

India Clarifies Visa Requirements for Foreign Nationals Engaged in Contractual or Project-Related Work

October 16, 2009

On August 20, the Government of India issued a letter through the Ministry of Commerce and Industry clarifying visa requirements with respect to foreign nationals who are engaged in contractual or project-related activities while holding a business visa. Further clarification was issued by the Ministry of Home Affairs (MHA) on September 25, along with changes to India's Employment Visa procedures and an announcement of scrutiny of Chinese citizens.

Key Changes

- All foreign nationals currently in India and holding business visas and engaged in project or contract-related work must leave India by October 31, 2009 or when their current visas expire, whichever comes first. Visa extensions are not permitted.
- Applicants for an Employment Visa must now apply in their country of citizenship and possess appropriate qualifications for a senior, managerial, or technical/specialist position. Low-skilled, routine, or clerical positions do not qualify for an Employment Visa.
- Employment Visas are required for any foreign national coming to India to engage in project or contractual work.
- Citizens of China will face heightened scrutiny when applying for Employment Visas.

Business Travel

The new guidelines now limit the issuance of Business Visas to strictly business-related activities, which generally include:

- Attending meetings or conducting fact-finding visits related to expanding business opportunities in India
- Establishing an industrial or business venture in India
- Purchasing or selling industrial products in India

Activities that fall outside the above-mentioned activities may require an Employment Visa.

Employment Visas

Employment Visa applications will be issued based on the following guidelines:

- Applicants must file for an Employment Visa in their country of citizenship.
- Employment Visas will be granted only to managerial, senior-level, or highly skilled applicants.
- Indian companies engaging foreign nationals for project-related or contractual work in India will be responsible for their conduct in and departure from India.
- The Ministry of External Affairs will advise Indian Consular Posts not to grant Business Visas to foreign nationals engaging in productive work.

Security Clearances Required for Chinese Nationals

Chinese citizens applying for an Employment Visa must now submit applications to the applicable Indian Consular Post in China and to the MHA in Delhi for adjudication. The MHA will collaborate with the Intelligence Bureau and Ministry of Labour to render a decision on the application within 60 days.

For more information, or if you have questions regarding the issues discussed in this Immigration Alert, please contact any of the following attorneys:

San Francisco

Lance Nagel	415.442.1345	lnagel@morganlewis.com
A. James Vázquez-Azpiri	415.442.1343	ajvazquez@morganlewis.com

Washington, D.C.

Eleanor Pelta	202.739.5050	epelta@morganlewis.com
Eric Bord	202.739.6040	ebord@morganlewis.com

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