



GMS Flash Alert

Immigration Edition

2024-026 | January 26, 2024



United States - Updated Information on Stateside Visa Renewal Pilot Project

In furtherance of its *Federal Register* notice titled, "Pilot Program to Resume Renewal of H-1B Nonimmigrant Visas in the United States for Certain Qualified Noncitizens" to the Office of Information and Regulatory Affairs on October 17, 2023, the U.S. Department of State (DOS) has formally released the program requirements that will commence on January 29, 2024.¹ This information builds on the announcement regarding this topic released in our *GMS Flash Alert 2023-195* (October 20, 2023).

WHY THIS MATTERS

The highly-anticipated roll-out of a stateside visa renewal program by the DOS is pivotal, especially in light of the challenges experienced during the COVID-19 pandemic and its aftermath. Currently all visa applicants are required to exit the United States, and schedule interview appointments at U.S. consular posts abroad. Even if granted an interview waiver, the visa applicant must leave the U.S. and be physically located in the consulate's jurisdiction. A stateside program will save certain H-1B visa applicants countless hours of travel and money spent on travel abroad, as they will no longer be required to exit the United States and visit a consular post for the renewal of an H-1B visa.

There is also hope that this program will alleviate consular backlogs and reduce delays that have resulted in prolonged visa appointment wait times and processing.

Pilot Program Eligibility

The eligibility details for applicants of the pilot program have been released and are as follows:

- The program will be limited to H-1B *principal* applicants only (not including H-4 visas) who:
 - are renewing an H-1B visa that was issued by:
 - a U.S. consular post in **Canada** with an issuance date of **January 1, 2020 through April 1, 2023**,
or
 - a U.S. consular post in **India** with an issuance date of **February 1, 2021 through September 30, 2021**;
 - are not subject to a nonimmigrant visa issuance fee (“reciprocity fee”), based on their country of citizenship;
 - are eligible for a waiver of the in-person visa interview requirement – including the DOS’s most recent guidance ([Flash Alert 2024-002](#)) (January 5, 2024) – by:
 - residing in the U.S.;
 - having never been refused a visa, unless the refusal was overcome (and a visa was ultimately issued) or a waiver of ineligibility was obtained, or
 - not holding citizenship of a country designated by the Secretary of State as a state sponsor of terrorism;
 - have previously submitted ten fingerprints to the DOS at a prior visa appointment;
 - do not have a “clearance received” annotation on their prior H-1B visa;
 - do not require a waiver of visa ineligibility;
 - were most recently admitted to the U.S. in H-1B status;
 - hold an approved and unexpired H-1B petition;
 - are maintaining H-1B status per a valid, unexpired I-94 record; and
 - intend to re-enter the U.S. with valid H-1B status after spending a temporary period abroad.

Pilot Program Logistics

Beginning on January 29, 2024, visa applications will be accepted on a first-received basis and will be processed in the order in which they are received, until the weekly limit is reached. The pilot program will run through April 1, 2024 – or when all 20,000 application slots are filled – whichever comes first, with application slots being released on the following dates:

- January 29, 2024
- February 5, 2024
- February 12, 2024
- February 19, 2024
- February 26, 2024.

The DOS will release 4,000 slots per week, with 2,000 slots available to applicants who were issued their previous H-1B visa in Canada and 2,000 available to applicants who were issued their previous H-1B visa in India. Applicants who are unsuccessful in applying on one of the application dates may re-attempt to apply on a later date when the application website re-opens. Applicants who do not meet the program requirements, or who do not wish to participate in the program, are permitted to apply for an H-1B visa at a U.S. consular post abroad.

Visa Application Requirements and Steps

First, applicants must complete the [H-1B Domestic Renewal Pilot Program Navigator](#). After doing so, applicants will then be sent to the website for submission of the DS-160, *Online Nonimmigrant Visa Application* and to pay the \$205 USD Machine Readable Visa (MRV) application processing fee by debit or credit card. Next, applicants will be provided with instructions to submit the following items to the DOS by U.S. mail or commercial courier services after completing the previous steps online:

- Hard copy of the electronically submitted Form DS-160;
- A photograph taken within the last six months meeting the following [specifications](#);
- A passport valid for at least six months beyond the visa application date with a blank page for placement of the visa foil;
- Original **or** copy of current Form I-797, *Notice of Action*;
- Original **or** copy of Form I-94, *Arrival-Departure Record* available through the [CBP website](#) **or** on the Form I-797.

Once the DOS receives the application, it will further assess it and determine whether it is eligible for the pilot program. Specifically, the DOS will confirm whether the applicant is physically residing in the U.S. at the time of the application and decide on whether the applicant intends to re-enter the U.S. after a temporary period abroad. At this time, the DOS may request additional evidence of U.S. residence and intent to re-enter from the applicant, given that such evidence is not required with the initial submission. If the applicant is ultimately found to be ineligible, the MRV fee will not be refunded. A new DS-160 application and MRV fee will be required for any future visa applications made at a U.S. consular post abroad.

The DOS has estimated the application processing time to be **six to eight (6-8) weeks** from its receipt of the application. Visa applications made under this pilot program will not be expedited under any circumstances. A visa application may be withdrawn while pending, however it will be refused under INA Section 221(g). This will not inhibit a future visa application. As in the case of ineligibility for the program, a new DS-160 application and MRV fee will be required for the future visa application.

Applicants who have changed H-1B employers since being admitted to the U.S. are eligible under this program, so long as they are correctly maintaining their H-1B status and meet the other elements of the program.

KPMG INSIGHTS

The understanding among the immigration community is that this program is just the beginning of a much more expansive visa-renewal program that will involve additional visa types and be open to additional applicants. It is widely appreciated that the DOS will be offering a much more efficient and safer method of carrying out visa renewals as an alternative to required international travel.

KPMG Law LLP will continue to monitor developments and provide updates as they become available.

FOOTNOTE:

1 U.S. Department of State, "[Domestic Renewal of H-1B Nonimmigrant Visas for Certain Applicants](#)."

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Contact us

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