



GMS Flash Alert

Immigration Edition

2020-???

United States - November 2020 Visa Bulletin

On October 29, 2020, the U.S. Department of State (DOS) released the November 2020 Visa Bulletin.¹ Shortly after the November 2020 Visa Bulletin was released, U.S. Citizenship and Immigration Services (USCIS) announced that it will continue to accept all employment-based Forms I-485, *Applications to Register Permanent Residence or Adjust Status*, according to the Visa Bulletin's "Dates for Filing" this month.

The November 2020 Visa Bulletin slightly advances the priority date cut-offs for employment-based categories in the "Final Action Dates" chart, while the employment-based priority date cut-offs reflected on the "Dates for Filing" chart remain almost the same as those in the October 2020 Visa Bulletin.

WHY THIS MATTERS

The Visa Bulletin for October 2020 reflected significant advancement in the "Dates for Filing" priority date cut-offs for all employment-based preference categories, allowing many applicants who were previously subject to lengthy backlogs to file a Form I-485 with USCIS. More specifically, a number of intending employment-based immigrants born in India and the People's Republic of China ("China") were eligible to file an I-485 application last month as a result of the forward movement in the priority date cut-offs listed in the "Dates for Filing" chart that USCIS began honoring on October 1, 2020.

The recent announcement by USCIS that it will continue to apply the "Dates for Filing" chart for employment-based applicants, coupled with the fact that priority date cut-offs on the "Dates for Filing" chart are mostly unchanged for employment-based applicants this month, means that most individuals who were eligible but unable to file a Form I-485 last month will still be able to do so until the end of November 2020.

Background

The DOS releases a Visa Bulletin each month to confirm the availability of statutorily-limited visas for prospective immigrants. The Visa Bulletin confirms immigrant visa availability based on country of chargeability, preference category,

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and priority date.³ “Priority date” is the date on which an application for permanent labor certification was filed with the Department of Labor or, if an individual is being sponsored for employment-based permanent residence in a category that does not require labor certification, the date that a Form I-140, *Immigrant Petition for Alien Worker*, was received by USCIS.

The priority date cut-off reflected in the Visa Bulletin, along with USCIS’ confirmation of which date chart will apply, dictate eligibility to file a Form I-485 in a given month. In order to be eligible to submit a Form I-485, an intending immigrant must have a priority date that is earlier than the applicable cut-off date listed in whichever chart USCIS is honoring from the monthly Visa Bulletin that is currently in effect.

Even if USCIS confirms that the “Dates for Filing” chart will be applied during a particular month to determine eligibility to file a Form I-485, the “Final Action Date” chart determines who is eligible to have a Form I-485 *adjudicated* by USCIS. In other words, simply submitting a Form I-485 does not mean that it will be promptly processed by USCIS, since the “Final Action Date” chart cut-offs govern the timeframe within which an I-485 applicant will be granted permanent resident status.

Employment-Based Preference Categories

This month’s priority date cut-offs under the “Dates for Filing” chart for employment-based immigrant visas are below:

- EB-1: Cut-off dates for India and China remain at September 1, 2020. All other countries remain current.
- EB-2: The cut-off date applicable to India is still May 15, 2011, whereas China’s cut-off date remains unchanged at October 1, 2016. All other countries remain current.
- EB-3 Professionals and Skilled Workers: India’s cut-off date remains January 1, 2015, while China’s cut-off date is still June 1, 2018. All other countries remain current.
- EB-3 Other workers: This is the only employment-based category for which “Dates for Filing” cut-offs changed from October 2020. The cut-off date for India remains the same at January 1, 2015, but the cut-off date for China advanced by six (6) months to May 1, 2009. All other countries remain current.
- EB-4: The cut-off date for El Salvador, Guatemala, and Honduras will remain at February 1, 2018, while all other countries will remain current.
- EB-5: The cut-off date for China will remain at December 15, 2015. All other countries are still current.

The “Final Action” priority date cut-offs for employment-based immigrant visas this month are as follows:

- EB-1: Cut-off dates for China and India advanced by six (6) months to December 1, 2018. All other countries remain current.
- EB-2: All countries of chargeability remain current, except for China and India. China advanced by seven (7) weeks to April 22, 2016, and India advanced three (3) weeks to September 22, 2009.
- EB-3 Professionals and Skilled Workers: The cut-off date for China advanced four (4) months to October 1, 2017, and the cut-off date for India advanced six (6) weeks to March 1, 2010. All other countries remain current.
- EB-3 Other Workers: All countries are current, except for China and India. China advanced by one (1) month to January 1, 2009, and India advanced by six (6) weeks to March 1, 2010.

- EB-4: All countries of chargeability remain current, except Mexico, El Salvador, Guatemala, and Honduras. Mexico is subject to a cut-off date of October 15, 2018, while a cut-off date of November 1, 2017 applies to El Salvador, Guatemala, and Honduras.
- EB-5: The cut-off date for China remains at August 15, 2015, while the cut-off date for Vietnam advanced by two (2) weeks to August 15, 2017. All other countries remain current.

KPMG NOTE

KPMG LLP Law in Canada monitors Visa Bulletins closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTES:

- 1 “Visa Bulletin For November 2020” (Number 47, Volume X), U.S. Department of State [website](#).
- 2 See the “[Adjustment of Status Filing Charts from the Visa Bulletin](#)” page on the USCIS website.
- 3 For our prior coverage of the October 2020 Visa Bulletin, see *GMS Flash Alert: 2020-418* (October 2, 2020).
- 4 “Visa Bulletin For November 2020” (Number 47, Volume X), U.S. Department of State [website](#).

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Contact us

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