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The Immigration Newsletter

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 Issue 2

DO YOU FEEL LUCKY?: A SIMPLE, INEXPENSIVE, AND QUICK WAY TO OBTAIN A GREEN CARD

The U.S. Congress created the **Diversity Visa Lottery Program** to diversify the population of the U.S. and to allow people from different parts of the world to become Lawful Permanent Residents. Each year a total of 50,000 visas are available to nationals/citizens from the entire world except for 19 countries that are excluded from participating. Applicants, spouses, and children under 21 years of age could be included in the application. To participate in the lottery, the applicant must meet the following requirements:

1. Be a national of a country that qualifies for the drawing. In most cases the applicant must have been born within a qualifying country. However, there are two exceptions to the rule that extend eligibility based on the spouse and parents of an applicant. Almost all countries qualify, except for Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, India, Jamaica, Mexico, Pakistan, Philippines, Peru, Poland, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.
2. Education or work experience. The applicant must have either a high school education OR two years of work experience within the past five years in an occupation requiring at least two years of training or experience to perform.

Applications for the 2010 Diversity Visa Lottery Program will be accepted by the Department of State from October 2 to December 1, 2008. The Law Offices of Adan G. Vega & Associates, PLLC can help you in submitting your application on a timely basis.

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LATEST NEWS

- U.S. Citizenship and Immigration Services (USCIS) announced that it will extend Temporary Protected Status (**TPS**) to nationals of Nicaragua, Honduras and El Salvador. The registration began on 10/01/2008 and ends on 12/01/2008 for Nicaragua and Honduras. For El Salvador the registration also began on 10/01/2008 but ends on 12/30/2008. Upon extension, the TPS validity period will be 18 months.
- U.S. passports are being denied by the State Department to applicants who were delivered by **midwives** in the state of Texas. The bulk of the births occurred near the Mexican border in southern Texas. ACLU, a non profit organization, filed a federal class action lawsuit aimed to correct this injustice and force the U.S. government to finally recognize these individuals as U.S. citizens.

- On September 30, 2008, President Bush signed into law the Fiscal 2009 Continuing Resolution (H.R. 2638) which includes an extension of the Basic Pilot/E-Verify and the **EB-5** Regional Center Pilot programs.

- The U.S. District Court for the Western District of WASH. granted a motion for class certification in a case that challenges the USCIS' policy of requiring **religious workers** to have an approved I-360 before they can file an I-485. The court stayed accrual of unlawful presence/unauthorized employment time against class members until resolution of the litigation. Since the case has been treated as a class action, all religious workers in the same situation could benefit from the new ruling.

- USCIS will begin administering a **new naturalization test** on October 1, 2008. USCIS has issued a revised guide to the new test with questions and answers which can be found at the USCIS website. USCIS will continue administering the old version as an option for those applicants who applied before October 2008 and prefer the previous test.

MYTHS & TRUTHS

It is a myth that a **deportation order** becomes null and void after 10 years. If a deportation order issued by an Immigration Judge or the Board of Immigration Appeals becomes final, that decision is valid and enforceable until the individual leaves the country. A decision becomes final (1) if the right to appeal was waived (2) if the period to appeal finished, or (3) if the decision is the result of a ruling by a higher court. A deportation order will always be part of the individual's file and will be always taken into account for future adjudications either in the United States with CIS or ICE, at the port of entry with CBP or in an American Consulate abroad.

FOR YOUR BUSINESS

H-1B: Renewal of Status Beyond the 6th Year

The American Competitiveness in the Twenty-first Century Act (AC21) allows holders of H1-B status to extend their stay beyond the 6th year. This rule applies when a Labor Certification or an Immigrant Petition for Alien Worker (I-140) has been filed with DOL or USCIS at least 365 days prior to the expiration of the current status.

H-3: Training Visas

The H-3 is a nonimmigrant visa that allows applicants to come to the U.S. for up to two years in order to obtain training in a field or topic that is not available in the trainee's home country. Examples of training fields are: commerce, agriculture, government, manufacturing, IT, and engineering.

Business Based Petitions

USCIS policy now requires petitioners filing business based petitions, such as form I-140, to submit evidence of citizenship or permanent resident status if the petitioner is an individual or sole proprietor.

Inquiries at U.S. Consulate in Ciudad Juarez, Mexico

The U.S. Consulate at Cd. Juarez now allows legal representatives online inquiries instead of the 1-900 procedure used by the general public. The U.S. Consulate will reply online within 5 days.

DID YOU KNOW THAT...?

H-2B Visas for Temporary Workers

If your company is in need of temporary workers, you still have time to obtain some of the 33,000 visas that will become available on April 1, 2009. The H-2B allows your company to bring foreign workers for a limited period of time when your labor needs are either seasonal, peakload, a one time occurrence, or intermittent. If you cannot satisfy your labor needs with your permanent employees and you cannot find a U.S. worker who is able, qualified and willing to perform the job you need, you could take advantage of the H-2B program.

Visa Extensions for Tourist and Business visitors

Non-immigrant tourists and business visitors (B-1/B-2 visa holders) may request an extension of stay when unexpected events in their home country delay their return travel. Applicants who request an extension will need to explain how the event has disrupted their ability to travel home, and how much longer they anticipate staying in the U.S. They will need to document how they will be able to support themselves in their non-immigrant status for the additional time. An ideal example would be the torrential rains which flooded the state of Tabasco, Mexico at the end of 2007. That natural disaster would allow B-1/B-2 visitors in the U.S. from Tabasco to extend the visa entry.

Mexicans and Canadians: TN for three years

USCIS has proposed to increase the maximum amount of time a Trade-NAFTA (TN) professional worker from Canada or Mexico can remain in the United States before seeking readmission or obtaining an extension of stay. The proposal will extend the maximum period of admission for TN workers from one (1) year to three (3) years.

Texas Drivers License

The Texas Department of Public Safety (DPS) announced that it will issue driver licenses only to U.S. Citizens, Lawful Permanent Residents, and nonimmigrants with legal status. As of October 1, 2008, DPS is requesting specific documentation from all applicants.

About Adan G. Vega

Adan G. Vega is an attorney certified by the Board of Legal Specialization of the State Bar of Texas and has practiced more than 29 years exclusively in the area of Immigration and Nationality Law. Mr. Vega has been recognized as a Top Texas Lawyer by the Texas Monthly's Super Lawyer Section since 2004.

FOR A CONSULTATION,
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RECENT CASES REPRESENTED BY OUR LAW OFFICES

Male Victim of Domestic Violence

A VAWA (Violence Against Women Act) case has been approved for a man who was a victim of domestic violence by a US citizen. The VAWA approval allows him to adjust status and obtain a Lawful Permanent Residency in the U.S.

A Child Avoids the 10 Year Bar at U.S. Consulate

A 17 year old person was able to obtain a permanent resident visa at the U.S. Consulate in Cd. Juarez after entering the U.S. as a child and residing in the U.S. all her life. The child was deemed not to have triggered the 10 year bar upon leaving the United States. In addition, she immediately became eligible for U.S. citizenship upon re-entry into the U.S.

Labor Certification by the Department of Labor

A labor certification has been approved for a position of "Financial Advisor" requiring a Master's degree. Another certification was approved for a position of "Senior Program Analyst" requiring a Master's degree.