



April 15, 2024

Jami Thompson
Senior Regulatory Coordinator
Visa Services
Bureau of Consular Affairs
U.S. Department of State
600 19th Street NW
Washington, DC 20746

Re: Notice, Pilot Program to Resume Renewal of H-1B Nonimmigrant Visas in the United States for Certain Qualified Noncitizens (88 Fed. Reg. 88,467-88,470, RIN 1400-AF79, December 21, 2023)

Dear Senior Regulatory Coordinator Thompson:

The U.S. Chamber of Commerce appreciates the opportunity to comment on the above-referenced notice. We were pleased when the State Department announced its intentions to launch this much-anticipated [pilot program](#) last February and our members welcomed the publication of the notice that created the program last December. Feedback from member companies has been very positive. When a company's workers can obtain an H-1B extension without leaving the U.S., it provides both the employer and the employee with additional certainty that business disruptions can be avoided, deliverables can be completed in timely fashion, and companies are in a much better position to meet their business needs.

The Chamber is thankful for the State Department's engagement with us as it designed the program's contours and implemented it over the past several months. However, our members have conveyed to us that there are several ways in which this program could be built upon and improved. While we heard from many companies that had employees who have taken advantage of this pilot program, there were many other companies whose employees could not meet the eligibility criteria set forth under the pilot. In addition, several member companies that utilized the pilot informed us that some of the annotations made on their workers' visas were sources of confusion for their businesses. We urge the State Department to rectify those issues by providing more guidance to the regulated community regarding how these annotations should be interpreted by the companies. Last, but certainly not least, the primacy that companies place upon workforce certainty cannot be understated and we believe it would benefit the State Department, our member companies, and their

workers if this pilot program were made into a permanent program and the eligibility requirements were extended to cover several other visa classifications.

The Benefits of Expanding the Pilot Program and Making it Permanent

The Chamber appreciates the methodical approach the State Department took in reinstating domestic visa renewal capabilities for non-diplomatic, nonimmigrant visa holders. The launch of this pilot program represents the first time in roughly two decades that the State Department is performing this type of function for any type of nonimmigrant worker classification. Our members whose employees took advantage of this program understand that the Department's decision to "start small" with strict eligibility criteria and only 20,000 application slots was driven by a desire to ensure that the program's rollout was not afflicted by any significant processing hurdles. By that measurement, the rollout of the pilot program during this year has been a success, as the member feedback we've received has been overwhelmingly positive.

Nevertheless, there are many ways in which the State Department can build upon its successes and make this program much more beneficial not only to the American business community and the U.S. economy, but also to our nation's security. The Department should make the pilot program permanent and extend eligibility for domestic visa renewals to applicants in many other classifications before the end of this calendar year. Making this program permanent will ensure that this tool can help the Department make the best use of its limited consular resources over an extended period of time. This is particularly important, considering the processing backlogs that it is currently confronting and the serious national security mission of the Department. Having the ability to redirect processing away from busy consulates will help improve their processing times and provide more consistency in adjudications. More importantly, it will free up consular resources that can be directed towards interviewing and investigating visa applicants that potentially pose a greater threat to the safety of the U.S. than foreign nationals that are already in the country and have oftentimes already undergone background checks on multiple occasions.

In addition to making the program permanent, the Department should expand the eligibility criteria of the current pilot program to include applicants for visas in several other visa classifications beyond the Department's current limitations. As stated before, we understand the Department's reasons for limiting eligibility to a subset of H-1B applicants whose visas were issued by Mission Canada or Mission India. However, allowing visa applicants from other countries and in different visa categories who do not pose a security risk to renew their visas in the United States will provide more companies with much-needed additional certainty as it pertains to their business operations. The State Department should expand this pilot program to cover as many visa classifications and as many individual applications as is practical.

Given that the pilot has been operating for only a few months, we can appreciate if the State Department desires to continue its methodical approach regarding any potential program expansion. If that is the case, we recommend that the Department consider the following categories in any future effort to expand the program's eligibility constraints to the following cohorts of foreign nationals:

- The dependents of all eligible principal H-1B nonimmigrants;
- H-1B nonimmigrants that obtained their prior visa from other countries beside Canada and India, and expanding the issuance date eligibility criteria to cover more individuals, and;
- Nonimmigrants possessing different visas in different classifications, such as F, E, J, L, and O, as well as any dependents and individuals accompanying the principal nonimmigrant to the U.S.

Feedback and Suggestions for Improving Domestic Visa Renewal Operations

As stated above, the Chamber received significant positive feedback from our members on the experience that their companies and their employees had in using the new pilot program. In fact, many of the companies conveyed to us that their employees that utilized the pilot obtained their new visas in a timely fashion. However, there were several suggestions that companies have for the State Department to improve the program's operations moving forward.

One common refrain we heard from several companies was on the restrictive eligibility criteria preventing their employees from being able to renew their visa domestically. Multiple companies told us that the strict criteria prevented many of their workers from taking advantage of their program. Other businesses cited the inability of the principal nonimmigrant's dependents to renew their visas domestically as a key factor in their worker's decision to forego seeking to renew their visa domestically. These issues would be solved by the State Department expanding the program in the manner suggested above.

Another issue that has caused a significant amount of consternation for our members and their workers is the inclusion of an annotation of "not valid until ten days before the petition validity date" being included on the new visa stamp in the foreign national's passport. Several companies have informed us that their workers spent a significant time worrying over what this meant for their status in the U.S. and whether it would inhibit their ability to return to the U.S. if they needed to travel internationally. The Chamber acknowledges that this language is included in the relevant section of the Department's Foreign Affairs Manual ("FAM"), but it would behoove the Department to either revisit this section of the FAM or create a

Frequently Asked Questions document that can help provide additional guidance to applicants. This additional information will provide individuals with a better understanding of what this annotation means for them and their ability to remain in the U.S., which in turn will help encourage more people to take advantage of the program.

Conclusion

We very much appreciate the State Department's engagement with the Chamber throughout the process of reinstating this domestic visa renewal program. We hope the Department finds our feedback helpful as it seeks to expand the opportunities for hard-working foreign nationals to renew their nonimmigrant visas without having to leave the U.S. More importantly, we look forward to working with the State Department to expand this pilot program in a manner that enhances business certainty and improves our national security.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Baseline', is centered below the word 'Sincerely,'. The signature is fluid and cursive.

Jonathan Baseline
Vice President, Immigration Policy
U.S. Chamber of Commerce