



**Homeland
Security**

Engagement Readout

Employment-Based Immigrant Visas: Looking Back at Fiscal Year (FY) 2022 and Ahead to FY 2023 with USCIS

On October 27, 2022, the Department of Homeland Security's (DHS) [Office of the Citizenship and Immigration Services Ombudsman \(CIS Ombudsman\)](#) hosted a webinar to discuss U.S. Citizenship and Immigration Services' (USCIS) efforts to use all available immigrant visa numbers in FY 2022 and what the public can expect in FY 2023.

[CIS Ombudsman Phyllis A. Coven](#) provided opening remarks. Notably, she announced that USCIS and the Department of State used all of the more than 280,000 available employment-based visas in FY 2022, with the exception of the reserved visas in the new EB-5 subcategories that carry over to FY 2023.

Representatives from USCIS and the CIS Ombudsman's office engaged in a dialogue to cover topics including:

- How visas are allocated under U.S. immigration law;
- Per-country caps and exceptions, and the effect of cutoff date retrogression in the Visa Bulletin;
- How USCIS' efforts in FY 2022 might inform the agency's approach to employment-based adjustment of status processing going forward;
- Concerns specific to derivative applicants;
- USCIS' plans for processing employment-based visas in FY 2023; and
- Recent updates to USCIS' [FY 2023 Employment-Based Adjustment of Status FAQs](#).

A total of 710 people joined this national webinar (applicants/petitioners/beneficiaries – 34%, attorneys/legal representatives – 28%, employers – 15%, federal government employees – 8%, others – 7%, designated school officials – 4%, advocacy groups – 2%, and state or local government employees – 2%).

Participants submitted over 186 written questions and comments. Below is a sample of the questions received:

- What is the USCIS case processing model on a quarterly basis of the entire visa numbers available for FY 2023?
- Can we expect that India EB-2 and EB-3 get the majority of the spillover visas directly without any country cap limits? Can that happen in the first three quarters of the year?

- How will USCIS process cases that have been marked as “Case Remains Pending” since early September when FY 2022 visa numbers were fully used up, but their priority dates are still current in FY 2023? Does that mean those cases are already pre-adjudicated? Is there any priority to process those cases?
- Are there any measures to make sure current cases that were marked as pending in FY 2022 are processed as higher priority in FY 2023 for cases that have current priority dates?
- How do I know if my request to port to EB-2 interfile is approved and the Form I-485, *Application to Register Permanent Residence or Adjust Status*, is considered as an EB-2 instead of EB-3?
- Some applications for EB-2 India filed in October-December 2020 still have not gotten their Green Cards, whereas people who applied in 2022 got their Green Cards issued. What is the reason behind this?
- What happens to the thousands of applications that were transferred to field offices across the country now that the dates have retrogressed?
- My priority date of 2014 was current for 4-5 months before the dates retrogressed. I know a few people who got their Green Cards with priority dates after mine, but my case remains pending without any RFE. How do you justify that? What is the significance of a priority date if the cases are not processed according to the priority date?
- What efforts are being taken by USCIS to adjudicate derivative Form I-485 applicants who got left out due to EB-2 visa retrogression in the October 2022 Visa Bulletin? Principal applicants received Green Cards, but derivative applicants’ cases are still pending with an unknown timeline due to this big retrogression.
- I am interested in the EB-5 investor visa. However, I am seeing that the current processing time for these cases is 52 months. How can we be waiting for such a long time even if the \$1.05 million investment is made at the time of or date of application? Do you feel that there will be a shorter wait period?

The CIS Ombudsman will share a full list of inquiries received with USCIS to give the agency an opportunity to address the public’s questions and concerns.

Speakers:

- Phyllis A. Coven, CIS Ombudsman, DHS
- Bertha Anderson, Chief of Public Engagement at the CIS Ombudsman, DHS
- Gary Merson, Chief of Staff at the CIS Ombudsman, DHS
- Douglas Rand, Senior Advisor, Office of the Director, USCIS
- Andrew Parker, Chief of the Residence and Admission Branch, Residence and Naturalization Division, Office of Policy and Strategy, USCIS