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# Talent Without Borders: Immigration Insights - September- October 2023

## Insight — September 19, 2023

- The Department of State published the October 2023 Visa Bulletin Report on September 15, 2023 and announced that it will accept family and employment-based filings based on the Dates for Filing chart in October. As October is the first month of the 2024 government fiscal year (FY), the October Visa Bulletin Report shows some recovery from the retrogressions of the last several months of FY 2023. Every final action date in the October Visa Bulletin has advanced or remained the same relative to the September 2023 report, with notable advancements in the EB1 India category to 1/1/2017, from 1/1/2012 in September, and in the EB3 All Chargeability category from 5/1/2020 to 12/1/2021. United States Citizenship and Immigration Services (USCIS) also updated its FAQs on the employment based annual limit noting that in FY 2024 the annual employment-based visa numbers are estimated to be 165,000.
- The Department of State (DOS) began testing the implementation of digital visa authorization (DVA) at the U.S. Embassy in Dublin, Ireland earlier this September with a small number of K-1 (fiancé(e)) visas. If the initial trial is successful, the DOS hopes to extend the DVA to “other visa classes and additional posts in the future.” Digital visa authorization would allow foreign nationals to travel without a traditional printed visa inserted into their passport, potentially eliminating the waiting time for the foreign national’s passport to be returned in the mail following a visa stamping appointment.
- The Department of Homeland Security (DHS) announced a campaign to notify qualified noncitizens of their ability to apply for an Employment Authorization Document (EAD) earlier this September. The campaign utilizes email and text messages written in English, Spanish, Haitian Creole, Ukrainian, and Russian to contact parole recipients and asylum applicants who are likely eligible to apply for an EAD to legally work in the United States. In addition, USCIS is working to distribute QR codes containing instructions about the EAD process and direct access to the application to local organizations and stakeholders. This effort is significant as it represents a potential source of new labor for employers across the United States.

- Florida passed a stringent new immigration related law, Senate Bill (SB)1718, that went into effect on July 1, 2023 and raises several concerns for employers and employees in the state. Most significantly, SB 1718 requires employers in Florida to utilize E-Verify if they have 25 or more employees who are performing services in Florida. The new law makes it a violation to knowingly employ, hire, recruit, or refer a foreign national who is not legally authorized to work in the United States, violation of which could result in penalties including one-year probation with the Department of Economic Opportunity and repayment of economic development incentives. Employers will have 30 days to cure any noncompliance, but failure to use the E-Verify system three times in a 24-month period will result in a \$1,000 fine per day until proof of compliance is provided.

Undocumented workers who falsify information to obtain employment will be subject to a third-degree felony conviction that carries up to a \$5,000 fine and five years in prison. Other provisions of SB 1718, such as the criminalization of the transportation of individuals into Florida who entered the United States unlawfully are already subject to litigation. A group of organizations including the ACLU of Florida and the American Immigration Council filed a motion for a preliminary injunction to block this section of SB 1718.

- USCIS recently released policy guidance regarding the job offer requirement for physicians seeking a National Interest Waiver (NIW). According to the updated guidance, for work that a physician has not yet started, the required employment contracts and letters from a state department of public health must be dated and issued within 6 months preceding the filing date of the petition. This 6-month rule does not apply to a physician's past or current work.
- USCIS released a new online form allowing individuals, attorneys, and accredited representatives to request an in-person appointment at their local field office for certain processes, including Alien Documentation, Identification and Telecommunication (ADIT) stamps, Emergency Advance Parole, and Immigration Judge Grants. Previously, individuals seeking an in-person appointment at a field office were required to call the USCIS Contact Center. While the new online form does not allow self-scheduling with USCIS, individuals can use it to request specific dates and times for a field office appointment.

*Emma Fahey assisted in writing this article. Emma is an Immigration Project Assistant at Holland & Hart and is not an attorney.*

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