Immigration Agency Races to Issue 280,000 Available Green Cards

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- USCIS faces Sept. 30 deadline to process green card surplus
- Thousands of visas wasted last year amid pandemic delays

A record surplus of employment-based green cards available this year is putting the pressure on top immigration agency officials to issue all available visas before the fiscal year ends.

More than 66,000 employment-based green cards went to waste last yearas US Citizenship and Immigration Services officials worked through massive pandemic-driven backlogs and an unprecedented number of petitions for work visas.

The agency faces an even bigger workload this year than last—280,000 green cards compared to 262,000 in fiscal 2021—but said it's well-positioned to issue all of the available visas before the fiscal year ends Sept. 30.

The unprecedented number of available work-based green cards could mean an infusion of newly mobile workers to help meet an ongoing labor shortage. Unlike temporary work visas such as H-1Bs, green cards allow workers to switch employers freely without losing their immigration status.

The green-card surplus also promises faster resolution for thousands of Indian and Chinese immigrants stuck in years-long backlogs because of per-country visa caps.

"We're definitely seeing an increase in the number of approvals coming through," said Emily Neumann, a managing partner at Reddy & Neumann PC in Houston. "I hope it's not too little, too late."

Digging Out

The high numbers of available employment-based green cards over the past two years is a result of closures and limited capacity at US embassies and consular offices amid the Covid-19 pandemic. Many family-based visas the State Department didn't process abroad "rolled over" the following year into the employment-based category, which typically has a cap of 140,000 visas per year.

"The problem last fiscal year was massive barriers before we could even start working through" green card applications, according to a USCIS official.

Those barriers included a massive "frontlog" of unopened applications and a long queue of biometric appointments to collect fingerprints and applicants' photographs that had accumulated with offices closed during the pandemic. The agency also struggled to work efficiently under a mostly paper-based system, according to a 2021 report from the Department of Homeland Security's Office of Inspector General.

USCIS eventually issued 180,000 green cards last year—more than a typical year but still well short of the total available number.

Previous failures to process visas before the fiscal year deadline led a group of Chinese and Indian green card applicants to sue USCIS in federal district court in Washington state this week. The complaint argued that green card waste is a "self-made crisis" because the agency only counts visas as issued after a lengthy adjudication process.

A similar lawsuit brought by green card applicants last year in a bid to have their cases adjudicated was closed after a federal judge in Maryland severed the claims based on location on the eve of the fiscal year deadline.

"They're definitely in a better place than they were in the prior fiscal year," Sharvari Dalal-Dheini, director of government relations at the American Immigration Lawyers Association, said of USCIS.

But the public has yet to see data from USCIS that would show a significant improvement from the pace of the previous year and allay fears of green cards again going to waste, she said.

As of mid-June, USCIS had used significantly more visas than at the same point last year and was issuing twice as many on a weekly basis, an agency spokesman said. The agency declined to provide specific numbers on green cards issued to date.

Efficiency Challenges

USCIS already has moved some staff resources away from other immigration services to processing green cards instead. The agency also redistributed applications among field offices to spread workloads more evenly.

The agency additionally has used a "risk-based approach" to waive interview requirements and urged applicants to prepare to submit medical forms as soon as their applications are taken up. And it's encouraged others to transfer their applications from one employment-based visa category to another with lower demand where eligible, a process known as interfiling.

Although USCIS isn't facing the same initial barriers this year as in fiscal 2021, an influx of Afghans and Ukrainians seeking humanitarian relief and a staff vacancy rate of nearly 20% continue to present challenges.

The agency is undertaking a "massive hiring drive" with an aim to fill 95% of positions by the end of the calendar year as part of efforts to address efficiency and reduce backlogs, USCIS Director Ur Jaddou said at a recent conference. But new staffers could spend weeks in training before they can begin processing applications.

"They already said they don't have the capacity because of labor shortages that they're dealing with," said Greg Siskind, an immigration attorney at Siskind Susser PC. "Just because you're hiring a bunch of people doesn't mean you'll immediately have them all onboarded and ready to go adjudicate petitions."

Unpredictable Process

Supriya Shivkumar, a software engineering manager in Seattle who applied for a green card in 2015, said she would have considered moving to another country with more friendly immigration laws had she known just how difficult it would be to secure a US visa.

The wait time means Shivkumar, who holds an H-1B specialty occupation visa, can't change jobs or move to a new market without difficulty. And travel to India to see her elderly parents is restricted by uncertainty over visa appointments to return to the US.

"The hardest part is not having any predictability anymore," she said of the green card process. "Not having my immigration status dictate my presence in this country would be very liberating," she said.

Even if the agency issues all 280,000 available visas, it would still only put a small dent in the green card backlog driven by annual per-country limits. At the end of fiscal 2021, about 875,000 approved petitions were waitlisted because of those caps, according to the Cato Institute.

Workers stuck in backlogs for years also may not necessarily have their applications moved faster because USCIS is prioritizing processing as many pending cases as possible without regard to their filing date.

"We want to get them all through the process as efficiently as possible," the USCIS official said.

With fears of a recession looming, granting permanent residency to more workers promises to boost their earnings and productivity, said Bruce Morrison, former chair of the House Judiciary immigration subcommittee and a lobbyist for the American Healthcare Association.

"When you move people from temporary visas to green cards, you can be sure that the American economy and working Americans will benefit," he said.