Visa Bulletin

Number 1
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Washington, D.C.

VISA BULLETIN FOR OCTOBER 2008

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **October**. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by September **9th** in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is **earlier** than the cut-off date listed below.)

Fam-ily	**All Charge-ability Areas Except Those Listed**	**CHINA-mainland born**	**INDIA**	**MEXICO**	**PHILIPP-INES**
1st	15APR02	15APR02	15APR02	8SEP92	1APR93
2A	1JAN04	1JAN04	1JAN04	1MAY01	1JAN04
2B	15DEC99	15DEC99	15DEC99	22APR92	8MAY97
3rd	22JUN00	22JUN00	22JUN00	15SEP92	1MAY91
4th	22OCT97	1MAY97	22MAY97	15JAN95	8MAR86

***NOTE**: For October, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAY01. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAY01 and earlier than 01JAN04. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Charge-ability Areas Except Those Listed	**CHINA-mainland born**	**INDIA**	**MEXICO**	**PHILIP-PINES**
Employ-ment -Based					
1st	C	C	C	C	C
2nd	C	01APR04	01APR03	C	C
3rd	01JAN05	01OCT01	01JUL01	01JUL02	01JAN05

Other Workers	01JAN03	01JAN03	01JAN03	01JAN03	01JAN03
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employ-ment Areas/ Regional Centers	C	C	C	C	C

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.

Employment Third Preference Other Workers Category: Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW cut-off date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. **This reduction has resulted in the DV-2009 annual limit being reduced to 50,000**. DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For **October**, immigrant numbers in the DV category are available to qualified DV-2009 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	6,900	Egypt 3,100 Ethiopia 3,600 Nigeria 3,350
ASIA	2,900	
EUROPE	6,600	
NORTH AMERICA (BAHAMAS)	2	
OCEANIA	200	

SOUTH AMERICA, and the CARIBBEAN	375	

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2009 program ends as of September 30, 2009. DV visas may not be issued to DV-2009 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2009 principals are only entitled to derivative DV status until September 30, 2009. DV visa availability through the very end of FY-2009 cannot be taken for granted. Numbers could be exhausted prior to September 30.

C. ADVANCE NOTIFICATION OF THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN NOVEMBER

For **November**, immigrant numbers in the DV category are available to qualified DV-2009 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW**the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	12,500	Egypt 5,900 Ethiopia 6,300 Nigeria 6,000
ASIA	5,300	
EUROPE	11,000	
NORTH AMERICA (BAHAMAS)	3	
OCEANIA	325	
SOUTH AMERICA, and the CARIBBEAN	550	

D. MEXICO F2A VISA AVAILABIILTY FOR OCTOBER

Heavy demand for numbers in the Mexico F2A category has required the establishment of a cut-off date which is earlier than that which applied in June (after which they became “unavailable” for the remainder of FY-2008). The Mexico F2A cut-off date for October will be 01MAY01. Forward movement during the first quarter of the new fiscal year is likely to be limited.

E. EMPLOYMENT VISA AVAILABILITY

Item E of the May 2008 Visa Bulletin (number 118, volume VIII) indicated that many Employment cut-off dates had been advancing very rapidly, based on indications that the Citizenship and Immigration Services (CIS) would need to review a significantly larger pool of applicants than there were numbers available in order to maximize number use under the FY-2008 annual limits. That item also indicated that if the CIS projections proved to be incorrect, it would be necessary to adjust the cut-off dates during the final quarter of FY-2008. The CIS estimates have proven to be very high resulting in: 1) the “unavailability” of all Employment Third preference categories beginning in July, 2) the “unavailability” of numbers for China and India Employment Second preference adjustment of status cases during September, and 3) the establishment of many October Employment cut-off dates which are earlier than those which applied during FY-2008.

Little if any forward movement of the cut-off dates in most Employment categories is likely until the extent of the CIS backlog of old priority dates can be determined. It is estimated that the FY-2009 Employment-based annual limit

will be very close to the 140,000 minimum.

F. DIVERSITY VISA LOTTERY PROGRAM REGISTRATION PERIOD

The Diversity Visa (DV) lottery will open for DV-2010 entries on October 2, 2008 (noon, EST) and end on December 1, 2008 (noon, EST).
Applicants may access the electronic Diversity Visa entry form at www.dvlottery.state.gov during the registration period. Instructions and additional information will be available at this site by mid September.

For DV-2010, Russia has been added back to the list of eligible countries. Kosovo was also added to the list of eligible countries. No countries have been removed from the list of eligible countries for DV-2010 program.

G. OBTAINING THE MONTHLY VISA BULLETIN

The Department of State's Bureau of Consular Affairs offers the monthly "Visa Bulletin" on the INTERNET'S WORLDWIDE WEB. The INTERNET Web address to access the Bulletin is**:**

http://travel.state.gov

From the home page, select the VISA section which contains the Visa Bulletin.

To be **placed on** the Department of State's E-mail subscription list for the "Visa Bulletin", please send an E-mail to the following E-mail address:

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and in the message body type:
Subscribe Visa-Bulletin *First name/Last name*
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listserv@calist.state.gov

and in the message body type: **Signoff Visa-Bulletin**

The Department of State also has available a recorded message with visa cut-off dates which can be heard at: (area code 202) 663-1541. The recording is normally updated by the middle of each month with information on cut-off dates for the following month.

Readers may submit questions regarding Visa Bulletin related items by E-mail at the following address:

VISABULLETIN@STATE.GOV

(This address cannot be used to subscribe to the Visa Bulletin.)

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