

October 7, 2009

H-1B Update

As of September 25, 2009, approximately 46,700 H-1B cap-subject petitions and approximately 20,000 petitions qualifying for the advanced degree cap exemption had been filed. USCIS will continue to accept both cap-subject petitions and advanced degree petitions until a sufficient number of H-1B petitions have been received to reach the statutory limits, taking into account the fact that some of these petitions may be denied, revoked, or withdrawn.

Unannounced Site Visits by USCIS Fraud Unit to H-1 Employers

The USCIS's Office of Fraud Detection and National Security ("FDNS"), has started visiting employers of H-1B employees unannounced and without a warrant. The employer may request its attorney be present, but the officer will not reschedule the visit. On October 6, an employer in the Seattle area had a visit from what appeared to be a contractor with USCIS Administrative Site Visit and Verification Program. The site visit pertained to a specific H-1B employee. The USCIS representative had a questionnaire and asked the HR Manager of the company the following questions (based on the HR manager's recollection):

- What does the company do?
- How many employees does the company have?
- What type of sponsorship did the company do for the employee?
- What does the employee do?
- Does the employee work regular hours like 9:00 to 5:00?
- What does the division of the company where the employee works do?
- What is the employee's role within the division?
- Please provide the last statement of earnings for the employee.
- What was the employee's hire date?
- Were the signatures on the forms and letter of support authorized by the company?
- Please let me speak to the employee.

We recommend employers prepare for the FDNS inspection by developing and implementing compliance policies including a thorough review of the Forms I-9 and the H-1B public access files, and planning in advance how to respond when the FDNS visits. We also recommend designating an "Immigration Compliance Officer" who should contact immigration counsel immediately upon a FDNS visit, and implement a response plan in advance that includes everyone from upper level management to the receptionist. If you have any questions about what should be in the files or about how to handle a FDNS site visit, please [contact](#) us.

Local Update Regarding Naturalization Ceremonies

Beginning November 1, 2009, the Seattle Field Office is making a procedural change in how they handle naturalization applications. Currently, an applicant whose Form N-400 is granted at the time of interview is generally scheduled for ceremony the following week. This will change. In November, most naturalization interviews will be conducted in the morning. Those applicants who are granted will be scheduled to return the same day for the naturalization ceremony. They anticipate most applicants will be pleased with this change as it eliminates the need for an additional trip to Seattle, and possibly another day off work. However, they will try to accommodate applicants who would rather wait for a later ceremony so their family can attend. Applicants whose eligibility cannot be determined at the interview will be notified about a later ceremony as is the procedure now.

2011 Diversity Visa Lottery Program Registration

The Department of State announced the opening of the registration period for the DV-2011 Diversity Visa lottery. Entries for the DV-2011 Diversity Visa lottery must be submitted electronically between Friday, October 2, 2009, and 9 a.m. Pacific Standard Time (EST), Monday, November 30, 2009. Applicants may access the electronic Diversity Visa entry form (E-DV) at www.dvlottery.state.gov during the registration period. Paper entries will not be accepted. Applicants are strongly encouraged not to wait until the last week of the registration period to enter. The annual DV program makes visas available to persons meeting simple, but strict, eligibility requirements. A computer-generated, random lottery drawing chooses selectees for DVs. The visas are distributed among six geographic regions, with a greater number of visas going to regions with lower rates of immigration, and with no visas going to nationals of countries sending more than 50,000 immigrants to the United States over the period of the past five years. Within each region, no single country may receive more than seven percent of the available DVs in any one year. For DV-2011, natives of the following countries are not eligible to apply because the countries sent a total of more than 50,000 immigrants to the United States in the previous five years: BRAZIL, CANADA, CHINA (mainland-born), COLOMBIA, DOMINICAN REPUBLIC, ECUADOR, EL SALVADOR, GUATEMALA, HAITI, INDIA, JAMAICA, MEXICO, PAKISTAN, PERU, PHILIPPINES, POLAND, SOUTH KOREA, UNITED KINGDOM (except Northern Ireland) and its dependent territories, and VIETNAM. Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible. No countries have been added or removed from the list of eligible countries. The list of eligible countries remains the same as for DV-2010. For detailed information about entry requirements, along with frequently asked questions about the DV lottery, please see the instructions for the DV-2011 DV lottery available at www.dvlottery.state.gov.