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NIHisbNews Alert for September 16, 2005

LPR and backlogs

It has recently been announced that effective October 1, there will be considerable backlogs in processing employment-based LPR applications for individuals born in China and India. In order to become a permanent resident (a.k.a. get a "green card"), there must be an immigrant visa number available to that person. An immigrant visa number does not become available until the individual's "priority date" is current. That is, the individual cannot file his/her application to adjust to permanent resident (i.e. file Form I-485) until his/her priority date is current. What is the "priority date," you may ask? The priority date is the date the USCIS receives the immigrant petition (Form I-140) or the date a Labor Certification (PERM) is filed.

As of Oct. 1, Chinese and Indian-born citizens will not be able to file the I-485 adjustment application until their priority date becomes current. When will their priority date become current? Based on the Visa Bulletin issued by the Dept. of State, effective Oct. 1, the priority date for Outstanding Researcher petitions (the LPR type utilized by NIH) for Chinese-born citizens is January 1, 2000. For Indian-born citizens, it is August 1, 2002. You can find information on the Visa Bulletin [here](#).

By and large this will NOT impact many researchers at NIH. This only affects citizens born in China and India; all others are not impacted. Further, there are many options available for researchers to continue their research at NIH while awaiting their priority date to become current. We advise researchers to stay in touch with their DIS Team of Immigration Specialists on this issue.

Please keep in mind that this does **NOT** affect H-1B availability or processing. Do not confuse this notice with H-1B applications!

New E-3 Visa

The E-3 (Treaty Alien in a Specialty Occupation) is similar to the H-1B temporary worker visa, except that it is reserved solely for citizens of Australia. For NIH purposes, the Australian national must be appointed to an FTE and coming to the U.S. to work in a specialty occupation (reminder: research in the biomedical sciences counts as a specialty occupation). As with the H-1B, the Department of Labor must first approve a Labor Condition Application (LCA).

Currently, Australian nationals can only apply for the E-3 by a visa application at a U.S. embassy or consulate abroad. The U.S. Citizenship and Immigration Services (USCIS), DHS, has not yet issued guidance on how to change to an E-3 for those already inside the U.S. If you are recruiting a citizen of Australia, contact your DIS team to discuss the option of an E-3 visa.

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