



[Public Notice: 12235]

RIN 1400-AF79

Pilot Program to Resume Renewal of H-1B Nonimmigrant Visas in the United States for Certain Qualified Noncitizens

AGENCY: Department of State.

ACTION: Notice of Pilot Program.

SUMMARY: The Department of State (the “Department”) is announcing a pilot program to resume domestic visa renewal for qualified H-1B nonimmigrant visa applicants who meet certain requirements. This notice describes the requirements for participation in the pilot and provides information on how those falling within the bounds of the pilot program may apply for domestic visa renewal.

DATES: The pilot program will accept applications from January 29 to April 1, 2024.

Applicants who meet the requirements may choose to participate during the application window by applying online at <https://travel.state.gov/content/travel/en/us-visas/employment/domestic-renewal.html>. Written comments and related materials must be received on or before midnight April 15, 2024.

ADDRESSES: Interested parties may submit comments, identified by Department docket number DOS-2023-0042 or RIN 1400-AF79, through the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the website instructions for submitting comments. A summary of this rule is also available at www.regulations.gov by searching for “1400-AF79” from the home page.

Comments submitted in a manner other than the one listed above, including emails or letters sent to Department officials, will not be considered comments on the Notice, and may not be considered by the Department.

FOR FURTHER INFORMATION CONTACT: Jami Thompson, Senior Regulatory Coordinator, Visa Services, Bureau of Consular Affairs, Department of State; email: VisaRegs@state.gov.

SUPPLEMENTARY INFORMATION:

Public Participation: The Department invites all interested parties to submit written data, views, comments, and arguments on all aspects of this Notice. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to the Department should comment on the proposal to provide for renewal of visas within the United States. Do not submit case inquiries, case numbers, bar code numbers, or photographs from any visas application. The Department does not intend to address comments as part of this pilot, but will consider relevant comments in deciding on any future rulemaking.

Instructions: If you submit a comment, you must include the agency name and the RIN 1400-AF79 for this Notice in the title or body of the comment. Submitted comments will be publicly posted to the Federal eRulemaking Portal at www.regulations.gov. Therefore, you may wish to consider limiting the amount of personal information that you provide. The Department may withhold from public viewing information provided in comments that it determines offensive. For additional information, please read the Privacy Act notice available in the footer at www.regulations.gov.

Docket: For access to the docket and to read background documents or comments received, go to www.regulations.gov, referencing RIN 1400-AF79. You may also sign up for email alerts on the online docket to be notified when comments are posted.

I. Background

In 2004, the Department discontinued the domestic renewal of non-diplomatic nonimmigrant visas primarily because of the passage of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. 107-173), which required that U.S. visas issued after October 26, 2004, include biometric identifiers¹ (69 F.R. 35121). Then, as now, the State Department did not possess the capacity to collect fingerprints in the United States, so all non-diplomatic visa applicants were required to apply for new visas outside of the United States where fingerprints can be collected at a U.S. embassy, consulate or, for certain posts, at an offsite contract facility. For purposes of implementing this pilot, however, those prior concerns are overcome, as participation in the pilot is limited to individuals who have previously submitted fingerprints in connection with the application for the prior visa, are eligible for a waiver of the in-person interview requirement and meet other applicable requirements. The goal of this pilot is to test the Department's technical and operational ability to resume domestic visa renewals for specific nonimmigrant classifications and to assess the efficacy of this program in reducing worldwide visa wait times by shifting certain workloads from overseas posts to the United States.

II. Pilot Program and Requirements for Participation

Pursuant to 22 CFR 41.111(b)(3), the Deputy Assistant Secretary for Visa Services (VO DAS) and Department officials designated by them, are authorized to issue, in their discretion, nonimmigrant visas in the United States, to qualified applicants who meet specific criteria. Based on this discretionary authority, the VO DAS sets the limitations and parameters of the domestic renewal pilot, including establishing parameters that limit the types of applications that fall within the pilot's scope. Consequently, applicants that fall outside of this scope are not eligible to apply for, nor be issued, a visa domestically.

Participation in this pilot will be limited to applicants who(se):

¹ In 2004, the Department, in coordination with the Department of Homeland Security, determined that biometric identifiers should include two fingerprints and a photograph (69 F.R. 78515). In 2010, the standard was changed to ten fingerprints and a photograph (75 F.R. 39323). Certain individuals under the age of 14 and those age 80 or over are exempt from the fingerprint requirement.

1. Are seeking to renew an H-1B visa; during the pilot phase, the Department will not process any other visa classifications;
2. Prior H-1B visa that is being renewed was issued by Mission Canada with an **issuance** date from January 1, 2020, through April 1, 2023; or by Mission India with an **issuance** date of February 1, 2021, through September 30, 2021;
3. Are not subject to a nonimmigrant visa issuance fee (Note: this is commonly referred to as a “reciprocity fee”);
4. Are eligible for a waiver of the in-person interview requirement;
5. Have submitted ten fingerprints to the Department in connection with a previous visa application;
6. Prior visa does not include a “clearance received” annotation;
7. Do not have a visa ineligibility that would require a waiver prior to visa issuance;
8. Have an approved and unexpired H-1B petition;
9. Were most recently admitted to the United States in H-1B status;
10. Are currently maintaining H-1B status in the United States;
11. Period of authorized admission in H-1B status has not expired; and
12. Intend to reenter the United States in H-1B status after a temporary period abroad.

Some of these requirements are mandated by statute or regulation. Others are discretionary requirements and are designed to limit the pilot population to a size that is manageable and consistent with available resources, and control the costs of conducting the pilot, while still testing the efficacy of a domestic renewals program.

Specifically, the Department is limiting the scope of the pilot to applicants who were previously issued visas within specified dates by Missions Canada or India to properly assess the performance and capabilities of contractors who manage the majority of the Department’s worldwide visa processing. The population of visa applicants in India and Canada is sufficiently

representative of the global population and visa issuances during the referenced periods provide enough cases to make the pilot results meaningful, without overwhelming available resources.

Additionally, the Department is limiting the scope of the pilot to include only H-1B applicants. After careful consideration, the Visa Office determined that including other visa categories, including H-4s (dependents of H-1B principal applicants), created additional technical and operational challenges that cannot be resolved before the pilot launch date. For instance, developing standard operating procedures and training staff to recommence domestic renewals is a time-consuming process that requires months of practice currently underway for H-1B adjudications. Developing processes to adjudicate additional visa categories will continue concurrent with the pilot, leveraging real time data and feedback to expand the program.

Limiting the pilot to only H-1B principal applicants will also maximize the Department's direct impact on U.S. industry partners, whose H-1B employees may need to travel abroad for work purposes and risk being unable to immediately return if their visa is expired.

As the Department does not conduct in-person nonimmigrant visa interviews or collect fingerprints domestically, a key requirement for participation in the pilot is that applicants for domestic visa renewal must qualify for a waiver of the in-person interview requirement under section 222(h) of the Immigration and Nationality Act (INA) and have fingerprints on file with the Department that may be used for biometric vetting. Just like any individual applying for a nonimmigrant visa overseas, including those whose in-person interview is waived, all applicants for domestic visa renewal must undergo screening and vetting. With certain exceptions set out in the law, most applicants seeking to renew their H-1B visas, whether overseas or domestically, within 48 months of the expiration of their prior visa in the same classification, will be eligible for a waiver of the in-person interview requirement. Based on statutory requirements for an interview waiver under INA section 222(h)(2), applicants for domestic visa renewal must reside in the United States. Applicants are not required to submit evidence of residence in the United

States at the time they submit their application beyond the information requested in the visa application; however, additional information may be requested at any time prior to visa issuance.

Some applicants may not be fully aware of the facts that caused them to be ineligible for interview waiver, even though the reasons are tied to a specific statutory ground. For example, applicants requiring a Department clearance are ineligible for interview waiver, but such clearance requirements are not public information. Any such requirement would be based on the applicant's individual circumstances. Applicants who do not meet the requirements for domestic adjudication as published in this notice, including eligibility for a waiver of the in-person interview requirement, are not eligible to apply for, nor be issued a visa domestically. Fees will not be refunded and these applicants must submit a new application, pay the associated fee, and apply overseas where they have a residence or are physically present if they wish to pursue a new visa. Participation in the pilot is voluntary. Individuals who do not wish to participate in this pilot may continue to apply overseas at a U.S. embassy or consulate where they have a residence or are physically present.

The pilot aligns with the Administration's commitment to transform federal customer experience and service delivery to rebuild trust in government, as outlined in Executive Order 14058, signed on December 13, 2021 (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/13/executive-order-on-transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government/>). By designing and delivering services with a focus on innovative solutions and the user experience of American industry partners, the Department is looking to alleviate the uncertainty often experienced by U.S. companies that employ temporary workers requiring petition-based visas, as well as the uncertainty experienced by their impacted workers. This pilot will also support implementation of the Chips and Science Act and Executive Order 14110, issued on October 30, 2023, which outlines the administration's commitment to the safe, secure, and trustworthy development and use of artificial intelligence

(<https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence>).

III. Procedures for Participation

a. Application Period

The Department will begin accepting online applications January 29, 2024 via <https://travel.state.gov/content/travel/en/us-visas/employment/domestic-renewal.html>. In order to control the number of applications received, the Department will, each week, release approximately 2,000 application slots for applicants whose most recent H-1B visas were issued by Mission Canada, and approximately 2,000 application slots for those whose most recent H-1B visas were issued by Mission India (approximately 4,000 total each week) on the following dates:

- January 29
- February 5
- February 12
- February 19
- February 26

Every application received will be counted against an approximate 2,000 maximum weekly limit for each participating Mission. Once the limit is reached, the online portal will be locked until the next tranche of slots are released for each participating Mission group on the next application date. Applicants who are unable to apply on one application date may attempt to apply on any of the remaining application dates during the entry period. The application period for the pilot will close when all application slots are filled or on April 1, 2024, whichever comes first.

b. Completing the Online Application for the Pilot

To complete an application, applicants must navigate to the dedicated domestic visa renewal website available at <https://travel.state.gov/content/travel/en/us-visas/employment/domestic-renewal.html>. On this site, applicants will be directed to select the host-country post of their most recent H-1B visa issuance (either Canada or India). From there, applicants will be taken through a navigator tool, which will assist applicants in assessing their qualifications for participation in the pilot, as discussed in Section II, 1-12 above. Applicant responses to questions in the navigator tool will not be retained by the Department. After completing the self-assessment, qualified applicants must electronically complete and submit Form DS-160. Qualified applicants will also receive instructions through the portal on how to pay the required, **non-refundable, non-transferrable** Machine-Readable Visa (MRV) application processing fee and where to mail their passports and other required documents for processing. The navigator is not capable of screening out all unqualified applicants. Consequently, it is possible the application subsequently will be returned unadjudicated for failure to satisfy the requirements for pilot participation or adjudicated and refused based on failure to qualify for an interview waiver. The MRV application processing fee payment will not be refunded in either case.

c. Application Processing

Applications will be considered in the order received. The Department will not provide non-automated status reports on individual applications, other than the return of the application, issuance of the visa, or refusal, nor will it expedite applications. Applicants may check the status of their application at: <https://ceac.state.gov/CEACStatTracker/Status.aspx?App=NIV>.

The application processing is as follows:

After online submission of the DS-160 and payment of the **non-refundable, non-transferrable** MRV fee, applicants will receive instructions through the portal to send their passports and other required documents (as specified in section d. Required Documents of this

notice) via the U.S. Postal Service or commercial courier service to the Department (see section f, below). Applications will then be sorted to determine whether they fall within the scope of the pilot. Applications and passports that do not pass this initial sorting process will be returned to applicants unadjudicated, as described below, but the fee will be retained to cover processing costs. Applications that satisfy the initial sorting requirements are forwarded to a location where authorized Department employees will adjudicate those applications.

The average processing time for a domestic visa renewal application is expected to be six to eight weeks from the time that the passport and other required documents are received by the Department. The Department aims to complete processing of all applications no later than May 1, 2024. The Department will not consider requests for expedited processing. If an applicant anticipates urgent travel, the applicant may wish to apply for visa renewal overseas where they have a residence or are physically present. If an applicant applies for domestic visa renewal and learns that they must travel urgently, the applicant may withdraw their application and request through the online portal that their passport be returned to them. If the applicant withdraws their application during the adjudication process, it will be refused under INA 221(g) and the MRV fee will **not** be refunded. The INA 221(g) refusal will not prejudice any future application. With this notice and other Department publications, visa applicants are made aware of the limited scope of this pilot program and the requirements for participation, as detailed in Section II, 1-12 above.

Domestic issuance of a visa through the pilot program is **not** guaranteed. If the application is adjudicated but does not satisfy the requirements for domestic visa renewal under this pilot program for any reason, including a determination that the applicant requires an interview, resulting in a refusal under INA 221(g), the applicant may reapply by filing a new visa application at a U.S. consulate or embassy abroad where they have a residence or are physically present, and pay a new MRV fee.

d. Required Documents

Each applicant for a domestic H-1B visa renewal must submit the following documentation:

- A properly completed² and electronically filed DS-160, Online Nonimmigrant Visa Application.
- One photograph (taken within the last six months), which meets the specifications at: <https://travel.state.gov/content/travel/en/passports/how-apply/photos.html>.
- A passport valid for travel to the United States, which is valid for at least six months beyond the visa application date, and contains a blank, unmarked page for placement of a visa foil.
- The original or a copy of the applicant's current Form I-797, Notice of Action.
- The original or a copy of the applicant's Form I-94, Arrival-Departure Record (available at <https://i94.cbp.dhs.gov/I94/#/home> or on the Form I-797).

e. Fee Payment

After completing their DS-160, applicants must pay the required \$205.00 **non-refundable and non-transferable** MRV fee via the online portal. Fee payment may only be made using a major debit or credit card. Payment confirmation will be provided at that time.

f. Where to send passport and other required documents

After completing the DS-160 and paying the MRV fee, applicants will be provided information via the portal on where and how to send their passports and required documentation.

g. Visa and Documentation Return

² A properly completed application is one that is completed in accordance with the instructions provided on the DS-160.

Issued visas, passports, and other documents submitted by the applicant will be returned via U.S. Postal Service or a commercial courier. It is important to note that issuance of a visa in the United States is **NOT** a grant of nonimmigrant status, does not constitute an extension of current nonimmigrant status, and does not constitute an admission to the United States. The visa only permits the applicant to seek entry at a U.S. port of entry after overseas travel and is not a guarantee of admission. Any foreign nationals seeking to extend or maintain their status while in the United States should contact U.S. Citizenship and Immigration Services (USCIS) per usual practice.

h. Out-of-Scope Case Returns

The Department will return the following out-of-scope cases **without** an adjudication and **without** a refund of the MRV fee:

- Any application that seeks to renew a visa other than an H-1B visa.
- Any application where the prior H-1B visa was not issued by Mission Canada with an issuance date of January 1, 2020, through April 1, 2023; or by Mission India with an issuance date of February 1, 2021, through September 30, 2021.
- Any application which is subject to a nonimmigrant visa issuance fee (reciprocity fee.) An applicant may research reciprocity fees by country and visa class here: U.S. Visa: Reciprocity and Civil Documents by Country (state.gov)
- Any application where the prior visa includes a “clearance received” annotation.

i. Visa Refusals

Visa applications will be refused under section 221(g) of the INA if the application is accepted for domestic adjudication, but the applicant is subsequently found to be ineligible for a waiver of the in-person interview requirement under section 222(h) of the INA, or otherwise fails to satisfy the requirements for domestic renewal set out above in Section II, 9-12. In such cases, any applicant seeking to pursue a visa application will have to do so by filing a new DS-160 with

a new MRV fee payment at an embassy or consulate overseas. The Department will **not** transfer applications to an overseas embassy or consulate or refund the MRV fee for applications returned or refused under the pilot program.

The Department also will refuse an application under section 221(g) of the INA if the applicant fails to provide required documentation or information but is expected to overcome the refusal before the end of the pilot. In such instances, the Department will provide specific instructions to the applicant with an opportunity to provide any outstanding documents or information, or correct any minor errors in the application, by April 15, 2024, before completing adjudication. Applicants who are instructed to provide such documentation or information, or those who are instructed to correct minor errors in their application, will not be required to pay an additional MRV fee. If the applicant provides the requested information by April 15, 2024, and the Department can issue the visa through the pilot program, the Department will overcome the 221(g) refusal and issue the visa. As the pilot concludes on May 1, 2024, any refusal due to missing documents or information will not be able to be overcome after that time. Some examples of additional information or documents that may be required include:

- Properly completed Form DS-160,
- Photograph meeting Department standards, and
- Evidence the applicant is resident in the United States.

Julie M. Stufft,

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