



News & Types: Immigration Monthly Updates

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Practices: Immigration

DOL PROPOSES SIGNIFICANT INCREASES FOR H-1B, H-1B1, E-3 AND PERM WAGES

On March 27, 2026, the Department of Labor's (DOL) Employment and Training Administration issued a notice of proposed rulemaking (NPRM) seeking to adjust/increase the wage levels required for foreign workers seeking H-1B, H-1B1 or E-3 status or PERM certifications. Comments on the proposed rule may be submitted to DOL before May 26, 2026.

Why is DOL proposing this rule?

DOL believes that its current wage methodology results in wages that are actually **below** market rates, creating incentives for employers to hire foreign workers and replace or undercut wages for U.S. workers. The proposed rule aims to strengthen wage protections for U.S. workers by ensuring that foreign workers are paid wages that more accurately reflect those earned by similarly employed U.S. workers.

Who would be impacted?

- Foreign workers seeking permanent resident status (Green Card) through an employer-sponsored labor certification process (PERM). Typically, such workers fall into the EB-2 Advanced Degree Professional or EB-3 Professional or Skilled Worker classifications.
- Temporary visa classifications that require a Labor Condition Application (LCA) including E-3 for Australian Workers, H-1B1 for Specialty Occupation Workers from Chile or Singapore, and H-1B for Specialty Occupation Workers. Both Bureau of Labor Statistics' (BLS) Occupational Employment and Wage Statistics (OEWS) "All Industries" and "American Competitiveness and Workforce Improvement Act (ACWIA)" prevailing wages would be impacted by the rule change.

FY2024 Statistics

- Approximately 57.6% of PERM applications were filed on behalf of H-1B workers.
- DOL certified 502,374 LCAs for H-1B applications, 3,368 for H-1B1 applications and 9,154 E-3 applications
 - 19% for Wage Level I
 - 44% for Wage Level II
 - 21% for Wage Level III

- 16% for Wage Level IV
- DOL certified 35,505 PERM applications

How would the proposed rule adjust wages?

DOL proposes to revise the four-tier prevailing wage structure derived from OEWS survey:

Wage Level	Current Percentile	Proposed Percentile
Level I (Entry)	~17th	34th
Level II	~34th	52nd
Level III	~50th	70th
Level IV (Most Experienced)	~67th	88th

What this means is that employers seeking to sponsor H-1B, H-1B1 and E-3 foreign workers may be required to pay higher wages (estimated at roughly **\$14,000 per worker per year**) to the foreign workers. These increased wages could also potentially affect similarly employed U.S. workers.

When will this rule go into effect?

Before this rule may be finalized, DOL is required to review and assess all comments it receives prior to May 26, 2026 and then issue a final regulation. The final regulation will contain an effective date which is normally 30 days after publication, assuming that a court does not further delay the implementation of the regulation.

Any modified prevailing wage structure would apply **prospectively only**. DOL indicated that any LCAs, prevailing wage determinations and PERM approvals issued/certified prior to the implementation date of the final regulation would not be impacted by the change.

Additional information about changes to the prevailing wage system will be contained in future Masuda Funai Monthly Business Immigration Updates and Client Alerts when they become available.

MAY 2026 VISA BULLETIN

The U.S. Department of State (DOS) has released the May 2026 Visa Bulletin, which shows some backward movement from the previous month.

Who becomes eligible to be approved for Permanent Resident status (a “Green Card”) or have their Immigrant Visa interview scheduled at a U.S. Consular Post?

For *employment-based immigration* foreign nationals falling under the list below, 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 May 2026. Similarly, foreign nationals falling under the list below 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 May 2026.

First Preference (EB-1)

- All countries (except China and India): Current
- China: Priority date before April 1, 2023 (*no change from April 2026*)
- India: Priority date before April 1, 2023 (*no change from April 2026*)

Second Preference (EB-2)

- All countries except China and India: Current. (*This represents a substantial advancement from March 2026, when the category was backlogged to October 15, 2024. However, there is no advancement from the April 2026 Visa Bulletin*)
- China: Priority date before September 1, 2021 (*no change from April 2026*)
- India: Priority date before July 15, 2014 (*no change from April 2026*)

Third Preference (EB-3)

- All countries except China, India, and the Philippines: Priority date before June 1, 2024 (*no change from April 2026*)
- China: Priority date before June 15, 2021 (*no change from April 2026*)
- India: Priority date before November 15, 2013 (*no change from April 2026*)
- Philippines: Priority date before August 1, 2023 (*no change from April 2026*)

Who may apply for Adjustment of Status (AOS) during May 2026?

USCIS will be relying on “Final Action Dates” to determine who is eligible apply for permanent resident status in the United States through a process called Adjustment of Status (AOS). This means that the priority dates below will govern who is eligible to file for AOS in May 2026.

Unfortunately, this means that applicants with priority dates that were current for filing under “Dates for Filing” in April 2026 are no longer eligible to file an AOS in May 2026. Therefore, anyone with a priority date that was current in April 2026 but has retrogressed in the May Visa Bulletin should try to file their AOS before the end of April.

First Preference (EB-1)

- All countries except China and India: Current
- China: Priority date before April 1, 2023 (*retrogressed from December 1, 2023*)
- India: Priority date before April 1, 2023 (*retrogressed from December 1, 2023*)

Second Preference (EB-2)

- All countries except China and India: Current
- China: Priority date before September 1, 2021 (*retrogressed from January 1, 2022*)
- India: Priority date before July 15, 2014 (*retrogressed from January 15, 2015*)

Third Preference (EB-3)

- All countries except China, India, and the Philippines: Priority date before June 1, 2024 (*retrogressed from being Current*)
- China: Priority date before June 15, 2021 (*retrogressed from January 1, 2022*)
- India: Priority date before November 15, 2013 (*retrogressed from January 15, 2015*)
- Philippines: Priority date before August 1, 2023 (*retrogressed from January 1, 2024*)

For more detail on how priority dates work, please see our client advisory “Understanding When Your Priority Date is “Current” to File (and Be Approved) for a Green Card.”

COMPARING THE VARIOUS U.S. CONSULAR INTERVIEW BOOKING SYSTEMS

There are three primary scheduling systems for individuals booking U.S. Consular Interview appointments across the world. First is U.S. Visa Information and Appointment Services (AIS). Second is Applicant Visa Information Tracking System (AVITS). Third is the Global Appointment System (ATLAS).

AIS

AIS (a/k/a “Yatri”) is used to book appointments with U.S. Consulates and Embassies in: Angola; Argentina; Belize; Bolivia; Brazil; Canada; Cape Verde; Chile; Colombia; Costa Rica; Djibouti; Ecuador; El Salvador; Ethiopia; France; Greece; Guatemala; Guyana; Honduras; Ireland; Italy; Kenya; Mauritania; Mauritius; Mexico; Nicaragua; Panama; Paraguay; Peru; Portugal; Serbia; South Africa; Spain; Suriname; Tanzania; Togo; Uganda; United Kingdom; Uruguay; Zambia; and Zimbabwe.

With AIS, applicants are able to view appointment availability prior to making their Machine-Readable Visa (MRV) fee, which is required to book an appointment. AIS is automated to avoid creating duplicated profiles for the same applicant. AIS is overall considered a user-friendly portal, and it is flexible with adding dependents to appointments if done so far enough in advance.

The AIS system allows applicants to reschedule their appointment up to three times based on the MRV fee paid, but applicants should use these sparingly and only if necessary. Emergency Appointment Requests are available within the AIS system, but they may only be made **once** and the standard for approval varies by country.

AIS users should always update their DS-160 number in the AIS system upon completion of a new Form DS-160.

AVITS

AVITS is used to book appointments with U.S. Consulates and Embassies in: France, Belgium, Netherlands, African

AVITS does not provide insight into appointment availability prior to making the MRV payment. Users report lower ease of use with the AVITS platform and have difficulty adding dependents to existing appointments. Therefore, all dependents should be included at the outset of appointment creation and users should be careful to enter data accurately because revisions are not always possible.

AVITS does offer the ability to reschedule one’s appointment up to ten times, but rescheduling under AVITS can affect the processing of the application.

AVITS users should always attempt to update their DS-160 confirmation numbers, though the system will not always process the update.

ATLAS

ATLAS is used to book appointments with U.S. Consulates and Embassies in: Australia, Germany, Japan, Sweden, Switzerland, Singapore, and South Korea.

ATLAS does not provide insight into appointment availability prior to making the MRV payment. Individuals are expected to personally identify any prior ATLAS profiles they may have used and the system may result in errors if duplicate profiles are created using the same passport number.

ATLAS only allows one rescheduling of a consular appointment. For that reason, applicants should be extra careful to choose a date on which they will be able to physically attend. The system is finicky, and users should document errors via screenshots throughout the process to provide specifics when they contact ATLAS support.

ATLAS users should always update their DS-160 number in the AIS system upon completion of a new Form DS-160.

STUCK ABROAD - CONTINUED H-1B VISA DELAYS

Forbes reports that U.S. companies and their H-1B employees continue to face significant delays at U.S. consulates abroad, creating operational disruptions and uncertainty for employers and workers alike. These delays have intensified in 2026 due to policy changes and increased scrutiny, leaving many employees stranded outside the United States for extended periods while awaiting visa appointments or administrative processing.

A key driver of these delays is the expansion of security screening and administrative processing requirements, which has lengthened visa adjudication timelines even after interview availability improves. While some interview slots have begun to reappear in certain locations, the overall system remains constrained, and applicants frequently encounter unpredictable wait times and follow-up reviews before visas are issued.

The impact on businesses is substantial. Employers are experiencing project delays, staffing shortages, and increased costs, particularly when key employees cannot return to the United States as scheduled. Companies that rely heavily on professional foreign workers are being disproportionately affected.

Employers and foreign nationals must plan more carefully around international travel and visa processing, anticipate delays and build contingencies into workforce and immigration strategies. Most importantly, foreign nationals should alert their employers prior to embarking on any international travel.

Next Masuda Funai Immigration Webinar – April 29th at Noon CST

We invite you to join Masuda Funai immigration attorneys Fazila Vaid and Anne Miller for a discussion on “B-1 & Visa Waiver Program (ESTA) Compliance for Global Business Travelers” on Wednesday, April 29, 2026 at 12:00PM/Noon (CST). Please register for this complimentary event [here](#).

Mr. Bob White To Present at the Federal Bar Association’s (FBA) Annual Immigration Conference

Mr. Bob White, co-Chair of the Masuda Funai Immigration Group, will be speaking at the Federal Bar Association’s (FBA) Annual Immigration Conference in Arlington, Virginia on Friday, May 1, 2026. Mr. White will be giving conference attendees an update on potential upcoming changes to the F-1 student and J-1 exchange visitor programs. The current administration has proposed extensive changes to these programs which are expected to be implemented later this year.

The FBA’s Immigration Law Section hosts this conference each year, bringing together private practitioners, government attorneys, judges, academics, and law students to discuss the latest developments in immigration law and policy.

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