

Announcement of visa renewal changes comes as big relief for Indians on H-1Bs in the US

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A recent announcement by the US state department, to launch a pilot programme later this year offering visa renewal options in the US for H-1B and L-1 workers, who are currently required to travel outside; is being welcomed by thousands of Indian professionals. H-1B visas are usually granted for six years after which extensions must be applied for. L-1 visa extensions, too, must be applied for and are usually granted in two-year increments at a time.

Julie Stuftt, deputy assistant secretary for visa services in the US Bureau of Consular Affairs, told Bloomberg Law in a recent exclusive interview: “We all saw during the pandemic how difficult it was for these people to return to their home country and often not be able to get visa appointments to come back to their home, the United States. That’s what we’re trying to address initially with this.”

Since the Covid pandemic, Indians, who get the largest number of H-1B work visas in the US, continue to face big processing backlogs of the US Citizenship and Immigration Services. This is because of the current rule that H-1 and L-1 visa holders, who travel to India, need to get their passports stamped at the US Embassy in Delhi or consulates in Chennai, Hyderabad, Kolkata, or Mumbai, before they travel back to the US. Being able to get visas stamped in the US before travel will ease the stress of the renewal of visas for H-1 and L-1 holders with jobs in the US and reduce the workload for US consular offices in India.

Big advantage for Indians on H-1B visas

While the accurate number of Indians who will be benefited by this new pilot programme is not known; there will certainly be thousands. The move is likely to benefit over 500,000 Indian H-1B visa holders when it is rolled out in full, to include conservative estimates by immigration lawyers.

“This will be an immense benefit for those working in the US, who have for years been dealing with delays at consulates which have restricted legitimate travel needs. In the current situation, businesses are not able to send workers abroad for important business meetings for fear that they will not be able to get a timely visa to return to the US jobs. Families have had to forgo travelling home to attend milestone events because they could not get a visa interview or dropbox appointment,” Emily Neumann, managing partner at law firm Reddy & Neumann, a Houston-based law firm focused on US employment based immigration, told the Times of India.

She added that many professionals who did travel for emergencies were stranded in India waiting for an appointment to become available even though they were for the visa waiver (which is also known as dropbox) programme.”Now, these visa holders will be able to efficiently renew their visas within the US so that they can always have a valid visa stamped in their passports. This will facilitate travel for both business and personal needs, allowing business to get done and families to get taken care of,” she added.

Immigration reforms advocate and business development manager at law firm Chugh, LLP, Neha Mahajan sees the announcement on the pilot stateside (in the US) visa renewal programme as a big relief. “The state department had indicated reintroduction of the automatic visa revalidation (AVR) in the USA sometime last year but in absence of a definite timeline no one knew it would be this quick. We are all aware of how slow things move in the immigration realm,” she told Times of India.

Mahajan and her family have faced huge challenges because of the rule requiring the stamping of H-1B visas in India. “My husband, Ashu Mahajan, was stuck in India back in April 2021 when suddenly US consulates were shut down because of a spike in Covid numbers. He couldn’t come back to the USA because he didn’t have a valid visa stamp. Thanks to the outpouring support, we got from the media and Senator Bob Menendez, he was able to find an appointment date and come back,” she said. Had automatic visa revalidation been available at that time, he and at least a few thousand like him wouldn’t be stuck for months in their home country, jeopardizing their jobs, visa status and life in the USA, Mahajan added.

Visa renewals within the USA were, in fact, a reality until it was stopped by the state department in 2004 citing interview and biometric requirements that went into effect post 9/11. “This programme, which was shut down in 2004, was very popular and convenient. Applicants could send their passports to the state department in St. Louis, Missouri, and get their visas revalidated. The need for this programme became very evident during Covid pandemic, when consulates shut down and people could not travel as their visas had expired. We know of numerous instances when our clients were unable to travel even when close family members died in 2021,” says Manjunath Gokare, an immigration lawyer based in Atlanta, Georgia. He adds that immigration lawyers are thrilled to hear that the state department is relaunching this programme at a pilot level and are hopeful that the full rollout will also be implemented soon.

Uncertainty remains over timeline

Even though there is a lot of enthusiasm and relief among Indian professionals working in the US on temporary work visas over this announcement; doubts remain about how soon the full rollout will happen and benefit them. “It’s true that the state department is on record of saying ‘later this year’. What ‘later’ means is entirely unknown for now, but the one thing that impacted foreign nationals in the US should keep in mind is that the state department first needs to create this visa consular office in Washington, DC and have that infrastructure in place before the pilot programme officially launches, says Min Kim, partner and attorney at the Edison office of law firm Chugh, LLP. The good news is that there doesn’t need to be any official change in US immigration law for the state department to start this programme. “But just because the law doesn’t need to be amended, it doesn’t mean the agency is presently prepared to introduce

something like this. They need to hire experienced staff, put in protocols and basically create a consular office from the ground up in Washington, DC before any discussion happens in terms of the actual date of the launch of the programme. That is going to take time,” Kim cautions.

But despite the timeline still not being clear on when the programme will be rolled out, there is optimism. “There are no specifics currently. When the option was previously discussed, the department of state simply indicated that it was entertaining the idea. This new report suggests that we have progressed to actually implanting the programme. The government tends to take its time with new endeavours, so while the report suggests that it could be implemented later this year, that could mean as late as December or even into next year,” says Neumann. Gokare estimates that the pilot could start around Fall 2023 since a consular division has to be launched in Washington DC, before it can be launched.

It is also not clear if initially the programme will cover only H-1 and L-1 principal visa applicants or also their dependents on H-4 and L-2 visas. “Considering that what is planned to be launched is a pilot programme which by definition seeks to limit the scope in reinstating stateside visa processing, I personally would be sceptical that the initial launch will include dependent family members,” said Kim. The state department is looking to test if this change is even possible at this current time and thus will likely receive only a limited number of such “test” cases for now with the intent that if successful, the reintroduction of stateside visa processing will be phased in over time, he added.

“Automatic visa revalidation within the States would save H-1 and L-1 visa holders from months of unnecessary agony. Until this programme is rolled out in its full capacity, there will be missed births, weddings, funerals and other important life occasions; visa holders will not be able to go back to attend to their sick parent and agents who block the appointment booking system to charge a hefty amount to sell dates to visa holders would continue to flourish while visa holders will continue to live a life in agony and uncertainty,” Mahajan sums up.