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BIOMETRICS**FOR****EVERYONE**

On November 3, 2025, U.S. Citizenship and Immigration Services (USCIS) proposed a rule on the collection and use of biometrics for identity verification and management in the immigration lifecycle, from an individual's first immigration benefit request through to their naturalization as a U.S. citizen.

USCIS is interested in collecting biometrics for a number of reasons, including increased efforts to combat human trafficking, deter fraud, complete biographical criminal history checks to learn whether a petitioner for some family-based immigration cases or a beneficiary has a criminal history, which many negatively impact the willingness of USCIS to exercise discretion when approving an immigration benefit.

Biometrics processing typically involves appearing at a USCIS Application Support Center (ASC) to have one's photograph taken, to be fingerprinted and provide your signature so the U.S. government may complete required national security and criminal background checks for certain immigration processing. Individuals who apply for U.S. citizenship/naturalization, permanent resident status (a.k.a. Green Card), the renewal of their Green Card, and a reentry permit have been required to complete biometrics processing.

Who will be subject to biometrics processing? Under the proposed rule, USCIS will enforce an existing regulation that gives USCIS the discretion to collect biometrics, as well as DNA, for any immigration benefit request for all individuals involved in the immigration process regardless of age. Currently individuals under age 14 do not routinely provide biometric data. Under this proposed rule, this exception will be removed and children, including newborns, will complete biometrics to support the government's efforts to combat child trafficking, smuggling and child labor exploitation and to confirm the child is not a criminal, terrorist or member of a gang.

USCIS desires to collect biometrics from U.S. citizens, U.S. nationals and permanent residents who serve as petitioner or sponsor in an immigration petition, in addition to collecting biometrics from the foreign national seeking the immigration benefit. U.S. citizens, U.S. nationals and permanent residents who are solely agreeing to provide financial support and complete Form I-134, Declaration of Financial Support will not be required to provide their biometric data. USCIS will also require individuals facing any type of removal,

including before an immigration judge, by U.S. Customs and Border Protection (CBP) for an expedited removal or denial of entry under the visa waiver program (ESTA) to complete the biometrics processing.

While the scope of the biometrics collection in immigration processing is broad, the proposed rule indicates U.S. Department of Homeland Security “(DHS), at this time, is not proposing biometrics submission by attorneys and accredited representatives.”

What will be collected? Under the proposed rule, the definition of “biometrics” will be broadened to include fingerprints, photographs, signatures, and “measurable biological (anatomical, physiological or molecular structure) or behavioral characteristics of an individual:

- Facial imagery
- Prints of fingers and palm
- Handwritten signature
- Ocular Imagery
- Voice print/vocal signature/voice recognition
- DNA collection would be used to establish a genetic relationship where a familial relationship impacts the immigration processing as well as determine the biological sex of an applicant or petitioner. The proposed rule states the DNA data collection would be for the limited purpose of determining a genetic relationship or biological sex in support of the immigration processing and not shared with other agencies, unless required by law.

When will biometrics be collected? USCIS proposes collecting biometrics when it determines they are needed.

May I reschedule a biometrics appointment? Essentially, no. Under the proposed rule, failure to attend a biometrics appointment when scheduled may lead to the denial of the benefit request. While USCIS has accepted appointment rescheduling in the past, USCIS proposes that rescheduling a biometrics appointment will be at the discretion of USCIS and in only a limited scenario such as if an individual moved and filed the required Alien Change of Address (Form AR-11) before the biometrics appointment was scheduled and failed to attend the scheduled appointment as the appointment notice was not received at the new address. This limitation on rescheduling a biometrics appointment may negatively impact those individuals who travel frequently and those individuals seeking to relocate, perhaps for a job, while they have an immigration petition pending as they will now need to be available for biometrics processing as needed. To request the rescheduling of a biometrics appointment for any reason, including a missed appointment, the individual must demonstrate “extraordinary circumstances.”

Presently, an individual may reschedule their biometric services appointment through their USCIS online account for a good cause – such as illness, previously planned travel, unable to obtain leave from employment, unable to obtain transportation to attend the appointment or a prescheduled life event (wedding, funeral or graduation ceremony) or the biometrics appointment notice was not received or received late.

DOS EXPANDS PUBLIC CHARGE ASSESSMENTS - NO VISA IF YOU TIP THE SCALE?

A November 6, 2025 Cable from the Department of State (DOS) instructs consular officers to evaluate visa applicants with chronic health conditions when determining whether an applicant may become a public charge.

Traditionally, the health component of admissibility has focused on communicable diseases of public-health significance, vaccination compliance, and conditions that would require institutionalization. The DOS now instructs officers to evaluate a much wider category of chronic health conditions, including cardiovascular disease, diabetes, cancer, obesity, metabolic and neurological disorders, and certain mental-health conditions, when assessing the risk of future long-term medical costs. The Administration links these conditions to possible increased substantial costs of treatment in the United States and concerns that the applicant may become a public charge and burden on the American health system.

The Cable also directs officers to consider whether the applicant has “adequate financial resources” to cover treatment costs for the remainder of their expected lifespan without triggering cash public assistance or long-term government-funded care. Critically, the assessment includes not only the principal applicant’s health but also the medical needs of accompanying dependents. Applicants may need to supplement standard visa documentation with evidence of their health coverage, financial resources and employer-provided benefits to demonstrate self-sufficiency as it relates to healthcare. For applicants with significant pre-existing conditions, early planning will be essential.

For employers sponsoring foreign national workers, this broadened inquiry introduces new variables in visa risk assessment. For skilled workers or executives, even where the offered salary is robust, an applicant with serious chronic conditions or dependent family members requiring costly medical care may face heightened scrutiny. Applicants undergoing immigrant visa processing or medical exams overseas may now experience additional questions, supplemental document requests, or, in some cases, §212(a)(4) refusals.

The cable largely focuses on the medical conditions of Green Card applicants, but many nonimmigrant visa applicants can also be subject to this public charge ground of ineligibility. We have no reports yet that U.S. Consular Posts have installed scales to weigh visa applicants before approving visa applications. As with any DOS procedural change, implementation is likely to vary widely by post.

DECEMBER	2025	VISA	BULLETIN	UPDATE
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The DOS recently issued the Visa Bulletin for December 2025. Those non-immediate relative applicants waiting to apply for a green card will need to wait until 2026 or later, as there was no advancement of priority for new applications.

Who becomes eligible to be approved for a Green Card or have their Immigrant Visa interview scheduled at a U.S. Consular Post?

For *employment-based immigration* the following foreign nationals who have applied for AOS and have submitted all the required documentation including the Medical Examination (Form I-693), become eligible to have USCIS complete the processing of their application in December 2025. Also, the following foreign

nationals who will complete the Immigrant Visa processing at a U.S. Consular Post and who have submitted all the required documentation become eligible to have their interview scheduled in December 2025.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **January 22, 2023** – an advancement of 30 days.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **March 15, 2022** – an advancement of 27 days.

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **February 1, 2024** – an advancement of 61 days.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **June 1, 2021** – an advancement of 61 days.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **May 15, 2013** – an advancement of 44 days.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **April 15, 2023** – an advancement of 14 days.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **April 1, 2021** – an advancement of 31 days.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **September 22, 2013** – an advancement of 30 days.

WHO MAY APPLY FOR AOS DURING DECEMBER 2025?

On a positive note, USCIS continues to allow individuals eligible in the employment-based categories to apply for permanent resident status in the United States through a process call adjustment of status (AOS) under the “Dates of Filing Chart” (instead of the Final Action Date chart). However, none of the categories in the Dates of Filing Chart advanced for December 2025.

For *employment-based immigration*, this allows the following foreign nationals to apply for AOS in December 2025:

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before **May 15, 2023** - no change from November 2025.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before **April 15, 2023** - no change from November 2025.

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **July 15, 2024** - no change from November 2025.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **December 1, 2021** - no change from November 2025.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before **December 13, 2013** - no change from November 2025.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **July 1, 2023** - no change from November 2025.

- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **January 1, 2022** - no change from November 2025.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before **August 15, 2014** - no change from November 2025.

For additional information, please see our Client Advisory "Understanding When Your Priority Date is "Current" to File (and Be Approved) for a Green Card".

ILLINOIS BILL SEEKS TO STRENGTHEN JOB PROTECTIONS FOR IMMIGRANT WORKERS

The Illinois Legislature recently passed SB 2339 Privacy in the Workplace Act, a bill that would significantly strengthen employment protections for immigrant workers in Illinois. The bill was approved by both Illinois Houses on October 30, 2025 and is now headed to Governor Pritzker for signature.

The bill amends Illinois' existing Right to Privacy in the Workplace Act to broaden protections against employer practices that may discriminate against workers based on citizenship status, work-authorization status, language, or national origin. SB 2339 would create new private-right-of-action pathways to allow labor unions and other interested parties to bring lawsuits against employers for violations.

The legislation targets situations where an employer may terminate or refuse to hire a worker based on perceived immigration-status concerns or insist on more than what I-9 regulations require. This will build on existing best practices, including the Illinois Human Rights Act guidance, which states that employers cannot reject valid-appearing work authorization documents or require additional paperwork beyond the federal I-9 requirements.

If enacted, new private-right-of-action could give rise to increase litigation risk for employers. Employers should ensure that their I-9 procedures, document-acceptance policies, and termination practices are clearly documented, uniformly applied, and in line with both federal and Illinois law. If employers reject a valid Employment Authorization Document (EAD) or demand more than Form I-9 requires, they may face liability.

CONTINUED DELAY IN THE FY2027 DV GREEN CARD LOTTERY PROGRAM

On November 5, 2025, the DOS announced it remains in the process of implementing certain changes to the Diversity Visa (DV) Green Card lottery entry process. The DOS has not announced what those changes may entail, or when applicants may expect to be able to register for the fiscal year (FY) 2027 DV lottery. Historically, the DV lottery opened during the first week of October. Thus, the current registration timeline reflects over a month and a half delay from past years. The DOS assures applicants that the application window for those selected once applicants are selected for the 2027 DV lottery will remain open from October 1, 2026 through September 30, 2027. During the last fiscal year, more than 18 million registrations were submitted against the 55,000 green cards available through the program.

Bob White to Speak at the PLI Annual Immigration Conference in New York City

Mr. Bob White, co-chair of the Masuda Funai Immigration Group, will be presenting at the 58th Annual Practising Law Institute's (PLI) Immigration Conference being held in-person in New York City and virtually on December 3rd and 4th.

Mr. White's session topic will be DOL OFLC PERM Update. As Chair of the American Immigration Lawyers Association's DOL Committee, he will be giving updates on the effects of the government shutdown on DOL Office of Foreign Labor Certification's (OFLC) immigration programs, trends in prevailing wage processing and PERM processing, and suggest tips to avoid Requests for Information (RFIs), audits and denials.

[Click here](#) for more information about the PLI Conference.

Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.