

October Visa Bulletin Fiasco

Executive Action: On November 20, 2014, President Obama announced Executive Action on Immigration. One component of President's Executive Action was legal immigration wherein the Administration proposed to implement Visa Modernization to streamline the system for Employment Based visa allocation. Under this plan Executive Action would streamline monthly Visa Bulletin process which publishes cut-off dates to determine eligibility for immigrants with approved immigrant petition to file their Adjustment of Status petition.

Visa Modernization Report: In July, the White House Report on Modernizing & Streamlining the Legal Immigration System for the 21st Century¹ contained specific recommendations for updating the monthly Visa Bulletin and refining monthly allocation of visas - “State will increase monthly visa allocation totals during the first three quarters of the fiscal year to the degree permitted by law in order to ensure that fewer numbers are left for the final quarter, thereby ensuring that visa numbers issued are as closely aligned with statutory mandates as possible.”

One of the stated purposes of this announcement was to prevent visa wastage. Even when over a million tax-paying law-abiding skilled immigrants and their families are waiting in green card backlogs, hundreds and thousands of visa numbers have gone unused and wasted over the years.

September 9, 2015 Visa Bulletin: For over ten (10) months, The Department of Homeland Security and Department of State carefully considered the Visa Modernization fix announced in President's Executive Action on Immigration. After careful consideration, on September 9, 2015, Department of State issued October Visa Bulletin by correctly calculating the 'Priority Dates' that are 'Current' for each country i.e. which immigrants with approved immigrant petitions are eligible to file for Adjustment of Status. By filing Adjustment of Status, immigrants can get Work Authorization and Advance Parole allowing them to change employer or travel outside the country. It prevents children of immigrants from aging out for the purpose of immigration process and allows children of immigrants to get in-state tuition fee at Universities.

Resources spent by Immigrants: Based on State Department September 9 Visa Bulletin, for next fifteen (15) days, thousands of immigrants and their families made life altering decisions to prepare for filing their Adjustment of Status petition. Because the process demands that immigrants be physically present in US at the time of filing Adjustment of Status petition, a lot of eligible immigrant families suspended their travel plans abroad. Immigrant families traveling out of country had to cut-short their travel plans rushing back to US to prepare and file their Adjustment of Status petition. Each eligible immigrant paid thousands of dollars as advance legal fees to immigration lawyers. Immigrants also paid close to \$300 fee to doctors to get medical check-up as required to file the petition. To prepare and submit Adjustment of Status petition in response to September 9 Visa Bulletin, we estimate that immigrant families spent around \$100 million and made other life altering decisions.

Visa Bulletin Reversal: On September 25, at the behest of DHS, State Department re-issued October Visa Bulletin² retrogressing ‘Priority Dates’ for China, Philippines and India, without giving anyone prior notice or without the opportunity to apply for Adjustment of Status. DHS and State Department has not yet provided any credible explanation for this Visa Bulletin reversal fiasco costing immigrant families over \$100 million.

Loss to Immigrant Families: Clearly, DHS and State Department had 10 months to sort out Visa Modernization to streamline Visa Bulletin under President’s Executive Action on Immigration. As evident, DHS and State Department has exhibited gross incompetence in handling October Visa Bulletin. As the result, we estimate that eight (8) in ten (10) tax-paying law-abiding skilled-immigrants eligible under September 9 Visa Bulletin will no longer be able to file for Adjustment of Status. We estimate that this will cost immigrant families over \$100 million. We have received hundreds of stories about the mental agony and breakdown caused by this October Visa Bulletin fiasco. Some folks have reached out to us confiding that they are having nervous/stress breakdown.

Precedence: Clearly, the cause of October Visa Bulletin Fiasco is the breakdown of communication between DHS and State Department, and the incompetency of the staff handling Visa Bulletin. There is precedence³ for similar Visa Bulletin fiasco in July-2007 during Bush Administration where in the same manner Visa Bulletin was reversed prior to anyone filing their Adjustment of Status petition. Back in 2007, after a few days of consideration, Bush Administration owned up to their mistake and acknowledged that the hardship caused to immigrants was unfair. Bush Administration retracted their decision and did not reverse Visa Bulletin and thereby honoring the Visa Bulletin that was issued in June, 2007 allowing immigrants to file their Adjustment of Status petition.

This Visa Bulletin is a real litmus test to see if Obama Administration will own up to their mistake in retracting the Visa Bulletin. Just as the Bush Administration owned up to their mistake and did the right thing by allowing immigrants to file for Adjustment of Status under same circumstances, our hope is that to prevent irreparable harm to immigrant families, Obama Administration will do the right thing by honoring the September 9 Visa Bulletin issued by State Department.

¹ White House Report on Modernizing & Streamlining the Legal Immigration System for the 21st Century -

https://www.whitehouse.gov/sites/default/files/docs/final_visa_modernization_report1.pdf

² Visa Bulletin Reversal - <http://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-october-2015.html>

³ Precedence - <http://travel.state.gov/content/visas/en/law-and-policy/bulletin/2007/visa-bulletin-for-july-2007.html>