

Background

The United States faces an escalating shortage of caregivers, a problem that has left thousands without essential services such as home care. Representing over 4,800 agencies, HCAOA believes this crisis can be alleviated by streamlining and clarifying the backlogged and convoluted EB-3 visa process. Notably, the issuance of visas for legal permanent residence declined by **48%** between 2019 and 2020, while temporary visa issuances dropped by **54%**. These visa reductions are untenable, particularly considering our aging population's dire need for home care.

What is a EB-3 Visa?

The EB-3 visa allows U.S. employers to hire foreign workers for non-temporary, unskilled labor, including caregiving. Under this visa, workers can eventually apply for citizenship. However, the EB-3 visa application process is lengthy and complex, and only a small fraction of the 40,000 EB-3 visas issued annually are allocated to caregivers.

Key Steps in the EB-3 Visa Process

1

Prevailing Wage Request (6-8 months)

- **Problem:** Before beginning the EB-3 visa application, employers must obtain a prevailing wage determination from the Department of Labor (DOL). However, this process is currently inefficient, taking up to 8 months despite the availability of wage data online to make an immediate determination.
- **Solution:** Agencies should be allowed to submit wage surveys directly from the Foreign Labor Certification Data Center without waiting for DOL.

2

Recruit U.S. Workers (2 months)

- **Problem:** Employers must try to recruit U.S. workers by posting job advertisements, including in newspapers. But this traditional method is outdated and rarely results in finding qualified candidates.
- **Solution:** Modernize the recruitment process to align with current job-seeking trends, such as online job portals.

3

Permanent Labor Certificate (12-24 months)

- **Problem:** Employers must apply for a Permanent Labor Certificate (PERM) from DOL, proving there are no qualified U.S. workers available for the position. The process is often delayed by unnecessary audits and requests for additional information.
- **Problem:** DOL often conducts audits when simply requesting additional information would suffice, and the FLAG system for processing applications is cumbersome.
- **Solutions:**
 - Allow agencies to submit proof of recruitment with the initial PERM application.
 - Upgrade the FLAG system to include a portal for uploading responses to audit requests, and track document submissions to prevent delays.



4 Form I-140 Petition to USCIS (1-8 months)

- Once the PERM application is approved, the employer must file Form I-140 with U.S. Citizenship and Immigration Services (USCIS). *No solution required at this time.*

5 Visa Application and Consulate Interview (8-24 months)

- **Problem:** The final step involves the caregiver submitting a visa application and attending an interview at a U.S. consulate. However, the current backlog for unskilled EB-3 visas is severe, with wait times exceeding 3 years.
- **Solution:** Increase federal appropriations to hire more staff and prioritize processing for the EB-3 visa category to reduce the backlog.

Broader Recommendations

Schedule A Designation for Caregiving

- Caregiving should be designated as a Schedule A occupation, which would exempt it from requiring a labor certification from DOL. This would expedite the process by acknowledging the chronic shortage of U.S. caregivers.

Eliminate Backlogs

- Address the backlog in the EB-3 visa category, which currently results in long delays, hindering the ability of agencies to meet the growing demand for home care services.

Clarify the Process

- Greater transparency in the EB-3 application process is crucial. Clear guidance on why certain applications are flagged and what triggers supervisory review would help reduce both wait times and the workload for government agencies. Publish detailed guidance on each stage of the FLAG process.

Lift the Cap on EB-3 Visas

- The current cap on EB-3 visas is insufficient to meet the high demand for caregivers. Raising this cap would help address the critical shortage of care workers, benefiting both the economy and those in need of care.

Conclusion: Streamlining and clarifying the EB-3 visa process is essential to addressing our nation's caregiver shortage. By adopting our proposed solutions, the Department of Labor, USCIS, and other relevant agencies can help ensure that more people receive the care they need, and that the American economy remains strong.

Contact Us!

For more information, contact Eric Reinerman, VP of Government Relations, at eric@hcoa.org