



## FROM THE EDITOR'S DESK

April was a disappointing month for those looking towards a concrete step towards comprehensive immigration reform. The Senate failed to reach an agreement on immigration reform legislation before the Senators left for a two-week spring recess, stalling the comprehensive immigration reform process. However, Senate Judiciary Committee Chairman Arlen Specter (R-PA) reportedly stated that his committee would take the issue back up shortly after the Senate's return during the last week of April.

Earlier this month someone's April Fools' Day joke took a serious turn when a reputed website issued a press release that the USCIS reached the H-1B cap for FY 2007 on the first day of filing. We at VisaPro, as always, immediately informed our readers that the news was false as there was no official update from USCIS. Later, the USCIS released the first-day filing numbers informing that they received just over 1,600 H-1B petitions.

Our attorneys have also been busy with H-1B filings ever since the filings began. Though most of our clients had already planned early and were ready with the cases in advance, we are still receiving a lot of calls from clients asking us the probable time when the cap would be reached this year. Although the word amongst the immigration circles is that the cap will not be reached at least in the next two months, we have already advised employers not to wait until the last moment.

Did you notice any change in [VisaPro Message Board](#)? We re-organized the forum and introduced new sections to make it more user-friendly. You need to select the appropriate section, classified by different visa categories, to review or post your messages. We hope you enjoy the new format. Feel free to [let us know](#) your comments.

**Stella Avendano** is the winner of last month's **Immigration Quiz**. It seems that the participants are now doing a lot of research before sending their responses. Almost half of the participants answered correctly, but most of them lacked proper explanation. Ms. Avendano wins a **FREE online consultation** with a VisaPro attorney. Congratulations! I will look forward to your responses to this month's quiz.

You must have also read on VisaPro Immigration News that the DOS Visa Office recently confirmed that an employer who filed a petition for initial blanket L classification prior to June 6, 2005 may continue to bring in blanket qualified workers with only 6 months of qualifying employment. The Visa Office indicated that USCIS concurs with this policy, which is subject to continuing examination by the agencies. Our **In Focus** article explains the details of the Blanket L program and its advantages.

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## YOUR OPINION

The H-1B cap for FY 2006 was reached in August 2005. Considering that USCIS received over 1,600 petitions for FY 2007 on the first day of filing, do you think the cap will be reached sooner than August?

- a. Yes, in June 2006
- b. Yes, in July 2006
- c. No, in August 2006

[Cast Your Vote](#)  
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## IMMIGRATION QUIZ

**Win a FREE Online Consultation!**

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will

Have you ever been to the U.S. and overstayed your visa? Do you know the consequences if one continues to remain in the U.S. beyond the authorized period of stay? In our **Immigration Article** this month, we discuss the consequences of overstaying and how to avoid overstay in the U.S.

While the Senate was busy debating comprehensive immigration reform, we found it best to conduct a poll on what our readers think about the various measures to control illegal immigration. Over 63% of the readers who participated in the poll are of the view that starting a guest worker program is the best way before the government to control illegal immigration. Approximately 20% of the participants were of the opinion that the government should enforce measures to control illegal employment of workers by U.S. employers. Don't forget to cast your vote in this month's Immigration Poll. **Your opinion** does matter and can influence the lawmakers.

[Let me know](#) if you would like us to write about anything in particular. See you next month with more from the world of immigration.

*Christine*

## LATEST NEWS

### [Visa Bulletin for May 2006](#)

The U.S. Department of State (DOS) has released visa bulletin for May 2006. There is further retrogression under certain Family visa categories for Mexico and Philippines. Employment Based cut-off dates under first and second preference categories for India and China show forward movement.

### [DOS Visa Office Clarifies Policy on Blanket L](#)

In response to an inquiry from the DOS Liaison Committee, the Visa Office confirms that an employer who filed a petition for initial blanket L classification prior to June 6, 2005 may continue to bring in blanket qualified workers with only 6 months of qualifying employment.

### [Senate Immigration Reform debate stalled for now](#)

The Senate failed to reach an agreement on immigration reform legislation yesterday before the Senators left for a two-week spring recess.

### [H-1B Update – USCIS issues first day filing numbers](#)

As of April 3, 2006 USCIS has approved 76 petitions that are subject to H-1B cap and 1,555 petitions are pending. Under the Advanced Degree Exemption category USCIS has approved 9 petitions and another 331 are pending.

### [USCIS reaches H-2B Cap for second half of FY 2006](#)

U.S. Citizenship and Immigration Services (USCIS) announced that it has received a sufficient number of petitions to reach the congressionally mandated H-2B cap for the final six months of Fiscal Year 2006 (FY 2006).

receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2006.

*I was born in Australia but my family migrated to the U.K. when I was 3 years old and I have a British citizenship. I am 35 now and have received an offer from a U.S. company. Can I use E-3 visa rather than the H-1B?*

[Submit Your Answer](#)

**Immigration Issue?**

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### **Winner of the Immigration Quiz - March 2006:**

Stella Avendano

#### **The Question:**

*I am a French citizen. I entered the U.S. two months ago under visa waiver to visit my US citizen friend. I got married to him last week. What are my options of filing for Green Card? Will I have to leave the U.S. to get green card?*

#### **The Winning Response:**

No, you can adjust the status without leaving the country. Just file I-130, I485,G325, I765 and supporting documents, and you will get your documents within the country. But, if you want you can also leave the country and file for a K-3 visa. and come back to do the adjustment in USA, but I rather do the first choice.

Stella Avendano receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of April 2006.

## Cover me - The Blanket L program

The Blanket L program is designed to allow large multinational corporations to transfer their executives, managers, and specialized knowledge professionals to the U.S. without undergoing the often lengthy processing periods for regular L petitions.

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**H-1B VISA** (Persons in a Specialty Occupation)  
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## IMMIGRATION ARTICLE XML

### Oops! I overstayed my Visa

Overstaying your time in the U.S. is no longer overlooked. The issue of overstaying while on a nonimmigrant visa has been getting serious attention in recent years.

[Read Full Article](#) | [Read More Articles](#)

## PROCESSING TIMES XML

▶ [Visa Bulletin](#) ▶ [USCIS Processing Times](#) ▶ [Local USCIS Offices](#)

## DISCUSSION CORNER XML

[I quit school while on my f1 visa, scared about future immigration!](#)

By starz

[Where do I find a "Certified Translator"?](#)

By joeyjoey

[Work Visa vs. K-1 Visa](#)

By stephnap

[More Discussions](#)



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## QUESTIONS AND ANSWERS

1. **"I am to attend k1 visa interview at my home country. My fiancée was earning \$25,000 till last year November 2005. Presently she is no more working. Can she still stand in as my sponsor for the affidavit of support/ Or can her mother who earns \$90,000 with one dependant stand in for co-sponsorship? Can my fiancée use her last year and two previous year tax returns as the supporting documents for the**

### GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in

## affidavit of support?

Since your fiancée is the petitioner she will have to file an affidavit of support. The US consular officer or immigration officer reviewing your case will look at the last 3 years of tax returns only as history to see if your fiancée has the ability to meet the necessary income level. They will look at her current employment to see if she actually meets the required income levels. If she is not currently working the reviewing officer will require a co-sponsor. Her mother can act as the co-sponsor, and if she is making \$90,000 she will easily meet the income requirements.

every issue.

**Note:** Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

[Ask Your Question](#)

You should have an affidavit of support from both your fiancée and her mother for the interview. Submit the one from your fiancée first. If it is accepted you will not need to give them the one from her mother. Give it to them only if they ask for it.

2. **I am working for a reputed American Company located in India, was invited to attend a business meeting by my parent company in US twice (once in Nov-05 and again in Jan-06). But unfortunately both the times I was denied a by Mumbai Consulate under sec. 214 (b), in spite of producing all the required documents along with my 2 year agreement signed with my Indian company. This amounts to a loss of \$1 Million to my company for myself not able to attend the meeting. Need your Valid Suggestion on this as I am again invited to attend a meeting in the month of June.**

As you probably know section 214(b) states that all visa applicants are considered to be intending immigrants until they prove otherwise. Unfortunately it is the easiest provision for a consular officer to use to deny a case, and one of the hardest provisions to overcome. Even if you go to the interview with all the documentation that the consular officers normally ask for you can get denied. Consular officers have consistently told us that the decision comes down to the interview. If the applicant is confident in the interview, (i.e., he or she knows when and where they are traveling, how long they will be on the trip, who is paying for the trip, the nature of the business, who they will be seeing, etc.) he or she is more likely to be issued the visa. If they don't know the details, and/or hesitate in their answers, if they can't talk intelligently about the work they are doing it is likely that they will not be issued the visa.

At this point you have a couple of options. First, you could try again for a visitor visa, presenting the information you did before plus any new evidence you can produce regarding your intentions to return to India after your travels (immediate and extended family in India, property ownership, employment or business in India, etc.) plus a well drafted invitation letter from the employer. Your second option, and the one we would recommend, would be for the US parent company to file an [L-1](#) petition for you as an employee who is a manager or executive, or a person with specialized knowledge of the products and/or procedures of the company (if your absence from the previous meeting cost the company \$1 million you should easily meet one of the categories). If the company uses the premium processing procedure at the USCIS service center the petition would have to be adjudicated within 15 days of receipt. This would still leave you with plenty of time to get your visa at the consulate. The L-1 visa will do two things for you: first you do not have to prove that you will be returning to India at the end of your authorized stay (the consular officer cannot deny the visa under 214(b)), and second it will facilitate your travel to the US in the future (the L-1 visa is valid for up to 3 years initially, so you will not have to worry about travel for those three years).

[More Q&A](#)

## SUCCESS STORIES

### What do you do when you are stuck outside the US and your husband is severely injured in an accident?

Sarah and Steve met while Sarah was vacationing in Hawaii. They fell in love and were married in Paradise. Since Sarah is from Canada they called immigration to see what they had to do for her to stay here. They were told that Sarah has to file for adjustment of status and what she would need to do that. Before filing anything with immigration Sarah made a couple of trips back to Canada. The first couple of trips were without incident, but on her third trip she was stopped by immigration at the airport and told that since she was married to a US citizen she could not enter the U.S., that she would have to get an immigrant visa or [K-3 visa](#) before she could

return.

*When Sarah and Steve initially contacted US immigration in Hawaii they were told that they needed to file for adjustment of status and the documentation that would be needed, but they were not told that if Sarah went back to Canada she might be barred from re-entry as an intending immigrant.*

To say the least Sarah and Steve were very frustrated and disappointed at the forced separation. They came to us and we began preparing the Petition for Alien ([Form I-130](#)) and the K-3 petition. Before we were able to file the Form I-130 package Steve was involved in a serious motorcycle accident and admitted to the Intensive Care Unit at the hospital. Steve has no family in Hawaii and Sarah was stuck in Canada; he had no one to help him and care for him during his recovery. As soon as Sarah was told about the accident she tried to talk to the U.S. immigration officers in Canada to see if they would let her come to Hawaii as a visitor to see her husband. We had her take a letter from the hospital confirming that Steve was in ICU and with a request that Sarah be allowed to enter the U.S. but she was flatly refused and told to wait.

At this point we decided that the only way that Sarah would be able to enter the U.S. to see Steve and help care for him would be through "Humanitarian Parole". Since her ultimate destination was in Hawaii, we contacted the Honolulu District Office to discuss her case with them. They were more than helpful and advised as to what documents they would like to see in support of the application. We got the application completed and filed over the weekend so the officer would have it Monday morning. As it turns out the Acting District Director was going to leaving that position at the end of the week so the clerk that we had been talking to watched for the package to come in and took it directly to the Acting DD so she could review it before leaving, saving us several days in the process.

The Acting District Director approved the application (one of the last acts before she departed) and had the approval faxed to the immigration office at the airport in Vancouver BC. Sarah was able to pick up her copy there and was admitted into the US. She is now in Hawaii caring for her husband and waiting for her K-3 visa interview.

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