

# THE RETURN OF STATESIDE H1-B AND L-1 VISA RENEWALS IS CLOSE: WHAT EMPLOYERS NEED TO KNOW

Insights

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After an almost 20-year absence, federal officials appear closer than ever to bringing back the stateside issuance of nonimmigrant visas, which would allow H-1B and L-1 workers the option of renewing their visas without leaving the U.S. The pilot program that would put this change into effect officially went to the White House for review on October 17, marking one of the final steps before implementation. If soon finalized as expected, it would not only provide a welcome relief to many foreign nationals but also make a key strategic difference to employers. What are some of the practical implications of this renewed process and what should employers do as we wait for it to come into effect?

## Quick Background

Earlier this year, the Department of State announced that it is bringing back this process as a pilot program for H-1B and L-1 visas ([read more here](#)). This week, it confirmed that the rule to resume visa revalidations is currently with the White House's Office of Information and Regulatory Affairs for review, which is the final step before the release of the new regulations.

While the concept of visa revalidation without leaving the U.S. is not new, it was discontinued in 2004 due to increased post-9/11 security requirements. Prior to that, foreign nationals who were already in the U.S. with valid but expiring (or expired) visas could mail their passports to the government with the appropriate petition documentation.

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They would then have the visa stamped in their passport without having to travel to the U.S. consulates abroad.

## **Current Process is Burdensome and Expensive**

The current process does not distinguish between a new visa application and a visa revalidation in that the person applying for a visa must schedule an appointment at a U.S. consulate either in their home country or in another country that accepts “third country nationals” (i.e., those who are not residing in the country in question) and travel for a visa interview. While an interview may be waived for some applicants, their presence in the country in which they are seeking the visa is mandatory.

This is costly for both the employees and those employers who support the process. It can also be very disruptive in cases of visa issuance delays, as the employee must remain abroad until they receive their passport with the visa stamp back from the consulate. Additionally, as many consulates are still reeling from pandemic scheduling backlogs, it might take several months to even get an appointment, thus preventing some employees with expiring or expired visas from being able to travel internationally on behalf of their employers.

## **What it Means For Employers**

While this pilot program will be a great potential benefit to both employees and their employers, it is still critical for employers to plan ahead. We do not yet know how this process will be implemented, who will be able to benefit, and most importantly, how long the renewal process will take.

It is important to remember that an employee availing themselves of this process will be mailing their passport to the federal government. They might not receive it back timely, which could impact your ability to send them for urgent business travel. Moreover, this process is not available for brand new transferees to the U.S.

The greatest benefit is likely to be afforded in situations where (1) travel is anticipated, but is neither continuous nor urgent, (2) consular delays outweigh potential visa renewal processing delays, and (3) reciprocity rules limit the number of times a visa can be used.

## **What Should You Do?**

Employers can prepare for this welcome change by taking the following steps:

- **Audit Your Workforce:** You can start by ensuring that all H-1B and L-1 employees have their current and accurate visa documentation in place. This includes their current visa status, employment contracts, any prior renewal documentation, and other essential paperwork. A thorough audit will streamline the renewal process when the time comes.
- **Create a Travel Forecast:** Evaluate your employees' potential travel plans for the upcoming year. If they are expecting to engage in critical business travel while the passport is with the federal government, it might be wise to adjust the timing of the visa renewal (if possible) or travel schedule.
- **Establish a Communication Channel:** Establish a dedicated channel or point of contact for all visa-related matters within your organization. Ensure that the HR team, the impacted employees, and their managers understand the new process and know whom to approach for clarity. This will avoid confusion within your organization and create a streamlined flow of communication.

## Conclusion

If you have any questions on whether this domestic visa revalidation program may apply to your workforce, please feel free to reach out to your Fisher Phillips attorney, the author of this Insight, or any member of our [Immigration Practice Group](#). We will continue to monitor the latest developments related to this area and provide updates as warranted, so you should ensure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information directly to your inbox.