

FROM THE EDITOR'S DESK

The month of July marks the first anniversary of the Presidential SAVE (Securing Americans' Value and Efficiency) Award. It was a year ago that the President launched the SAVE Award by which he aim to get ideas directly from federal workers all over the world on how government can cut waste and save taxpayer dollars. One of the astonishing things of this year's SAVE Award is people are contributing whole-heartedly and enthusiastically and one of the biggest examples of this is – the fact that in just three weeks, federal employees submitted more than 38,000 ideas identifying opportunities through which government can save money and perform better.

Let us just recapitulate the last year's winner of SAVE Award and her winning idea. The winner of SAVE Award 2009 was Ms. Nancy Fichtner from Loma, Colorado and the idea that won her the award was: veterans leaving VA hospitals should be able to take the medicine they've been using home with them instead of it being thrown away when they're discharged. So, if you are a federal employee and you have an idea, just submit it. Who knows you might be the winner of the SAVE Award, and your simple idea could make huge difference in many people's life.

Well, you would not be surprised to know that its been 4 months since the USCIS started accepting H-1B petitions but it has not yet received sufficient number of [H-1B](#) visa petitions to meet the 65,000 cap for the fiscal year 2011. In such a scenario, it is practically impossible to predict how long the H-1B visas will be available. If you are an employer or an employee aspiring for an H-1B visa for fiscal year 2011, make sure that you file the application as per the revised fee. On June 28, 2010, the DOS published its Schedule of Fees for immigrant visas, nonimmigrant visas and consular services, which took effect on July 13, 2010.

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We understand that it is extremely difficult to search for jobs in the U.S. especially when you are not inside the U.S. Understanding this concern the Employment and Training Administration's Office of Foreign Labor Certification (OFLC) has developed a new web-based tool, the H-2A Job Registry, allowing the foreign workers to search and retrieve temporary agricultural jobs with unprecedented ease and timeliness. This new tool was developed to comply with the Department's new H-2A regulations implemented on March 15, 2010, and is fully integrated into the OFLC's iCERT Visa Portal System. For the first time, U.S. workers and organizations representing farm workers will have convenient access to learn about temporary agricultural jobs accepted by the OFLC through a single public location and searchable along a series of common data points. The H-2A Job Registry will display all active agricultural jobs until 50 percent of the period of employment has elapsed as well as an archive of certified agricultural jobs for up to 5 years.

Other Developments in Immigration Law

[DOS Releases Visa Bulletin for August 2010: Substantial Advancement for EB-2 and EB-3](#)

The Department of State (DOS) has recently released the Visa Bulletin for August 2010. The August 2010 Visa Bulletin shows substantial advancement in priority date cut-offs for [EB-2](#) and [EB-3](#).

[H-2A Visa Aspirants Can Now Search and Retrieve Temporary Agricultural Jobs through a New Web-Based Tool, H-2A Job Registry](#)

The Employment and Training Administration's Office of Foreign Labor Certification (OFLC) has developed a new web-based tool, the H-2A Job Registry, which allows the [H-2A](#) visa aspirants to search and retrieve temporary agricultural jobs. This new tool was developed to comply with new DOL H-2A regulations implemented on March 15, 2010.

Immigration Articles and Other Fun Stuff

Now for the regulars – this month's **Immigration Article** entitled 'Visa Status: Difference Between Visa and Status' clarifies the difference between the terms visa and status and also explains why is important to understand the difference between the two legal terms. Also check out our **In Focus** section for this month entitled 'When to Use USCIS Premium Processing Service?' to learn how to use USCIS Premium Processing Service so that you can get a

YOUR OPINION

Will USCIS receive 65,000 H-1B petitions before the end of this fiscal year?

- 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 August 2010.

Keavy Ashly has been a permanent resident of the U. S. for the past three and half years. Due to her parents' health issues, she had to travel to her home country three times but she never stayed beyond 6 months. Can Keavy apply for [citizenship](#)?

[Submit Your Answer](#)

response from USCIS within 15 calendar days.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **86.36%** of the respondents believe that it is not wise to increase the nonimmigrant visa fee. 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 **Naeem** 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 **Naeem**

gave the correct answer and won a 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 to your address book or safe list.

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

Christine

RECENT IMMIGRATION EVENTS



VisaPro Attorney
Mr. Thomas Joy
at Bangalore



Consular Interview
Mock Session



Seminar Attendees
at Hyderabad

More ▶

Immigration Question?

Consult Our Experienced Attorneys

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Winner of the Immigration Quiz - June 2010:

Naeem

The Question:

I would like to hire a Canadian citizen for a harvest internship at my winery. This is a skilled position that would last 8-10 weeks total. Is he eligible for a [TN visa](#)?

The Winning Response:

No, he is not eligible for TN visa because even though the position may be a skilled position unless it requires a bachelor's degree it will not qualify for a TN visa.

Naeem receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of July 2010.

[USCIS Receives 25,300 H-1B Cap-subject Petitions Till Date](#)

As of July 20, 2010, USCIS has received approximately 25,300 H-1B cap subject petitions and approximately 11,000 petitions qualifying for the advanced degree cap exemption. USCIS will continue to accept both cap subject petitions and advanced degree petitions until a sufficient number of H-1B petitions have been received to reach the statutory limits.

[USCIS Publishes Memo Clarifying Guidance On O Petition Validity Period](#)

USCIS published a Policy Memorandum (PM), which provides guidance for processing and adjudicating Form I-129, Petition for Nonimmigrant Worker, filed on behalf of O nonimmigrants, with regard to determining the appropriate validity period of an approvable petition when a gap exists between two or more events reflected in the itinerary.

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



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When to Use USCIS Premium Processing Service?

On June 1, 2001, the U.S. Immigration and Naturalization Service (now U.S. Citizenship and Immigration Services) put into place a Premium Processing Service, promising to speed up the agency's applications decision process on selected work visas. Through the Premium Processing Service, USCIS process your visa petitions in 15 days. Learn how to use USCIS Premium Processing Service.

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IMMIGRATION ARTICLE XML

Visa Status: Difference Between Visa and Status

It has vitally important for all foreign nationals coming to the U.S. to maintain their status at all times. People often get confused between visa and status and this is the reason why many people fall out of status without being realized that they have fallen out of status. Falling out of status can endanger your future travel to the US. In order to maintain your status while in the U. S., you must understand the difference between the two legal terms — visa and status. In this article we will explore the differences between visa and status.

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PROCESSING TIMES XML

▶ [Visa Bulletin](#)

▶ [USCIS Processing Times](#)

▶ [Local USCIS Offices](#)

DISCUSSION CORNER

[Change employers after 6yrs H-1B and no I-485](#)

By Banjo

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

By Nova

[Tourist Visa from Brazil?](#)

By GreenBear

[More Discussions](#)

2010 H-1B Cap Strategies
How to beat the Cap?

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QUESTIONS AND ANSWERS

Q1. I need advice on visas for a start-up venture. It is a new US venture for a UK Company. Will this have an adverse effect on the application? Do we have to create a U.S. Company or can it be a branch of a UK company? Can our employees' spouses accompany them to the U.S.?

Ans. When starting operations in the U.S. you can open the office either as a branch office of the UK Company or as subsidiary using a corporate or LLC structure for the US affiliate. For immigration purposes it is generally easier for the USCIS to understand the parent-subsiary model.

When transferring personnel to the U.S. to open a new office, you have two choices. You can bring them over in L-1 status as multinational executives, managers, or persons with specialized knowledge. If you use the L-1 route you can only get a visa valid initially for one year. At the end of the first year of operation you can get an extension by showing that the company is up and running and needs a full time manager or executive.

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](#)

The second option is an E-2 visa for nonimmigrant investors. To qualify for the E-2 visa you have to show that you have invested, or are in the process of investing, a "substantial" amount of capital in a "non-marginal" company. What is a substantial investment depends on the type of business being started in the U.S. To be considered non-marginal you must show that the business will provide a living for more than just the investor, i.e., the company will have U.S. employees. One of the advantages of the [E-2](#) visa is that you generally get 2 years to get a company up and running instead of the 1 year you get with the [L-1](#).

One other option would be an [H-1B](#) visa for "specialty occupations," generally a position that requires a bachelor's degree as the minimum requirement for entry into the position. The drawback to the H-1B (with a new company) would be showing that the company has the ability to pay the offered wage.

Once the company is up and running, you can use a combination of visas, bringing one person in [B-1](#) status and one in L-1 status. There would be no problem in the dependant spouses and children getting visas to accompany their husbands to the US. Each of the above described work visa categories (not B-1) have provisions for dependants. Additionally, if the spouses enter in E or L status they can obtain work authorization and work while in the US.

We at VisaPro have helped various clients in establishing their companies in the U.S. and transferring employees to manage the business or work with the U.S. entity. Click here to read an article for more information on using L and E visas for starting up a company. We advise you to consult a VisaPro attorney to discuss your specific issues and determine the best strategy.

Q2. Will my K-1 status automatically change to permanent resident status after I marry my U.S. citizen fiancé? Will I have to give up my British passport after I get my Green Card?

Ans. No, your [K-1](#) status does not automatically change to legal permanent resident after your marriage with your U.S. citizen fiancé. You need to file for Adjustment of Status to become a legal permanent resident after you marry your U.S. citizen fiancé. No, you do not have to give up your passport on becoming a legal permanent resident. Your nationality doesn't change on getting a Green Card. You may apply to become a U.S. citizen after having a Green Card and being married to a U.S. citizen for three years.

[More Q&A](#)

SUCCESS STORIES

"Thanks very much. The [[H-1B](#)] services we received from VisaPro have been top-notch and very much appreciated."

Susan Andrews, Assistant Director
[Thurston Regional Planning Council](#)

[More Success Stories](#)

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