



## FROM THE EDITOR'S DESK

As 2009 ends, we celebrate one more year of our time together. We welcome 2010 with the determination to continue to provide you fast, easy and economical immigration services on the web. We are delighted to be connected to you and we wholeheartedly thank you for your continuous and consistent support. The whole VisaPro team wishes you a very Happy and Prosperous New Year – 2010. [Check this exclusive greeting card](#) we made for you.

The year 2009 has seen many ups and downs, but in 2010 we believe things will fall into place. In a sense, things actually started falling in place in December 2009 ... after months of slow movement, the [H-1B](#) demand increased in November and the cap was reached in about 4 weeks. This is a sign that the U.S. economy is improving and employers have restarted hiring foreign nationals to meet their employment needs.

Let us keep our fingers crossed and hope President Obama will pass meaningful immigration reform this year. With the introduction of the Comprehensive Immigration Reform for America's Security and Prosperity Act (CIR ASAP) in December we are moving in the right direction. We will keep you advised on where this important legislation goes next.

This year prospective employers are eagerly waiting for the H-1B filing period to file H-1B petitions for prospective employees for fiscal year 2011 employment. Immigration experts believe that H-1Bs for fiscal year 2011 will be gone within a very short time, unlike fiscal year 2010. As the economy starts to improve and employers increase their hiring, we do not expect that next year's H-1B numbers will remain available for long, certainly not the 8 months they did in 2009. Therefore, we urge employers and employees to prepare and file most or all of their H-1B petitions on or about April 1, 2010, the first day for FY 2011 filings. This

### IN THIS ISSUE

- [Latest News](#)
- [In Focus](#)
- [Immigration Article](#)
- [Processing Times](#)
- [Discussion Corner](#)
- [Questions and Answers](#)
- [Success Stories](#)

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will ensure that their petitions have the greatest chance to be included in the quota.

Here is the VisaPro suggested timeline for H-1B petitions. It has been designed to maximize your efforts and ensure timely and successful filing of your H-1B petition.

<u>ASAP:</u>	Identify your H-1B needs, discuss the strategy with your VisaPro immigration attorney and finalize the applicants list; Develop detailed job descriptions; Obtain prevailing wage determination.
<u>Early February:</u>	File LCA with DOL; Begin gathering supporting documentation
<u>Early March:</u>	Prepare all H-1B forms, support letter and other required supporting documentation
<u>Mid March:</u>	File LCA with DOL.
<u>March 31:</u>	Mail the petition to USCIS for delivery on <u>April 1, 2010</u> .

[Contact VisaPro](#) immediately to assist you with the H-1B filing using the fast, easy and economical online visa processing.

### Other Developments in Immigration Law

#### [USCIS Grants One-Time Accommodation for Shepherders in H-2A Status](#)

USCIS, on December 31, 2009 announced that it would allow [H-2A](#) workers in the shepherding industry more time to fully transition to the three-year limitation of stay requirements under the USCIS' final rule that became effective on Jan. 17, 2009. USCIS is making the one-time accommodation in deference to the industry's prior exemption from the 3-year limitation. This exemption does not impact other H-2A categories.

#### [DOS Proposed Rule on Exchange Visitor Program Secondary School Students](#)

The U.S. Department of State (DOS) has issued a proposed rule to amend the Exchange Visitor Program regulations to amend existing regulations regarding the screening, selection, school enrollment, orientation, and monitoring of overall quality assurance on behalf of student participants; and the screening, selection, orientation, and quality assurance monitoring of host families. DOS will accept

### YOUR OPINION

Will USCIS reach the H-1B Cap as soon as the filing period opens in April 2010?

- a. Yes
- b. No
- c. Can't say

[Cast Your Vote](#)

[View Results](#)

### 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 receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of January 2010.

*I am a permanent resident of the U.S. I filed the [I-130](#) for my wife and my son in February 2005 and it got approved in March 2006. The NVC has no visa number for this case yet. Can I apply for a [V-1](#) and [V-2](#) visas respectively for my wife and son?*

[Submit Your Answer](#)

comments from the public until February 22, 2010.

## Immigration Articles and Other Fun Stuff:

Now for the regulars - this month's **Immigration Article** entitled "Grab Your Opportunity to File an H1B Visa With VisaPro's H-1B Timeline" is an interesting and informative article, which will help an employer in sponsoring an H-1B worker by planning ahead and filing the nonimmigrant visa petition in a timely manner. Also check out our **In Focus** section for this month where we discuss the most common myths attached to H-1B visa and learn the true facts.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **93.33%** of the respondents believed and liked Ms. Nancy Fichtner's idea to allow the veterans leaving VA hospitals to take home the medicine they've been using instead of it being thrown away when they're discharged? We appreciate that people take interest in the opinion question and cast their vote to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Shahana Javed** for winning last month's **Immigration Quiz**. Again, we received a significant number of responses from our readers, who talked about various solutions to support their position, but **Shahana Javed** gave the

correct answer and won free online consultation to discuss the concerned Immigration issues. So it's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. All the Best!!!

To ensure you receive your Immigration Newsletter, please add [Immigration-Monitor@VisaPro.com](mailto:Immigration-Monitor@VisaPro.com) to your address book or safe list.

**See you next month with a lot more noise from the Immigration World!**

*Christine*

Immigration  
Question?

Consult Our  
Experienced  
Attorneys

Click Here



### Winner of the Immigration Quiz - December 2009:

Shahana Javed

#### The Question:

*I am a national of Germany and was working in Canada since 2006. In 2008 my employer in Canada transferred me from the Canadian payroll to the U.S. payroll. I came to the U.S. in January 2008 on an L-1B but my status changed to an H-1B in mid-2008 (although I was still working for the same company). The day-to-day responsibilities of my job did not change. In August 2009, I completed my MBA at a U.S. University. Now, considering that have two graduate degrees, will I qualify for EB-1C, employment based green card if my current employer offers me a management position?*

#### The Winning Response:

## RECENT IMMIGRATION EVENTS



VisaPro Attorney  
Mr. Thomas Joy  
at Bangalore



Consular Interview  
Mock Session



Seminar Attendees  
at Hyderabad

More ▶

## LATEST NEWS XML

### [DOS Releases February 2010 Visa Bulletin](#)

The Department of State (DOS) has recently released the Visa Bulletin for February 2010. The February 2010 Visa Bulletin shows three-week advancement in priority date cut-offs for EB-2 for China. In the third employment-based preference category (EB-3) for professionals and skilled workers, cut-off dates will advance approximately seven weeks for China and worldwide, except India and Mexico whereas all other categories will remain unchanged from the January 2010 bulletin.

### [DOL Releases FAQs on Filing and Processing of Prevailing Wage Determination](#)

The Department of Labor (DOL), on January 4, 2010 released Frequently Asked Questions on the filing and processing of Prevailing Wage Determination (PWD) requests. The National Prevailing Wage and Helpdesk Center (NPWHC) will process Prevailing Wage Determination (PWD) requests for H1B, H1B1, H2B, E3 and the permanent labor certification program (PERM).

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IN FOCUS

XML

No, you would not be eligible to apply for an EB-1 Green Card. To qualify for an EB-1C as a 'multinational executive or manager' you must be employed as a manager or executive outside the U.S. for at least one year out of the last three years before you came to the U.S. However, if your position with your current employer outside the U.S. could be classified as managerial you may be able to seek permanent residence as a multinational manager. Because you entered the U.S. on an L-1B for specialized knowledge this may be more difficult than if you had entered the U.S. on an L-1A.]

**Shahana Javed** receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of January 2010.

### JOBS @ VisaPro

- Full-Time
- Part-Time
- Semi-Retired

**Job Type:** W-2 or 1099

**Location:** Work from anywhere in the U.S. No need to relocate.

▶ [Immigration Attorney](#)

▶ [Immigration Paralegal](#)

NEW TO **VisaPro?**

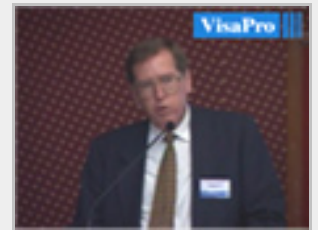
## H-1B Visa - 10 Common Myths and Realities

The H-1B visa category is one of the most preferred visas for foreign nationals who wish to work in the U.S. However there are few common myths attached to it. Let's take a look at these myths and learn the true facts about H-1B visa.

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

Are you lost in immigration jargon can't seem to find the right category? VisaPro has a solution for you: try our [Immigration Dictionary](#). With **over 400 terms**, it is the most comprehensive immigration dictionary on the internet.

Wanted to take part in our immigration events, but missed your chance? Check out the informative library of immigration law videos from past conferences.



[More Videos...](#)

## IMMIGRATION ARTICLE XML

### Grab Your Opportunity to File an H1B Visa With VisaPro's H-1B Timeline

As many of you already know, April 1 marks the first day that USCIS accepts H-1B petitions for the federal government's fiscal year beginning on October 1. The competition for the coveted H-1B visa has been intensifying over the years and now the situation is in a dire state. Filing early is no longer a guarantee of obtaining an H-1B visa; it is now a prerequisite for even being considered. The H-1B timeline discussed in this article will help every company interested in sponsoring an H-1B worker, plan ahead and prepare to file the nonimmigrant visa petition in a timely manner.

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▶ [Visa Bulletin](#)

▶ [USCIS Processing Times](#)

▶ [Local USCIS Offices](#)

## DISCUSSION CORNER

[AOS denied here is the problem.....](#)

By FriendlyElse

[When to file out Applicant Documents \(DSL forms\)](#)

By nova1

[Processing times at NVC - Sister of US Citizen](#)

By nakhan1

[Australian to US on a L1 & Bringing family](#)

By Sillybilly

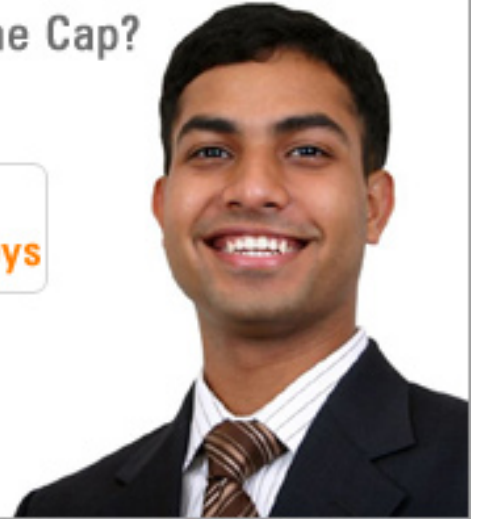
[More Discussions](#)

## 2010 H-1B Cap Strategies

How to beat the Cap?

Contact  
**VisaPro Attorneys**

**VisaPro**



## QUESTIONS AND ANSWERS

**Q1.** I am on [EAD/AP](#) and my I-140 is approved. I applied I-485 two years back. Now I have changed my employer. My previous employer had filed my Employment Based [Green Card](#) though their attorney. Now I want to file an AC21 and do a declaration to change my lawyer.

**Ans.** To qualify for the portability benefits of AC-21 your new position must be one that is the same or similar to the position the [Labor Certification](#) was based on. Your new employer will be able to give you a letter certifying that you are working in such a position.

You must have your current employer write the AC-21 letter on the Company letterhead. The letter must be addressed to the USCIS Service Center where your [I-485](#) file is pending. The letter must state that you are working for them, must list your title and job duties and should give a detailed description of the work done. The letter must also state your new salary. The fact

### 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 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](#)

that the salary mentioned in the Labor Certificate is lower than your current salary should not be a problem. It is always suggested to write the AC-21 letter keeping the Labor Certification in mind to match as closely as possible both the job descriptions. This letter is submitted to the USCIS Service Center when they request verification of employment just prior to the approval of the I-485.

The whole point of the AC-21 portability provisions is that if your [I-140](#) is approved and the I-485 is pending for more than 180 days you are allowed to change employers without affecting your permanent residence. Essentially, you can take the approved labor certification, approved I-140, and pending I-485 to your new employer. You need not go back and work for the old employer.

To notify the USCIS that you have changed attorneys you must file a new Form [G-28](#) which is the Notice of Entry of Appearance with the immigration service center where your I-485 is pending. This will let them know that you have a new attorney. You should also personally call the USCIS customer service number to make sure they have the corrected attorney information and make sure they have your correct address. This should ensure that they mail all the further correspondence to your current attorney and current address. Finally, it never hurts to write a letter for the same to the immigration officials.

**Q2. I want to get married in Bangladesh over the phone & want to bring my wife by H-4 visa as long as my H-1B is valid. My employer already applied for my green card on September 2006. Is it possible to bring my wife in U.S. as H-4 if I get married by telephone? I should have all the marriage documents because parents are there. The only difference is that I will not be physically present. Will this be a cause for any problem?**

**Ans.** The basic rule for immigration is that a marriage that is valid in the country in which it was made is valid for U.S. immigration law purposes. However, any marriage where both spouses are not physically present at the wedding ceremony is considered to be a "proxy" marriage and is only considered valid for immigration purposes if it is subsequently consummated. Proxy marriages are considered highly suspect by the USCIS. Thus, even if a marriage by phone is valid in Bangladesh your wife would only qualify for dependent status if you have subsequently consummated the marriage. Therefore, your spouse would only be able to apply for and obtain an [H-4](#) visa based on your [H-1B](#) status (assuming you maintain same through the application process) if you have consummated the marriage after the proxy wedding.

As for your employer applying for an immigrant visa (green card) for you, this should not affect your wife in obtaining an H-4 visa because H-1B permits dual intent, namely, intent to remain in the U.S. permanently or intent to return to your native country. Ordinarily, one cannot obtain a non-immigrant visa if there is indication they intend to immigrate as in the case where a spouse in the U.S. is applying for a green card. However, as noted above, H-1B allows dual intent therefore this should not affect your wife to be when she applies for her H-4 visa.

However, your spouse will only be able to get derivative status if you are "legally" married (i.e., not a proxy marriage) at the time she applies for her H-4 visa. Also, your spouse will only get permanent residence as your derivative spouse if you are legally married at the time you are granted permanent residence.

## SUCCESS STORIES

*"My company tasked me with the job of acquiring an [\[L-1B Visa\]](#) with a strict deadline. Not knowing where to turn, I did some research on the web and found VisaPro. Very quickly I felt the relief of knowing that I found the right company to help me get the job done. They walked me through the process and answered all my questions. They were there every step of the way for me. The process happened exactly as they said it would! I know exactly who to turn to the next time I have immigration need.*

*Thank you VisaPro!"*

*Kind Regards,*

**Sandy Piazza**, HR Manager  
[Piller USA, Inc.](#)

[More Success Stories](#)

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