



## FROM THE EDITOR'S DESK

The immigration debate is underway before the U.S. Senate Judiciary Committee. The Committee began its "mark-up" earlier this month to consider the comprehensive immigration reform bill proposed by Chairman Arlen Specter. We covered the highlights of the bill in the news item [Comprehensive Immigration Reform debate begins today](#) published on March 02, 2006.

President Bush visited India and Pakistan earlier this month. We were particularly interested in the President's trip to Hyderabad, a city in southern India that has emerged as the hottest destination for software and IT companies to establish their presence. Since VisaPro's Indian office is located in Hyderabad, we were looking forward to the President making an announcement of a new consulate in that city... and finally we got the good news. Our Indian office has been serving clients across the length and breadth of India, irrespective of their location, however, a U.S. consulate in Hyderabad will help us serve our clients in a more personalized manner.

During the last issue of **Immigration Monitor** we discussed about the CRS report on L-1 visa. I further reviewed the report and found it interesting to note that while the 107th Congress reduced the length of foreign employment for blanket visa applicants to six months, and amended the law to permit spouses of L-1 nonimmigrants (i.e. L-2 spouses) to work in the U.S.; the 108th Congress has made the regulations a bit stricter. The 108th Congress passed the Consolidated Appropriations Act that places restrictions on the employment of specialized knowledge personnel at a worksite of an employer, other than the petitioning employer, under certain circumstances. The Act further reverted the foreign employment period of blanket visa applicants back to one year and also imposed a \$500 fraud prevention and detection fee on H-1B and L-1 petitioners. There has been a great deal of activity in the 109th Congress, including proposals to establish a cap on L-1 visas, imposition of an additional \$1,500 fee on L-1 applications, and requiring L-1 employers to submit LCA, however, you are already aware that none of these proposals found their way in the final version of the conference report of the proposals by the Senate and the House.

The Department of Health and Human Services (HHS) released poverty guidelines for the year 2006 during the last week of January. Our **In Focus** article explains the significance of poverty guidelines in filing an Affidavit of Support (Form I-864). We often receive various queries from confused applicants, looking for guidelines for filing an Affidavit of Support. As the article explains, it is always better to obtain professional advice if you are confronted with too many questions, than putting your application at jeopardy.

### IN THIS ISSUE

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

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### YOUR OPINION

What is the best approach for the US government to control illegal immigration?

- a. Build new fences along the borders
- b. Deny government benefits
- c. Enforce illegal employment
- b. Start guest worker program

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

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The flurry of H-1B activity is round-the-corner. Beginning April 1, 2006, the USCIS will start accepting H-1B petitions for FY 2007 (October 2006 – September 2007). I am sure employers are waiting with their bunch of H-1B petitions to file them as soon as the quota opens. We at VisaPro advise all U.S. employers to plan in advance and file early to ensure that they don't miss the bus this time. Don't forget to read our **Industry Perspective** article to learn more about the advantages of planning and filing early.

**Janet Flores** deserves kudos this time for a well researched and a comprehensive response to last month's **Immigration Quiz**. There were at least half a dozen other answers which missed the winner's podium by just a whisker. It was a tough fight between the final two; however, Ms. Flores' response was selected as the winner because it is more interactive and comprehensive.

Over 31% of the participants in **Your Opinion**, our monthly immigration poll, anticipate that guest worker program will be the hot topic for discussion before the Congress during the coming weeks. About 25% are of the view that recapture of H-1B and immigrant visas will be the most important issue, whereas 24% think that removal of illegal immigrants will be the Congress's top priority. What is your opinion on this month's poll question? I will wait to see your vote.

I hope you added my name to your address book. You need to add [Immigration-Monitor@VisaPro.com](mailto:Immigration-Monitor@VisaPro.com) to the list of your contacts so that you see the **Immigration Monitor** in your email Inbox every month.

I will catch you next month with more news from the U.S. Senate on comprehensive immigration reform, and various other interesting issues. Let me know if you would like us to write about an important immigration issue in particular and we will consider it for inclusion in the **Immigration Monitor**.

*Christine*

## LATEST NEWS

### [New PERM FAQs regarding posting requirements](#)

The U.S. Department of Labor (DOL) recently issued two new sets of PERM FAQs that deal with posting requirements, making corrections to a filed application, reapplying after denial of a certification, and a host of other issues.

### [U.S. to set up another consulate in India at Hyderabad](#)

VisaPro has received information that the U.S. has agreed to set up a consulate in Hyderabad, India. When started, it will be the fourth U.S. consulate in India, after Chennai, Kolkata and Mumbai, besides the embassy at New Delhi.

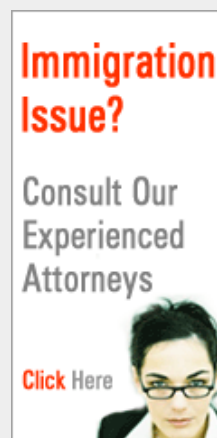
### [Comprehensive Immigration Reform debate begins today](#)

The much awaited Senate debate on comprehensive immigration reform begins today. The Senate Judiciary Committee will hold executive business meetings ("mark-up") to consider the comprehensive immigration reform bill proposed by Chairman Arlen Specter.

in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of April 2006.

*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?*

[Submit Your Answer](#)



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

Janet Flores

### **The Question:**

*I entered the U.S. on L-2 visa last month. I read on USCIS website that an L-2 spouse is allowed to work in U.S. but when I applied for work and submitted copy of my L-2 visa and I-94, the employer said that I am not authorized to work yet. I am confused. Please suggest what I should do.*

### **The Winning Response:**

As an L-2 visa holder and the spouse of the L-1 visa holder you are allowed to work but first must obtain work authorization from INS. For this you must complete an I-765 form for application for an employment authorization card. Once you receive your card you can then go to the employer with the EAD card along with a SS# and you should then be allowed to work.

Janet Flores receives a **FREE Online Consultation**

## DOS begins issuance of Electronic Passports

The Department of State is phasing-in the issuance of the new Electronic Passport (e-passport) to better facilitate international travel for U.S. citizens and enhance border security. Previously issued passports without electronic chips will remain valid until their expiration dates.

from an Experienced  
VisaPro Immigration  
Attorney during the month  
of March 2006.

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## IN FOCUS

XML

## Significance of Poverty Guidelines in filing Affidavit of Support

The HHS poverty guidelines, or percentage multiples of them (such as 125 percent, 150 percent, or 185 percent), are used as an eligibility criterion by a number of federal programs by various Departments such as Health and Human Services, Agriculture, Energy, Labor etc. Some state and local governments also use the federal poverty guidelines in some of their own programs and activities. This article explains the significance of Poverty Guidelines and their importance with respect to Immigration law.

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## INDUSTRY PERSPECTIVE

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## Plan your H-1B filings: Don't miss the bus for FY 2007

Because of H-1B cap issues, you need to plan for the next financial year in advance. At this point you need to devise a suitable strategy for hiring a foreign national and plan the filing accordingly. If you miss petitioning for an employee before the cap is reached this year, you will have to wait until next year to file an H-1B petition or look for an alternate visa category, which may or may not match your requirements.

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## IMMIGRATION ARTICLE

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## Apply for Third Country Visa at the border

Foreign nationals, or Third Country Nationals (TCN), often prefer to travel to Canada or Mexico to apply for nonimmigrant visas because of the obvious convenience.

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## PROCESSING TIMES

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

## DISCUSSION CORNER XML

[H1-B Marrying a US citizen is this Legal?](#)

By vkarumbaiah

[Is there any hope for us?](#)

By ashlynn

[E-3 visa denied under section 221\(g\)](#)

By aviezer

[More Discussions](#)

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## QUESTIONS AND ANSWERS

1. **"I am going back to the U.S. embassy in my home country to get my H-1B visa. Currently I'm on a work permit. I wanted to know how I should prepare and what I can expect at the US Embassy - if there might be any issues in my case to obtain a H-1B visa.... I have heard that some people have been refused a visa at the Embassy.**

Once the H-1B petition has been approved there is usually no problem in returning to your home country to get the H-1B visa. In preparation you should have and review a copy of the petition that was filed on your behalf. Be sure you understand what is contained in the petition. You should be able to answer questions about the company that you work for, your position and your work. Where we have seen problems is where the person is unable to talk about the company that they work for, or when the Consular Officer thinks that the position is one which does not require a bachelor's degree because the beneficiary cannot describe the work he does in sufficient detail.

When you go to the interview be sure you take two complete copies of the H-1B petition, not just the approval notice. One copy is for you to give to the consulate with your application, and the second copy is for you to reference during the interview. [Click here](#) to read an article on how to face a consular interview. If you have any specific questions, you may [consult](#) a VisaPro attorney.

2. **I applied for adjustment of status based on marriage to US citizen about 3 months ago but have not got the receipt notice till now. Two months back I left US without asking for advance parole due to some family problems. Right now I am in Australia. Which is the fastest way I can reenter USA?**

Unfortunately there is no easy solution to your situation. Since you left the US without obtaining advance parole, the USCIS will consider your application for adjustment of status to have been abandoned and you will have to start the process over. They will still process the Form I-130, Petition for Alien Relative, but the other will be closed.

Since you are married to a US citizen, and you have filed the I-130, you would qualify for a K-3 visa. That visa will allow you to return to the US to await the approval of the I-130 and then you can refile the I-485. Your wife will have to get a receipt notice (or other proof of filing the I-130) and submit that together with a Form I-129F to the National Benefits Center in Missouri. After the I-129F is approved they will notify the consulate in Australia and you will be processed for the K-3 visa. This process will probably take 4-6 months. Please [contact us](#) so that we can discuss your situation and assist you further.

[More Q&A](#)

## SUCCESS STORIES

### 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](#)

## From Junior Accountant to CFO notwithstanding US Immigration

We'd like to introduce you to Mr. Smart, a young professional who at the time we first met him had just finished his MBA degree in the US. He looked to have a promising career ahead of him. After completing his MBA he took a position as a Financial Analyst with a small accounting firm Company A in California. He began this position using his Optional Practical Training.

Because the H-1B cap was fast approaching, after using only a few months of his OPT he came to us for assistance in getting an H-1B. We prepared and filed the H-1B petition under the Company A. This was the first H-1B for the small accounting firm which barely had an employee or two. We received an approval a short time later.

He has become another satisfied client ... but not the end of our story.

A little over a year later Mr. Smart was offered a position as the Chief Financial Officer and Controller for Company B, a start-up company that provides management and accounting services to a group of controlled companies. They are also the sole distributor of the group's products under their own brand name, in the US. The President of the company decided to use a local immigration attorney to assist with the filing of an H1B transfer petition for Mr. Smart.

After filing the petition, the local immigration attorney received an extensive Request For Evidence asking for proof that the position of CFO/Controller was a "specialty occupation" qualifying for H-1B treatment, proof that the employer was a legitimate business, proof that the position offered was a qualifying position and that Company B was not just acting as an agent for Mr. Smart, and that Mr. Smart had maintained his status while in the US.

After reviewing the RFE, the attorney advised Company B and Mr. Smart that the H-1B could not be approved and advised Mr. Smart that he would have to leave the country immediately. He also told Mr. Smart that he would continue to work on the RFE (even though he did not believe it could be approved) if the company would pay him an additional fee over the 5K retainer they have already paid.

Not believing that this could be the case Mr. Smart contacted VisaPro and forwarded a copy of the RFE for our opinion. After reviewing the offered position and analyzing the corporate and group structure we felt that the position offered did qualify for H-1B status. While it would take some work we felt that the company should pursue the H-1B for Mr. Smart and respond to the RFE.

We worked closely with the company to pull together the information the USCIS was asking for and organize it in a way that the USCIS examining officer could understand it. While it took extra efforts we were able to prepare and submit a package that we thought addressed all the concerns of the examiner. As it turns out, we were right. A short time after we submitted the response to the RFE we received the following message from Mr. Smart:

*My case has been approved. Thank you for the good work and getting an approval on a near impossible case.*

Unfortunately, this is still not the end of the story .....

The USCIS sent the approval notice to the former attorney in California. The attorney refused to release the approval notice or any of Company B's documents. Finally, when Mr. Smart went to the office to try and pick them up (he was told they would not give him the documents and rudely told to leave). The attorney would not even respond to an inquiry from the congressman for the district. We again stepped in and assisted Mr. Smart. The attorney finally agreed to forward the approval notice to us and drop all claims that he was still owed money for the preparation of the initial H-1B package.

While the case took a lot of work, we were able to get an approval on a case that the local immigration attorney who originally filed the petition thought was impossible. With our flat fee structure, the client knew exactly what he was going to pay well ahead of giving us the case. Our attorneys and immigration advisors have the experience to review and analyze difficult cases and formulate strategies for success.

We would be happy to review your case and discuss your options.

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