



VisaPro Launches Visa Assessment
Find out in **3 simple steps** if you qualify for a US visa!
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FROM THE EDITOR'S DESK

For those of you who follow immigration issues April was a month of exhilaration for some, and disappointment for many. Some are hoping to get a glimpse of the Statue of Liberty, whilst others are figuring out an [alternative to the H-1B dilemma](#). The proposed increase in the H-1B cap might be the best surrogate for all the anguish they are undergoing. VisaPro has the resources and expertise when it comes to offering the best alternative solutions to H-1B.

USCIS announced on May 4 that it had received enough H-1B petitions requesting exemptions from the FY 2008 H-1B cap to meet the congressionally mandated limit of 20,000. USCIS will be rejecting petitions that are received on or after May 1, 2007, unless the petition is otherwise eligible for a separate cap exemption.

Given the way the H-1B program has been going for the last few years it should be no surprise that on May 11, 2007, USCIS advised its constituents had claimed that it was "temporarily" experiencing a receipting/data-entry front log at its Service Centers due to the unprecedented volume of recent H-1B filings. USCIS should have anticipated the numbers and been ready. In an effort to give its customers more accurate information about current receipting timeframes and service level commitments, USCIS has provided [projections for fee receipting](#) and data entry processing for H-1B cap cases currently at their Service Centers.

In another move that was not well received (but expected) USCIS announced that it would terminate Premium Processing Service for [Form I-140](#) petitions that request labor certification substitution. USCIS is expecting a substantial increase in the number of petitioning employers that will file I-140 petitions requesting Premium Processing Service and seeking labor certification substitution prior to July 16, 2007 (the final day that I-140 will be allowed with substitutions on the labor certification).

The Department of Labor (DOL) has published a final rule that is intended to uphold the integrity of the Permanent Labor Certification program. The DOL rule will close off opportunities for fraud in the employment certification of non-US citizens for permanent residence in the United States. It eliminates the current practice of substitution of alien beneficiaries on both permanent labor certification applications and approved labor certifications. It also establishes

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YOUR OPINION

What do you think - are U.S. companies using the H-1B and L-1 visas to displace qualified American Workers?

- 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 June

procedures for Department of Labor debarment of any employer found to be acting fraudulently. You can track the latest update on this front through our [Immigration News](#) section.

USCIS is recognizing the contributions of our military. USCIS has made it possible for members of the U.S. Armed Forces to apply for citizenship under special provisions of the Immigration and Nationality Act (INA), including a streamlined naturalization process specifically for military personnel serving on active-duty status or recently discharged. Additionally, as of October 1, 2004, members of the U.S. Armed Forces do not pay a fee when filing for citizenship.

We are keeping a close watch on the various pieces of immigration legislation pending in Congress, the response to the hearings, and their likely consequences. We will keep you updated with the latest in the coming issues of your **Immigration Monitor**.

We invite all our VisaPro readers to go through our **In Focus** article on H-2B Seasonal Workers to get a sense of the labor problems faced by many industries in the US. The debate over increasing the number of workers brought into U.S. through the H-2B program is heating up. The demand by employers for legal H-2B workers has greatly outstripped the visas which the Congress makes available each year. The H-2B numerical limit set by Congress per fiscal year is only 66,000.



We continue to further our endeavors to bring one-stop global immigration service to all our readers. This month VisaPro has added immigration services to more countries. I invite our readers to visit our [Spain](#) website. We will also be launching our Asian Immigration websites very shortly.

In last month's poll question, we asked our readers whether or not they have an alternative to the H-1B visa if they are not selected in the random selection process. The responses showed us that this area continues to be a bit challenging for our readers. More than half of the participants showed their excitement that they may have an alternative visa category to enter the U.S. Others were discouraged because they do not have an alternative to be able to go to US, while another group appeared to be totally confused in making a decision, hence not having any effect at all. This month we have an interesting question for you to express **Your Opinion**. Don't miss weighing in with your vote.



Samantha Cristina deserves all the Congratulations for winning last month's **Immigration Quiz**. A significant number of participants confuse the denial of visa application with the denial of the petition. Make sure you research well for this

month's question. Who knows, your name may find a mention in the next newsletter. All the Best!

Don't forget to add our address Immigration-Monitor@VisaPro.com to the list of your contacts so that you see the Immigration Monitor in your email Inbox every month and you will not miss the latest immigration activity.

See you next month with a lot more noise from

2007.

My Husband is in US on H1B and I have received a valid H4 but I never been to US on H-4. I have filed my H1B and I got the receipt notice. I would like to know what will happen if I enter into US on H4 after my H1B gets approved - Will my H1B get canceled or will it be valid, if so how will I apply for a change of status.

[Submit Your Answer](#)

Winner of the Immigration Quiz - April 2007:

Samantha Cristina

The Question:

I am currently on J-1 visa and I am supposed to go back to my country for two years (Two years rule does apply). Is there a way of applying for another visa category like Green Card or work visa so that I do not need to go my home country for two years?

The Winning Response:

Yes, you may apply for Green Card or work visa if you are NOT subject to the Home Residency Requirement or AFTER obtaining a J-1 Waiver as indicated in your case. After you obtain the waiver, you can apply for Employment Based Immigration (Labor Certification), you may find an employer who is willing to file a Labor Certificate for you with the DOL and you may also file an immigration petition based on the classification of 'Alien of Extraordinary Ability' - EB-1(A) or 'Outstanding Professor/Researcher' - EB-1(B).

Samantha Cristina receives

the Immigration World! Till then CIAO!!

Christine

a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2007.

RECENT IMMIGRATION EVENTS



VisaPro Attorney
Mr. Thomas Joy
with Delhi Attendees



Consular Interview
Mock Session



Seminar Attendees
at Bangalore

[More](#)

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- Semi-Retired

Job Type: W-2 or 1099

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

- ▶ [Immigration Attorney](#)
- ▶ [Immigration Paralegal](#)

LATEST NEWS [XML](#)

[Senators ask for details on reported abuse of H-1B and L-1 visas](#)

Due to some concerns raised over reported fraud and abuse of the H-1B and L visa programs, and their impact on American workers, Senators Chuck Grassley and Richard Durbin have asked the top nine foreign based companies in 2006 that used nearly 20,000 of the available H-1B visas, to disclose further details about their workforce and their use of the special visa program.

[USCIS Terminates Premium Processing Service for FORM I-140 Petitions Requesting Labor Certification Substitution](#)

United States Citizenship and Immigration Services (USCIS) announced that beginning on May 18, 2007, it will terminate Premium Processing Service for Form I-140 petitions that request labor certification substitution in accordance with 8 CFR 103.2(f)(2). USCIS is anticipating a substantial increase in the number of petitioning employers that will file Form I-140 petitions requesting Premium Processing Service and seeking labor certification substitution prior to July 16, 2007. The volume of such petitions filed requesting Premium Process Service is anticipated to exceed USCIS' capacity to give the Premium Process Service according to the program guidelines.

[DOL's regulation to improve integrity in permanent labor certification program](#)

The U.S. Department of Labor published a final rule that will improve program integrity and close opportunities for fraud in the employment certification of non-U.S. citizens for permanent residence in the United States.

[USCIS announces new procedures for employees in response to new DOL rule eliminating substitutions on Labor Certifications](#)

United States Citizenship and Immigration Services (USCIS) is introducing new procedures for filing a Petition for Alien Worker (Form I-140) that requires an approved labor certification application. These procedural changes are in response to the Department of Labor's (DOL) final rule, Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity, published in the Federal Register on May 17, 2007. The DOL rule takes effect on July 16, 2007. The immigrant visa classifications that generally require an individual labor certification include members of professions holding advanced degrees or aliens of exceptional ability (EB-2); and skilled workers, professionals and other workers (EB-3).

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IN FOCUS

[XML](#)

What to do when H-1B cap is reached

If you miss petitioning for an employee before the cap is reached, you will have to wait until the next year to file an H-1B petition or look for an alternate visa category, which may or may not match your requirements. Employers must also evaluate and utilize alternatives to the H-1B category, which may also be used to 'bridge the cap' until October 1st if you miss the H-1B bus for a particular year.

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

INDUSTRY PERSPECTIVE XML

These businesses cannot survive without temporary labor

The debate over increasing the number of workers that can be brought into U.S. through the H2B program is heating up. The demand for H2B workers has greatly outstripped the number of visas, currently 66,000, which Congress makes available each year.

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IMMIGRATION ARTICLE XML

How to avoid a visa denial?

To be refused a visa when you are not expecting it causes great disappointment and sometimes embarrassment. What does a 214(b) visa refusal mean? And what can applicants and friends do to prepare for a visa reapplication?

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PROCESSING TIMES XML

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

DISCUSSION CORNER

[B1 to E2 status](#)

By PaulB

[out of H1 B Master Quota](#)

By danybol

[Info needed about IMBRA please...](#)

By StephenJames

[More Discussions](#)



QUESTIONS AND ANSWERS

1. **I am planning to apply for a [fiancée visa](#) for my fiancée to enter US from India. I like to get details on the application process and paperwork involved.**

For the fiancée visa you have to show that you have personally met your fiancée in the past 2 years. Proof

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us.

would include pictures (preferable date stamped by the camera), copies of passports showing that you have been to her country or that both of you met in a third country, bills or receipts (hotels, meals, gifts, etc.) for the time you met, travel itinerary, etc.

The petition is filed on [Form I-129F](#). The basic form is submitted together with a Biographic Information sheet for each of you (Form G-325A), proof of your citizenship, a copy of your birth certificate and your wife's birth certificate, if either of you has been married before proof the prior marriage has been terminated, and the proof that you have met. Processing for the I-129F will take 1-4 months, depending on the service center. Once the petition has been approved the file is transferred to the National Visa Center where the complete the initial processing for the K-1 visa. The file is then transferred to the consulate for the final interview and issuance of the visa.

Once your fiancée gets her visa she will have 6 months to enter the US. After entry you will have 90 days to get married. Once you are married your wife will file for [adjustment of status](#) to get her green card.

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](#)

2. **My husband is a Green card holder. If he files a petition for me as a spouse of a Green Card holder, how would it help me after my [H1-B visa](#) expires? Will I be eligible to stay in USA? Can I apply for employment authorization based on [adjustment of the status](#)?**

Neither the filing nor the approval of an [I-130](#) petition by a green card holder husband for a wife confers any immigration rights or benefits on the wife. It does not allow the wife to enter the US, stay in the US, or work in the US. It merely qualifies the wife to be put on a very long immigrant visa quota (F2A category) waiting list for the green card to become available. The filing of the petition will not allow you to stay in the US when your H-1B expires.

You can not file your adjustment of status (green card) application until your place on the immigrant visa quota waiting list becomes current. Only when your place on the waiting list becomes current and you file your adjustment of status application may you file an application for employment authorization. The only way to speed up the immigration process through your husband would be for him to become a US citizen at the earliest time possible. He can become a US citizen, if otherwise qualified, after he has had his green card for at least 5 years and he can file the application as early as 4 years and 9 months after he was approved for the green card. Upon his becoming a US citizen, you will convert to an immediate relative status where there is no quota.

[More Q&A](#)

SUCCESS STORIES

VisaPro expedites [H-2B](#) visas for over 100 foreign workers from 10 different countries

What do you do when the guests arrive and there are no bellhops to greet them and take their luggage, no one to meet them and seat them in the dining room, no one to serve their dinner, and no one to make up their room in the morning? Your vacation could quickly turn into a nightmare.

This was the very real possibility that faced our client, the company that runs a major resort every summer. **D corporation** maintains a year round staff of 10-15, but hires several hundred summer workers each year, including 125-150 foreign nationals. The company likes to hire US workers but just can't find enough people willing to work so far out of the way. The foreign nationals, coming from 10 different countries, enter the US on H-2B visas and fill positions as cooks, buffet attendants, bellhops, hosts and hostesses, and house keepers.

VisaPro started the [H-2B process](#) in mid-December as usual for a start date on April 15. We worked closely with the State Workforce Agency (SWA) to get the prevailing wages, hammer out the language for the ads and postings, and begin the recruitment process. We completed the recruitment, prepared our reports and submitted the packages to the SWA. We expected the labor certification applications to be forwarded to the Regional Certifying Officer shortly. Everything was on target and the employer started making plans for opening.

After a few days we noticed that all communication from the SWA ceased and nothing seemed to be happening with our applications. Our attempts to find out the status received silence, and we could get no reason for the delay. We were finally told that the State Labor Commissioner was refusing to forward the labor certification applications because he felt that the employer did not need foreign workers and he was "going to find us all the US workers we needed."

At this point we knew we had entered uncharted territory. We, and nobody we knew, had ever had a SWA refuse to forward the labor certification to the DOL Regional Office. And even worse, in the 3+ weeks they held our applications, they only referred us 3 workers, not the 125 we needed, and which they "promised" us. When it became obvious that we would not be able to get anywhere with the SWA VisaPro went directly to the Regional Certifying Officer for assistance. At that time there were no procedures in place for dealing with the situation because the DOL Regional Office also had never had this problem.

This got so complicated that we had to involve State legislators' offices, State Governor's office, and US Congressperson's office. At the DOL, the matter was escalated all the way to Federal DOL headquarters in Washington, DC. After all these efforts, Federal DOL helped us forward copies of our applications directly to the Certifying Officer for certification. This eventually led to DOL developing a procedure that could be utilized in future.

VisaPro finally succeeded in getting all the labor certifications approved, received quick approval from USCIS, and almost all of the 100+ workers received their H-2B visas at the US consulates overseas.

The resort opened on time, albeit a little short-handed for the first few weeks, and had a very successful summer. On our side we met and overcame challenges that you only see once in a lifetime. We learned a lot, did what was necessary for our client, and were ultimately successful in getting the workers they needed.

Our experienced attorneys are able to review and analyze complex scenarios and formulate strategies for hiring foreign workers on H-2B visas.

If you are running a hotel, restaurant, park, entertainment center, resort, grocery store or any other facility that needs foreign workers for seasonal, one-time, or peak load situations we encourage you to [Contact VisaPro](#) to review your situation and discuss your options.

[More Success Stories](#)

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Send in your suggestions on topics that you want us to cover and Tell us what you think about us.

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