

# Immigration Corner

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In recent years, there has been a continuous influx of immigrants traveling to the United States (U.S.). This migration has resulting in a question being ask over and over—How can immigrants legally enter the U.S.? There are four common methods which immigrants can obtain legal entry into the U.S. They are with a Visa or through the Refugee Program, Special Cuban Migration Program (also known as the "Lottery") or Diversity Immigrant Visa Program (also known as the DV Lottery). This article discusses the processes foreign citizens can use to petition entry into the U.S. using each of these methods. The August issue of *Islas* will provide details on the processes and procedures to obtain legal entry into another country.

## Visa Program

Generally, a foreign citizen who wishes to enter the U.S. must obtain one of two types of visas—a "nonimmigrant" visa for temporary stay or an "immigrant" visa for permanent residence. A nonimmigrant visa is given to a foreign citizen who desires to enter the U.S. temporarily for business, pleasure, or medical treatment. Persons who wish to enter the country temporarily as a student, worker,

crewman, or journalist must obtain a specifically defined temporary visa based on the purpose of the visit. An immigrant or permanent visa is given to a foreign citizen based on certain circumstances such as having an immediate relatives who is a U.S. citizen or a lawful permanent resident, adoption of a child, and employment.

A visa does not guarantee permit entry into the U.S.. It only indicates that a U.S. consular officer has determined that an applicant is eligible, based to enter the country for a specific purpose. An immigration officer, however, is the official who has the authority to permit entry. He/she decides how long a person can stay for any particular visit.

Persons who file for either type visa must show that they qualify under the provisions of the Immigration and Nationality Act (INA) before they can enter the country. American immigration laws presume that every visitor visa applicant is an intending immigrant, that is plan to stay in the U.S. permanently. Therefore, applicants for visas must dispute this presumption by demonstrating: the purpose of his/her visit whether it is for business, pleasure or medical; the planned length of the visit; and that he/she has a residence as well as other social and economic binding ties that will

ensure return to the foreign citizen's residence at the end of the visit.

### U.S. Refugee Program

The Refugee Program was established in 1984 as part of the Migration Accords between the Cuba and U.S. governments. Initially, this program was set up to facilitate entry of political prisoners to the U.S. However, in 1992 it was expanded to include others who, by definition, are unable or unwilling to return to their his/her country because of mistreatment or a well-founded fear of mistreatment. These individuals are called "refugees". The Refugee Act of 1980 defines a refugee as a person outside of his or her country of nationality who is unable or unwilling to return because of persecution or a well-founded fear of persecution on accord of race, religion, nationality, membership in a particular social group, or political opinion.

Cuban citizens residing on the island can qualify for this program because by U.S. Presidential Determination, Cuban refugees may be processed while still residing on the island. The local processing procedures are simple. To apply, applicants must:

- (1) Request, in writing, a questionnaire from Seccion Consular (Refugiados), Seccion de Intereses de los E.U. Embajada de Suiza, Calzada e/L y M, Vedado, C. Habana, Cuba 10400. There is no application fee.
- (2) Meet with a caseworker who will review the questionnaire and conduct

a screening interview to determine initial eligibility.

- (3) Meet with an immigration officer conducting a second interview and determining final eligibility.

If admitted into the U.S. under this program, each applicants have to wait one year before he/she can apply for permanent resident status.

### Special Cuban Migration Program (Lottery)

The Special Cuban Migration Program, also referred to as the Lottery, is unique to Cuba. It also allows Cuban residents to register for legal migration to the U.S. while residing on the island. To be eligible, applicants must be a Cuban citizen between the age of 18 and 55 and able to answer "yes" to two of the following three questions: (1) Have you completed secondary school or a higher level of education? (2) Do you have at least three years of work experience? (3) Do you have any relatives residing in the United States? Once selected, successful applicants are given parole status with a visa that is good for six months. The medical examination, which is required of all potential immigrants, is good for one year. Spouses and minor children may accompany the successful applicant.

The Lottery is part of the U.S. continuing effort to "normalize" immigration between Cuba and itself and to fulfill the goals of the September 9, 1994, Cuban Migration Agreement. Under this

agreement, the U.S. agreed to admit 20,000 Cuban immigrants annually. Since 1994, the U.S. has conducted three lottery open seasons—1994, 1996, and 1998. The number of qualifying applicants increased during each lottery. Applicants who were unsuccessful in previous attempts are allowed to apply again under the new lottery. Some Cubans who qualified through the 1998 lottery are still being paroled into the U.S. today. Although, there is no fee to register for the lottery, the Cuban government may require parolees to pay a fee. The Cuban government has not set a date for the next lottery.

### Diversity Immigrant Visa Program

The Diversity Immigrant Visa Program is also a "lottery program" administered on an annual basis. It provides for a new class of immigrants-- "diversity immigrants". Under this program, 50,000 permanent visas are granted annually to foreign citizens from countries with low immigration rates to the U.S.. Each year, the U.S. reviews the immigrant admission figures for the previous five years in order to identify countries whose natives must be excluded from the annual diversity lottery. Because there is a separate determination made before each annual lottery period, the list of countries whose natives do not qualify may change from year-to-year. Therefore, applicants should check the Diversity Immigrant Visa Program website to determine whether Cuba is a qualifying country for the current lottery (2007). Applicants are randomly chosen

using computer-generated lottery drawings.

There is no application fee for this program, however, there is a special processing fee that must be paid by persons actually selected and processed under this program. Further, applicants under this program, like other visa applicants, must also pay the regular visa fees at the time of visa application. Details of required fees are included with the instructions sent to selected applicants.

Cuban citizens interested in applying to the 2007 lottery program must prepare now. Review program related information provided on the U.S. Department of State website, [www.dvlottery.state.gov](http://www.dvlottery.state.gov) and/or talk with a U.S. representative at the Havana Office to get details about information required for the application. Applicants are strongly encouraged to not wait until the last week of registration to submit their applications. No applications will be accepted after the registration deadline.

To apply applicants must be a native of a qualifying country. (Note: Potential applicants should check the website to see if Cuba is an eligible country for the 2007 lottery.) A husband and a wife may submit a separate entry if each meets the eligibility requirements. If either are selected, the other is entitled to derivative status. Additionally, the applicants must meet either the education or training requirements. That is, the applicant must have EITHER a high school education or its equivalent, defined as successful completion of a 12-year course of elementary and secondary education, OR two years

of work experience within the past five years in an occupation requiring at least two years of training or experience.

The Diversity Visa Entry Form must be submitted electronically to the U.S. Department of State at [www.dvlottery.state.gov](http://www.dvlottery.state.gov) before the end of the registration period. For example, entries for the 2006 lottery had to be submitted 12:00 p.m. EST (GMT-5) on November 5, 2004 thru 12:00 p.m. EST (GMT-5) January 7, 2005. While the registration period for the 2007 has not been announced, speculations are that the registration period will fall somewhere in the November 2005-January 2006 timeframe. Applicants should be aware that:

- Applicants can prepare and submit their own entries or have someone submit the entry for them. Regardless of whether the applicant submits an entry directly, or an attorney, friend, relative, etc. provide assistance, only one entry may be submitted in the name of each person. If the entry is selected, a notification letter will be sent only to the mailing address provided on the entry form.
- All qualified entries submitted electronically directly by an applicant has an equal chance of being selected by the computer as does an entry submitted electronically through a paid intermediary who completes the entry for the applicant. Every entry received during the lottery registration period will have an equal ran-

dom chance of being selected within its region.

- A digital photo (image) of each applicant, his/her spouse, and children must be submitted on-line with the electronic Diversity Visa Entry Form. It must be a recent photograph of the applicant, his/her spouse, and each unmarried child under age 21. With regards to the children, the applicant must include all natural children, legally adopted and stepchildren (except a child who is already an U.S. citizen or a legal permanent resident). He/she must also include the child if he/she no longer resides with them or is not intended to immigrate under the program.
- Entries by an applicant will be disqualified if : (1) more than ONE entry is received for an applicant, (2) a paper entry is submitted, and (3) all required photos are not submitted, or the applicant submits a group or family photo. There must be a separate photo for each family member.

To obtain additional information about this program and other immigration programs, applicants should talk with a U.S. representative at the U.S. Department of State's Havana Office located at Calzada e L y M, Vedado, C., Habana Cuba which is located at the U.S. Interests Section of the Swiss Embassy on Calzada between L and M.