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FROM THE EDITOR'S DESK

Hello and welcome to the September 2013 Immigration Newsletter!

As we inch closer to October, all eyes are fixed on and discussion is centered around whether or not a *government shutdown* can be averted before October 1! If the U.S. Congress cannot pass a government funding bill by the end of the September, the federal government will shut down. If there is a government shutdown for budgetary reasons, non-essential government employees and functions will be furloughed.

As of the writing of this newsletter, no announcements have been made as to plans being put into place by the various government agencies that involve immigration services (DOL, DOS, USCIS, CBP, etc.) However, based on contingency plans put into place in 2011 when the last government shutdown was threatened and what actually took place during the 1995-1996 shutdown, it is expected that most U.S. Citizenship & Immigration Services (USCIS) functions and departments will continue to operate as they are largely funded by user fees. The Customs and Border Protection (CBP) functions, such as functions at the ports of entries like airports, should continue as they are considered "essential functions," although longer lines and delays should be expected as staffing may not be 100%. The Department of State (DOS) may cease visa processing except for life or death emergencies but based on past experience, the National Visa Center may continue to process applications as its staffing is contractual. The Department of Labor (DOL) may also cease to process any applications if the shutdown occurs. Delays of visa issuance at the consular posts and at the DOL may result in significant backlogs if the shutdown does occur and continues for any significant length of time if the 1995-1996 government shutdown can be used as a good

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indicator.

As of the writing of this newsletter, the U.S. Senate had voted unanimously to begin debate on a House of Representatives-passed stopgap spending bill that is aimed at averting a government shutdown. Congress is expected to be in session through the weekend to try to resolve the deadlock. We, like most others, hope that issues will be resolved amicably and a government shutdown averted.

In immigration news, it's that time of the year again- the 2015 Diversity Immigrant Visa Program (DV-2015), popularly known as the Green Card Lottery, is set to open on **October 1, 2013, at Noon (EDT)**. The Department of State (DOS) has released the instructions for the DV-2015. For fiscal year 2015, 50,000 diversity visas will be available. Natives of Bangladesh, Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, Ecuador, El Salvador, Haiti, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam are **not eligible** to apply. Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible. Entries for the DV-2015 program **must be submitted electronically at www.dvlottery.state.gov no later than November 2, 2013, Noon (EDT)**. No late entries or paper entries will be accepted. Only one entry per person is allowed and if any one submits more than one entry, they will be disqualified. Applicants who would like to apply must make sure to review the DOS instructions thoroughly before submitting their application in the DV-2015 program.

In other DOS-related news, the transfer to the Immigrant Visa Electronic Application (DS-260) is now complete. DOS has implemented worldwide the replacement of the paper-based Forms DS-230 [Application for Immigrant Visa and Alien Registration (parts I and II)] and DS-3032 [Choice of Address and Agent] with online **Forms DS-260 and DS-261** [Choice of Address and Agent]. Immigrant Visa applicants that have cases that arrived at the National Visa Center (NVC) from USCIS on or after September 1, 2013 will be instructed to complete the DS-260 and DS-261. For cases already in process at NVC, the DS-260 is not required for beneficiaries of cases if the case has already been documentarily qualified and ready for scheduling or where the NVC receives documents that make the case documentarily qualified. For all other cases in process at the NVC, the NVC will send instructions for beneficiaries to submit the DS-260 along with the missing documents or information, even when the DS-230 is already on file. *If your case is already at the NVC, do not complete or submit the DS-260 unless instructed to do so by the NVC.*

YOUR OPINION

Do you think that NVC processing will speed up now that the DOS has transitioned to the online immigrant visa application (Forms DS-260 and DS-261)?

- a. Yes
- b. No
- c. Not Sure

[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 receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of October 2013.

I am applying for a **B-1 visa to visit the US on behalf of my company to attend a meeting with a client. Is there any dependent visa which I can apply for my wife so that she can travel with me to the US?**

[Submit Your Answer](#)

As we near the end of the 2013 Fiscal Year, USCIS announced that the annual cap for U nonimmigrant status was exhausted for the fourth straight year. USCIS announced that it has approved the statutory maximum 10,000 petitions for U visa status for the fiscal year 2013. 10,000 U visas are available for victims of crime who have suffered substantial mental or physical abuse and are willing to help law enforcement authorities investigate or prosecute those crimes. USCIS will continue to accept U-visa petitions and process them in the order in which they are received, and will resume issuing U visas on October 1, 2013, the first day of FY 2014.

The DOS has also confirmed that the Employment-Based Quota Limit for the 2013 Fiscal Year has also been met, as is usually the case towards the end of September of each year. All requests for visa numbers from USCIS for pending Adjustment of Status cases will be put into a queue and these cases will be automatically authorized on October 1, 2013, the beginning of Fiscal Year 2014.

The authorization for the **Special Immigrant Visa (SIV) program for Iraqi nationals** who worked for or on behalf of the United States government will expire on September 30, 2013. The program covered Iraqi nationals who, during the period between 3/20/03 and the present, have been employed by or on behalf of the United States government in Iraq for a period of not less than one year. After September 30, 2013, USCIS will reject any Form I-360 or Form I-485 filed by a principal applicant based on the Iraqi SIV program. Beginning October 1, 2013, USCIS will suspend processing of any pending Form I-360 or Form I-485 filed by a principal applicant based on the Iraqi SIV program. *The expiration date, however, does not apply to spouses and unmarried children who are following to join a principal applicant.*

USCIS is employing a new verification tool called *Customer Identity Verification (CIV)* in its domestic field offices. Customers will now be required to submit biometric data (fingerprints and photographs) when appearing at USCIS offices for interviews or to receive evidence of an immigration benefit. The tool will be phased in between September 9 and October 21, 2013 to customers attending an interview or being issued evidence of an immigration benefit. It is anticipated that CIV will aid in combating identify fraud by allowing USCIS to biometrically verify a customer's identity. Applicants appearing for interviews or other services should be prepared for some delays as the new process of is being implemented and come prepared.

Other Developments in Immigration Law:

Immigration Question?

Consult Our Experienced Attorneys

Click Here



Winner of the Immigration Quiz - August 2013:

Sheik Mansur

The Question:

What is the minimum educational requirement for an L-1 visa? Can a Manager with a 3-year Bachelor's degree in the Arts be eligible for an L-1 visa?

The Winning Response:

Unlike H-1B visa, no minimum educational qualification is prescribed for the L-1 visa. However, in order to qualify, the beneficiary must be either a manager, executive or specialized knowledge personnel. Hence, the nature of role performed by the beneficiary is more significant than his or her educational qualification.

Sheik Mansur receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of October 2013.

[October 2013 Visa Bulletin: EB-2 Advances Marginally for China, F2A Retrogresses](#)

In the recently published U.S. Department of State Visa Bulletin for October 2013, the [EB-2](#) priority dates remained current in respect of all countries other than India and mainland China. The EB-2 priority date advanced from 08/08/08 to 09/15/08 in respect to mainland China, but remained at 06/15/08 in respect to India. [EB-1](#), [EB-4](#) and [EB-5](#) numbers continue to remain current for all countries. As the DOS had warned, after being current for 2 months, the [F2A](#) has retrogressed. However, the retrogression is only to September 8, 2013, meaning that all applications filed before September 8, 2013 remain current. It is hoped that the DOS will not push these dates back further as the new Fiscal Year begins.

[DOL Issues Final Rule Delaying 2011 H-2B Wage Rule](#)

The Department of Labor (DOL) has published a final rule to delay indefinitely the effective date of the Wage Methodology for the Temporary Non-Agricultural Employment [H-2B](#) Program final rule (2011 Wage Rule). DOL announced that this final rule has been published in order to comply with recurrent legislation that prohibits DOL from using any funds to implement the 2011 Wage Rule. This final rule, however, does not affect the H-2B wage interim final rule published on April 24, 2013, which establishes the current prevailing wage methodology for the H-2B program, remains in effect.

Immigration Articles and Other Fun Stuff:

Our '**Featured Video**' for this month is "[E3 Visa for Australians in Specialty Occupation](#)" in which we explain the many advantages the [E3](#) Visa has over other classifications, and showcase how the E-3 benefits prospective employers who are subject to the [H-1B](#) cap. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Check out our '**In Focus**' article for this month titled "[Obtaining A Family Based Green Card: The Adjustment of Status Process](#)" to learn more about how a foreign national relative of a U.S. Citizen or Green Card holder who is physically present in the U.S. may apply for a Green Card through the [Adjustment of Status](#) process and avoid having to travel outside the U.S. to obtain an immigrant visa at a U.S. Embassy or Consulate abroad.

JOBS @ VisaPro

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- **Part-Time**
- **Semi-Retired**

Job Type: W-2 or 1099

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

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- ▶ [Immigration Paralegal](#)

NEW TO VisaPro?

Do you have questions regarding the [H-1](#), [L-1](#), [E-1](#) or other work visas or Green Cards? VisaPro has answers to many of the most commonly asked immigration questions. [Click here](#) to find out more.

Every month we introduce a new and interesting question for our opinion poll. Results of our previous poll indicate that a majority of respondents (**60%**) thought that USCIS receiving nearly 550,000 applications under DACA in the period from August 15, 2012 to June 30, 2013, is an indicator of the success of the program. We continue to appreciate that people take interest in the opinion question and cast their votes to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We also congratulate **Sheik Mansur** for winning last month's Immigration Quiz. While we received more than one correct response to the quiz question, **Sheik Mansur** gave the best answer and won a free online consultation to discuss the concerned Immigration issues. 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



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FEATURED VIDEO

E3 Visa for Australians in Specialty Occupation



E3 Visa for Australian nationals does not need a petition approved by the USCIS prior to applying at a US consulate. E-3 Visa has the added benefit of not being counted against the H1B cap and will immensely benefit prospective employers who are subject to the H-1B cap. Learn the many advantages E3 Visa has over other classifications.

[More Videos...](#)

LATEST NEWS [XML](#)

[H2B Cap Count Update](#)

USCIS has updated the count of [H2B](#) visa petitions received and counted towards the H2B cap for the 2nd half of fiscal year 2013 employment. As of September 20, 2013, USCIS has approved approximately 28,173 beneficiaries for the 2nd half of FY 2013.

[Immigration-Related Discrimination: DOJ Reaches Agreement with Michigan-based Staffing Company](#)

The Dept. of Justice (DOJ) announced recently that it has reached an agreement with a Troy, Michigan, based staffing company, resolving an allegation of discrimination based on citizenship status during the employment eligibility re-verification process at one of its branch locations. Under the agreement, the company will compensate the former employee for lost wages and pay a civil penalty to the United States.

IN FOCUS

XML

Obtaining A Family Based Green Card: The Adjustment of Status Process

The Family Based Immigrant Visa Process is initiated by filing the Form I-130 within the U.S., or in some cases, outside the U.S. While U.S. Citizens can sponsor their spouse, parents, children and brothers or sisters for a U.S. Green Card by filing the Form I-130, Green Card holders can file Form I-130 to sponsor only their spouse and children. Learn more about how eligible foreign national relatives of U.S. Citizens and Green Card holders, who are physically present in the U.S., can obtain a Green Card while remaining in the U.S. through the Adjustment of Status process, thus avoiding having to travel outside the U.S. to obtain an immigrant visa at a U.S. Embassy or Consulate abroad.

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H-1B VISA (Persons in Speciality Occupation)

Quick, Easy, Economical. **Online Processing.**

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Apply Now!

QUESTIONS AND ANSWERS

Q1. I own a business in South Africa and I am applying for a B-1 visa. I have plans to open a business in the US at some point in future. If my B-1 visa gets rejected, will it have any impact on any future visa that I may apply for like L-1 or H-1B?

Ans. A B-1 business visitor visa enables foreign nationals to enter the U.S. temporarily for a business purpose. To be eligible for grant of B-1 visa, you must demonstrate, among other things, that the purpose of your intended travel fits within the list of permissible activities under the B-1 visa category. From the information given by you, it is not clear what your apprehensions are about your current B-1 visa application. Generally, if you qualify for an L-1, you can get an L-1, and any prior rejection of a B visa application should not generally affect your L-1 case. You may consult an immigration attorney to review your situation and address your concerns about your current B-1 visa application and plans for the future.

Q2. I am a Citizen of Spain, currently working in the US on an [H-1B](#). My fiancée is a Citizen of Italy, and a Green Card holder. We are getting married in the US this December. Please let me know if I can file for a green card based on my marriage? Does the fact that both of us hold different nationalities be a problem?

Ans. A Spouse of a Lawful Permanent Resident (LPR) is eligible to file for a Green Card under the F2A family preference immigrant visa category. Hence, if you lawfully marry your fiancée, a Green Card holder, you may be eligible to file for a Green Card under the [F2A](#) category. It will not matter that both of you hold different nationalities. You may consult an immigration attorney to review your situation and ascertain what steps you may take in your situation.

[More Q&A](#)

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](#)

SUCCESS STORIES

"To be fair, we contacted Visapro very late to obtain a [P1 visa](#). Thanks to the efforts of the dedicated staff at Visapro, we had the Approval Notification in our hands within three and a half weeks!

We thank you Visapro for your efficiency and willingness to go that extra mile for us when we were up against it."

Best wishes,

Harj Virdee
Panic Cell

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