice](#) (advance copy; to be published August 21, 2023).
- [DHS news release](#) (Aug. 18, 2023).

[Back to Top](#)

## F-1 EADs May Take One to Two Weeks to Process After Adjudication, CIS Ombudsman Says

Earlier this year, U.S. Citizenship and Immigration Services (USCIS) rolled out premium processing for F-1 students seeking optional practical training (OPT) or science, technology, engineering, and mathematics (STEM) OPT extensions. As students began to file premium processing requests, stakeholders informed the Citizenship and Immigration Services (CIS) Ombudsman that they were experiencing delays in receiving their Employment Authorization Documents (EADs). The CIS Ombudsman is reminding stakeholders that premium processing times are separate from work permit production timelines.

Specifically, the 30-day premium processing timeframe does not include the time it takes to produce an EAD. When an F-1 student files Form I-907, Request for Premium Processing Service, for a work authorization application (Form I-765), the EAD may take one to two weeks to be produced after U.S. Citizenship and Immigration Services (USCIS) approves the Form I-765 application. USCIS will then mail the EAD via U.S. Postal Service "Informed Delivery." Wait times may vary depending on USPS delivery times.

### Details:

- [CIS Ombudsman email broadcast](#) (Aug. 15, 2023).

[Back to Top](#)

## September Visa Bulletin Includes DV-2024 Results, Availability of Employment-Based Visas, Determination of Numerical Limit on Immigrants

The Department of State's (DOS) Visa Bulletin for September includes Diversity Visa 2024 (DV-2024) lottery results, availability of employment-based visas during September, and determination of the numerical limit on immigrants for fiscal year (FY) 2023.

### Diversity Visa Lottery Results

The bulletin notes that the Kentucky Consular Center in Williamsburg, Kentucky, has registered and notified the selectees who are eligible to participate in the DV-2024 program. Entrants registered for the DV-2024 program were selected at random from 22,185,619 qualified entries. The selectee numbers for each country are listed in the bulletin.

During the visa interview, principal applicants must provide proof of a high school education or its equivalent, or two years of work experience in an occupation that requires at least two years of training or experience within the past five years. "Those selected will need to act on their immigrant visa applications quickly," the bulletin advises. Approximately 143,000 prospective applicants (selectees and their spouses and children) have been registered. Once the total 55,000 visa numbers have been used, the program for fiscal year 2024 will end. Selectees who do not receive visas or status by September 30, 2024, will derive no further benefit from their DV-2024 registration, the bulletin says.

DOS said that the dates for the DV-2025 program registration period will be widely publicized in the coming months.

### Availability of Employment-Based Visas

The bulletin explains that employment-based number use by both U.S. Citizenship and Immigration Services (USCIS) and DOS has been steady during this fiscal year. As a result, most employment-based preference category limits and/or the overall employment-based preference limit for FY 2023 are

expected to be reached during September. If the annual limit is reached, the preference category will immediately become unavailable.

### **Determination of Numerical Limit on Immigrants**

DOS has determined that the employment preference numerical limit for FY 2023 is 197,091. For FY 2023, the per-country limit is 29,616. The dependent area annual limit is 2%, or 8,462.

#### **Details:**

- [Visa Bulletin for September 2023](#), Dept. of State.

[Back to Top](#)

### **USCIS Reminds Employers About New I-9 Alternative Procedure**

U.S. Citizenship and Immigration Services (USCIS) reminded employers that the new version of Form I-9, Employment Eligibility Verification, is now available for use. The new version incorporates an alternative procedure for E-Verify employers to remotely examine employee documents. Other changes include shortening the form to one page and reducing the instructions to eight pages.

Employers can use the form immediately, USCIS said. The Form I-9 dated "10/19/2019" may continue to be used through October 31, 2023. The version date can be found at the lower left corner of the form. Beginning November 1, 2023, only the new Form I-9 dated "08/01/23" may be used.

#### **Details:**

- [USCIS alert](#) (Aug. 1, 2023).

[Back to Top](#)

### **CBP Mobile App Facilitates More Than 170,000 Appointments in Six Months**

The Department of Homeland Security (DHS) announced on August 3, 2023, that the U.S. Customs and Border Protection (CBP) mobile app, CBP One, has facilitated more than 170,000 appointments in six months.

The CBP One app is free and available to migrants in Central and Northern Mexico to schedule appointments to present themselves at a port of entry (POE) along the southwest border with the United States. Individuals who present at one of eight POEs (Nogales, Brownsville, Eagle Pass, Hidalgo, El Paso, Calexico, and San Ysidro) with CBP One appointments along the southwest border are vetted and processed. The process includes biographic and biometric security vetting and background screening, DHS said.

DHS said the number of available appointments has increased to 1,450 per day, up nearly 50 percent from the 1,000 appointments per day on May 12, 2023, when the process started.

#### **Details:**

- [DHS Fact Sheet](#) (Aug. 3, 2023).

[Back to Top](#)

## State Dept. Releases Fact Sheet on Reunification Parole With Work Authorization

The Department of State (DOS) released a fact sheet on August 7, 2023, on new family reunification parole processes for individuals from El Salvador, Guatemala, Honduras, and Colombia, and updated processes for individuals from Cuba and Haiti. Nationals of these countries may be considered for parole on a case-by-case basis for a period of up to three years while they apply to become a lawful permanent resident pursuant to their approved I-130 petition.

DOS said these processes "will allow vetted individuals with approved family-based petitions to be paroled into the United States, on a case-by-case basis." Eligible individuals paroled into the United States under these processes can apply for work authorization.

### Details:

- [DOS fact sheet](#) (Aug. 7, 2023).

[Back to Top](#)

## ABIL Global: Australia

*Home Affairs Minister Clare O'Neil announced critical changes to the Australian migration framework as part of her address to the National Press Club in Canberra on April 27, 2023.*

The new Labor government commissioned a significant review of Australia's migration framework after the Home Affairs Minister, Clare O'Neil, determined that the existing legislative framework was not working to serve Australia's needs. Over the years, Australia's migration policies changed to effectively create a niche group of temporary residents known as "permanently temporary." They have been part of Australia for years, having worked there, had children, and become part of the community, but they could never access permanent residence. Permanent migration is now the focus of this new government.

### TSMIT Increase—July 2023 and the Future

In the biggest-ever change to sponsored temporary work visas, known as 482 or 457 visas, in 2023 the government announced an increase in the minimum salary that must be paid to a sponsored visa holder. This is known as the Temporary Skilled Migration Income Threshold (TSMIT). The TSMIT has not changed since 2009, and until June 30, 2023, the minimum salary was set at \$53,900 AUD.

After reviewing the visa program, the government announced that all new 482 sponsorships lodged after July 1, 2023, must be paid a minimum TSMIT of \$70,000 AUD base salary, excluding compulsory superannuation guarantees. The Grattan Institute, a public policy think tank, recommended the increase to \$70,000 after reporting that the average 457 visa holder in Australia was earning about \$75,000 anyway. The increase in the minimum salary also reflected the true cost of living in Australia and was much more attuned to the labor market than the original \$53,900 salary set in 2009.

### Permanent Australians

The Home Affairs Minister also said that all temporary skilled workers will have a pathway to permanent residence by the end of 2023. It is likely that the government is working on the regulations for release later in the year. However, like most government announcements, it may take place much later than the anticipated timeframe—to carve out the correct legal framework to ensure that some 1.8 million temporary visa holders currently in Australia have a secure pathway to permanent residence. Australian immigration lawyers are patiently waiting to examine the new legislation when it becomes available.

To continue to attract the "best and brightest" not only to fulfill critical skills shortages but also to drive up innovation, the government made other announcements:

- ✓ High-performing student visa holders will have a pathway to permanent residence.
- ✓ Requirements are being tightened for international student visa holders and applicants to attract and retain bright minds and skills attributable to Australia.
- ✓ The points-tested visas will be overhauled and the search for global talent to build the country's future will be increased.
- ✓ Three new pathways for temporary skilled migrants will include:
  - A fast and simple route for highly skilled workers to drive innovation and jobs growth;
  - A mainstream pathway to bring in core skills, including migrants earning above the TSMIT and middle-income earners; and
  - Essential industries to cater to sectors such as aged care.

While some 482 visa holders are eligible to access permanent residence now, the legislation has yet to be released to support the government's intentions for growth. For now, Australia remains a lucrative destination, open for business again and ready to recover from the global impact of the COVID-19 pandemic.

[Back to Top](#)

## New Publications & Items of Interest

**E-Verify** has launched a [webpage](#) on remote examination of employees' Form I-9 documents, and has announced upcoming [webinars](#).

The **American Immigration Lawyers Association** has provided [feedback](#) on the FY 2024 H-1B Electronic Registration System. Topics include duplicate registrations, training materials, MyUSCIS accounts, Form G-28 employer issues, duplicative data entry, and staff/associate attorney options, among others.

The **O\*NET 28.0 Database** release in August 2023 updates 90 occupations with data from job incumbents and occupational experts, the O\*NET Resource Center announced. This type of data is available for a total of 853 O\*NET-SOC occupations. This release also updates Detailed Work Activities (DWAs) for 65 occupations. For more information on these updates, see [O\\*NET 28.0 Database Overview](#). The new data is incorporated within [My Next Move](#), [Mi Próximo Paso](#), [My Next Move for Veterans](#), and [O\\*NET OnLine](#). Download the database from the [Resource Center](#). Developers can also access the latest data from [O\\*NET Web Services](#). The May 2023 release (27.3) of the O\*NET Database includes 924 technology skill linkages related to 282 occupations added from employer job postings.

**U.S. Citizenship and Immigration Services (USCIS)** has updated its Policy Manual to clarify voter registration access at its administrative naturalization ceremonies. The [updated guidance](#): (1) affirms that USCIS provides access to voter registration services at each administrative naturalization ceremony, including information regarding points of contact for voting and voter registration; (2) provides that USCIS offices request that election officials from state or local government election offices attend ceremonies to distribute, collect, and review voter registration applications and to officially register new citizens to vote; (3) affirms that USCIS offices coordinate with nonpartisan, nongovernmental organizations for voter registration services when state and local government election officials are not

available; and (4) provides that, to the extent feasible, USCIS offices invite governmental or nongovernmental organizations offering on-site voter registration services the opportunity to introduce themselves and address the naturalization candidates before the ceremony.

The [Department of Homeland Security](#) and the [General Services Administration](#) plan to use \$288 million in Inflation Reduction Act funds to complete three construction projects: the relocation of the U.S. Cybersecurity & Infrastructure Security Agency (CISA) Headquarters and Immigration & Customs Enforcement (ICE) Headquarters to the St. Elizabeths campus in southeast Washington, DC, and building a new 1,500-space parking garage, the agencies [announced](#) on August 17, 2023. The new construction will provide additional office space for approximately 6,500 personnel, DHS said.

[Americans for Immigrant Justice and the American Immigration Lawyers Association](#) released a shareable [flyer](#) on employment and E-Verify considerations for Florida employers. The flyer notes that effective July 1, 2023, a new Florida law (SB 1718) makes it a violation of state law for any person to knowingly employ, hire, recruit, or refer, either for themselves or on behalf of another, for private or public employment a foreign national who is not authorized to work in the United States. Under the new law, an employer can be penalized for failing to verify employment authorization. Moreover, a noncitizen who uses false identification documents to obtain employment can be charged with a crime. The new law requires employers to verify new employees' work authorization within three business days and requires private employers who employ 25 or more employees to use E-Verify to confirm new employees' work authorization. According to the flyer, employers will have 30 days to cure any noncompliance. Failure to use the E-Verify system three times in a 24-month period will result in a \$1,000 fine per day until proof of compliance is provided.

The [Department of Homeland Security](#) released a [fact sheet](#), "U.S. Has Expanded Labor Visa Opportunities." The fact sheet states that this year, the United States increased the number of available H-2B temporary work visas. The fact sheet notes that the Department of Homeland Security, in consultation with the Departments of Labor and State, made available nearly 65,000 additional H-2B visas for temporary nonagricultural workers to come to the U.S. in fiscal year 2023, including 20,000 visas allocated for workers from Haiti, El Salvador, Guatemala, and Honduras. Of these, 57,000 have already been issued, the fact sheet says. The fact sheet includes links to requirements to participate in the H-2B program in [English](#) and [Spanish](#), and DOL workers' rights cards in [English](#) and [Spanish](#).

The [Department of Labor's Office of Foreign Labor Certification \(OFLC\)](#) released the [H-2B foreign labor recruiter list](#) for Q3 of fiscal year (FY) 2023 on August 15, 2023, along with [frequently asked questions](#). The list contains the name and location of persons or entities identified on Appendix C of the Form ETA-9142B that were hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their H-2B application. The H-2B Foreign Labor Recruiter List includes only those names and locations associated with H-2B applications that were processed or issued a final decision during the October 1, 2022, through June 30, 2023. On the same date, OFLC also released [public disclosure data](#) and [selected program statistics](#) for Q3 of FY 2023.

#### **Immigration agency X (formerly Twitter) accounts:**

- EOIR: @DOJ\_EOIR
- ICE: @ICEgov
- Study in the States: @StudyinStates
- USCIS: @USCIS

**E-Verify webinar schedule:** E-Verify released its calendar of webinars. [https://www.e-verify.gov/calendar-field\\_date\\_and\\_time/month](https://www.e-verify.gov/calendar-field_date_and_time/month)

#### **Alliance of Business Immigration Lawyers:**

- ABIL is available on X (formerly Twitter): @ABILImmigration
- Recent ABIL member blogs are at <http://www.abilblog.com/>

[Back to Top](#)

## ABIL Member/Firm News

[Cyrus Mehta](#) and [Kaitlyn Box](#) have co-authored several new blog posts: [USCIS Updates Policy Guidance on CSPA 'Sought to Acquire' After Using Filing Date to Protect Age of the Child](#), and [Will United States v. Hansen Come Back to Bite Trump?](#)

[Mr. Mehta](#) and [Jessica Paszko](#) have authored a new blog post: "[Changes in Work From Home Policies After Labor Certification Has Been Filed.](#)"

[WR Immigration](#) has published a new blog post: [USCIS Policy Updates on CSPA Age Calculation & 'Sought to Acquire' Requirement under CSPA on Adjustment of Status Cases—Confusion and Heartbreak for Consular Processing Applicants.](#)

[WR Immigration](#) will present the next installment of the "Chatting with Charlie" series at 11 a.m. on September 21, 2023. The topic will be "[September 2023 Visa Bulletin Update.](#)"

[WR Immigration](#) has published a new blog entry by [Dara Lind](#): "[CBP's Continued 'Turnbacks' Are Sending Asylum Seekers Back to Lethal Danger.](#)"

[Klasko Immigration Law Partners, LLP](#), has published a new blog post: [Canada's Tech Talent Strategy: A Creative Option for U.S. Employers?](#)

[Stephen Yale-Loehr](#) was quoted by *New York Daily* news in [NYC Mayor Adams Again Urges Feds to 'Stand Up,' Accelerate Work Permits for Migrants Amid Crisis](#). Mr. Yale-Loehr said that U.S. Citizenship and Immigration Services was gutted under former President Donald Trump and has worked to catch up under President Biden. He noted that the 150-day delay between asylum applications and work permit requests cannot be changed without an act of Congress, a step considered highly unlikely in the Republican-controlled House of Representatives. The federal government reported that it is processing 80 percent of asylum-seekers' work authorization submissions within two months, he said.

[Mr. Yale-Loehr](#) was quoted by the *Albany Times-Union* in [Asylum Cases Lag As Migrants Lack Required Casework](#). He noted a lack of clarity around the intersection of homelessness and migrants in the law. But he said one thing was clear: "There are a lot of issues that need to be resolved and so far there does not seem to be any coordination between state and local authorities to figure this out."

[Mr. Yale-Loehr](#) was quoted by WENY TV in "[The Migrant Crisis Battle Between New York City and Upstate New York.](#)" He said the influx of migrants has cost New York City over a billion dollars and as a result, led Mayor Eric Adams to consider relocating migrants to upstate counties. "It became clear that some of these migrants were going to be coming to Upstate New York. Counties, including Cortland County and Onondaga County, issued local ordinances forbidding New York City from sending those migrants to upstate New York." Mr. Yale-Loehr said the legal issue "is whether there's a provision in the New York state constitution that requires not just the city of New York, but the whole state to provide a right to shelter. That issue is complicated and it's before a judge now and we'll see how the judge rules." He suggested that a better action plan needs to be implemented across the country overall: "We need to persuade Congress to appropriate more money to help states who have these immigrants. And we need to persuade state legislators that this money should be appropriated from the state to deal with this. And we need to do it at a state level rather than a county-by-county or New York City versus upstate level."

**Mr. Yale-Loehr** was quoted by *The Guardian* in "[My Goals in Life Vanished: Afghan Students Rocked by U.S. Visa Denials](#)." He said, "For countries like Afghanistan or others where there is war, or other problems, it can be particularly hard to show that you intend to return home after you finish your studies in the United States." Mr. Yale-Loehr also said, "We really have failed the people of Afghanistan in so many ways, going more broadly than just Afghan students." He noted that a visa rule commonly referred to as the "immigrant intent" test is part of the reason students from Africa and the Middle East face higher visa denial rates than students from western European countries. "It's basically the discretion of the consular officer that decides whether the person overcomes that requirement. It really depends on the consular officer and whether they're feeling generous that day or not."

[Back to Top](#)

## Government Agency Links

*Follow these links to access current processing times of the USCIS Service Centers and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:*

**USCIS case processing times online:** <https://egov.uscis.gov/processing-times/>

**Department of State Visa Bulletin:** <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

[Back to Top](#)

## About ABIL

*The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 445 member lawyers and their more than 1,100 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.*

*The Alliance of Business Immigration Lawyers' website is at <https://www.abil.com/>. ABIL is also on X (formerly Twitter): @ABILImmigration.*

### Disclaimer/Reminder

*This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.*

*Copyright © 2023 Alliance of Business Immigration Lawyers. All rights reserved.*

[Back to Top](#)