

## Technical Advisory No. 22

### DV-2009 Immigrant Visa "Lottery" Program

The Department of State (DOS) announced registration of the 2009 Diversity Immigrant Visa Program (DV), or Green Card "Lottery." The application period for visas to be issued in Fiscal Year 2009, begins Wednesday, October 3, 2007, and ends Sunday, December 2, 2007. Instructions, including a list of qualifying countries and application procedures, are available on the Department of State's web site ([http://travel.state.gov/visa/immigrants/types/types\\_1318.html](http://travel.state.gov/visa/immigrants/types/types_1318.html)). The DV Program is repeated each fiscal year.

#### Exchange Visitor Program's foreign residency requirement:

Exchange Visitors (J-1 visa) who are subject to the two-year foreign-residence requirement **will require** a waiver to become an immigrant or permanent resident of the U.S. This includes individuals who are currently in a nonimmigrant category other than J-1 (e.g., O-1, B-1), and who are still subject to this requirement based on an earlier stay in the U.S. in J status.

#### **NIH GUIDELINES FOR DV "LOTTERY" WINNERS IN J-1 EXCHANGE VISITOR STATUS**

The following policy and guidance is provided for DV Lottery Winners who are currently at NIH in J-1 Exchange Visitor status:

1. A waiver under section 212(e) of the Immigration and Nationality Act, as amended, is required prior to filing an application with the U.S. Citizenship and Immigration Services (USCIS) for adjustment of status to permanent resident.

To obtain a favorable opinion from NIH on a "no objection" waiver request, an applicant who is a lottery finalist will not have to obtain a valid outside job offer from an employer in the United States. NIH will provide an advisory opinion directly to DOS upon its request to review the waiver application. Lottery winners must provide a copy of the DV notice of registration from the Kentucky Consular Center to DIS **BEFORE** such advisory opinion is issued.

Once a waiver request is recommended by DOS to USCIS, **no further extensions** of the J-1 program may be granted.

2. After obtaining the waiver, the appropriate documentation may be filed with the USCIS (as indicated in the instructions received from the Kentucky Consular Center with the notice of registration).

3. The first 50,000 applicants under the lottery program will receive permanent residence ("green card") unless otherwise ineligible. It is advisable to start the waiver process as soon as the lottery finalist notice is received. The NIH assumes **no** obligation to change immigration status if the applicant is unsuccessful under the DV lottery program.

4. The candidate may elect not to file applications for a waiver and permanent residence under the DV lottery program. In this instance, an individual then may remain at NIH as long as valid immigration status is maintained.

Please contact the Division of International Services at (301) 496-6166, if you have any questions.

