



U.S. DEPARTMENT OF STATE PUBLISHES JANUARY 2009 VISA BULLETIN ANNOUNCING MODEST ADVANCES IN IMMIGRANT VISA AVAILABILITY FOR MOST EMPLOYMENT-BASED IMMIGRANT CATEGORIES

Each month the U.S. Department of State (DOS) publishes the [Monthly Visa Bulletin](#), reporting current immigrant visa availability under the annual quota system for U.S. immigration. Visa availability is expressed in terms of “cut-off” dates for each category. An employment-based applicant’s “priority date,” most often the date an Application for Permanent Employment Certification was filed on his or her behalf, determines the applicant’s place in line for an immigrant visa number. In order to apply or be approved for Adjustment of Status, an Applicant’s priority date must be earlier than the cut-off date for his or her employment-based category on the current Visa Bulletin.

In the January Visa Bulletin, the U.S. DOS reports a two-month advance over December 2008 levels of immigrant visa availability under the Employment-Based, Third (EB-3) Preference “Other Worker” category. EB-3 Applicants born in China, India, and Mexico and EB-2 Applicants born in China and India will also see modest advances in visa availability for the month of January.

Beginning January 1, 2009, EB-2 and EB-3 Applicants may file Applications for Adjustment of Status, and such applications already pending may continue to final adjudication, if the Applicant’s priority date is earlier than the following published dates:

Preference Category	Country of Birth	Priority Date Before:
EB-2	India	July 1, 2003
EB-2	China	July 8, 2004
EB-3	India	October 15, 2001
EB-3	China	June 1, 2002
EB-3	Mexico	November 15, 2002
EB-3	All Other Countries	May 1, 2005
Other Workers	All Countries	March 15, 2003

Applicants in the Employment-Based, First (EB-1) Preference category currently face no backlog in immigrant visa availability.

Generally, a prospective Applicant’s own country of birth determines his or her “area of chargeability” and thus impacts availability of an immigrant visa; however, in some cases, an Applicant’s spouse’s country of birth can be used to determine the area of chargeability and can enable a prospective Applicant to file an Application to Adjust Status sooner. For Applicants with spouses born in a country for which the Applicant’s priority date would be

considered current, it may be possible to proceed with preparation and filing of an Application to Adjust Status immediately.

For more information on any of these employment-based classifications, or to initiate the permanent residency process and establish a priority date for a foreign national employee, contact your Tindall & Foster or Quan, Burdette, & Perez immigration attorney. Your T&F and QBP immigration attorneys will be able to assist you by developing a case-specific strategy for pursuit of permanent residency under an appropriate employment-based category for your company's employees. As always, we will continue to monitor changes in immigrant visa availability and will make further information available in future Immigration Updates©.