

ALERTS

Immigration Update

INCREASE IN SECURITY CLEARANCES FOR U.S. VISA APPLICANTS WITH TECHNICAL BACKGROUNDS FROM INDIA AND CHINA

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While all applicants for nonimmigrant U.S. work visas such as H-1B and L-1 A are subject to a standard name and criminal background check as well as clearance in the Petition Information Management System (PIMS), these checks normally take no more than 24 hours to complete at the U.S. Consulate where the visa application is submitted.

However, there has been a significant increase in the initiation of additional security clearances, particularly for applicants with technical expertise from China and India. The increase in security clearances began in January 2009 when Homeland Security and the Department of State upgraded their technological capabilities and gained access to additional international databases to query. While the initial delays were felt by nationals of all countries, in the last few months we have noticed that Indian and Chinese applicants are still facing the same lengthy delays that were initially experienced by all applicants when the new security clearance procedures were implemented. These types of clearances typically take 14-60 days depending on the type of clearance required, however some clearances can take 90-180 days. Applicants are required to remain outside of the U.S. while the clearance is pending. The U.S. Consulate will not make a determination on whether additional security clearances will be needed prior to the foreign national's appearance at the U.S. Consulate abroad. Therefore, any foreign national traveling abroad to apply for or renew a visa needs to be aware that they may be subject to an additional security clearance and required to spend an extended period of time abroad. Chinese and Indian nationals with technical backgrounds should be especially aware of the likelihood that a security clearance will delay the approval of their visa application at a US Consulate abroad by several days or weeks.

MVA advises companies and foreign nationals working on nonimmigrant visas to be aware of the potential for delays in the visa issuance process when timing travel for visa issuance and renewals. Employees who need to attend an appointment at a U.S. Consulate abroad for the issuance of a new visa are advised to contact their ***MVA Immigration Team contact*** well in advance of their travel to discuss any potential security clearance issues.