

EB-2 INDIA IMMIGRANT VISA RETROGRESSION GREATER THAN PROJECTED

On September 11, 2012, the U.S. Department of State released the October Visa Bulletin, publishing the “cut-off dates” for immigrant visa availability during the month of October 2012, the first month of the Government’s Fiscal Year 2013. The surprise in the October Visa Bulletin was the extent of retrogression under the EB-2 category for persons born in India. The new EB-2 cut-off date of September 1, 2004, for Indian-born applicants is much earlier than the 2006 cut-off date the Visa Office previously predicted.

Other movement in the Visa Bulletin held more closely to Visa Office predictions. The EB-2 cut-off date for applicants born in China returned to 2007, while advancing three years to a near-current January 1, 2012, for applicants born in Mexico, the Philippines, and all other countries of birth.

The EB-3 category advanced one week for applicants born in India, about two months for applicants born in China, and three weeks for applicants born in Mexico and all other countries other than the Philippines, which remained unchanged from the September Visa Bulletin.

Similar movement occurred in the EB-3 “Other Worker” category, with the exception of China, which remained unchanged from the September Visa Bulletin. These changes are reflected in the October 2012 Visa Bulletin with the cut-off dates below:

Preference	All Chargeability Areas Except Those Listed	CHINA-Mainland Born	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C
2nd	01JAN12	15JUL07	01SEP04	01JAN12	01JAN12
3rd	22OCT06	08FEB06	15OCT02	22OCT06	01AUG06
Other Workers	22OCT06	22JUN03	15OCT02	22OCT06	01AUG06
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/Regional Centers	C	C	C	C	C

In order to file an Application for Adjustment of Status, have a pending application approved, or be issued an immigrant visa at a U.S. Embassy or Consulate, the applicant’s “priority date” must precede the cut-off date listed for his or her country of birth and employment-based immigrant preference category. For employment-based permanent residency processes, the priority date is normally the date that a PERM labor certification application was filed, or if exempt from the labor certification process, the date that an immigrant petition was filed.

To initiate new applications for employees whose priority dates will become current in October 2012, contact your FosterQuan immigration attorney. As always, FosterQuan will continue to monitor the availability of immigrant visas under the annual quota system and will provide additional updates via our firm's [website](#) and in future Immigration Update[®] bulletins.