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Immigration eNews

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Federal Contractors Will Be Required to Use E-Verify

On Monday, June 9, 2008, the White House released Executive Order 12989, signed by President Bush on Friday, June 6, 2008, which will require businesses that contract with an agency or department of the federal executive branch to electronically verify the employment authorization of their employees. Such businesses will have to use E-Verify as the designated electronic program to confirm the employment authorization of (1) all individuals hired during the contract term for work conducted within the United States, and (2) all employees assigned to work within the U.S. on a federal contract.

While the Executive Order does not specify when the electronic verification requirement will take effect, a subsequent announcement from the Department of Homeland Security (DHS) indicated that the pertinent regulations about the use of E-Verify will soon be published in the Federal Register, with a 60-day public comment period. It is realistic to anticipate that the regulation will take effect shortly thereafter. A link regarding E-Verify registration can be found at <https://www.vis-dhs.com/EmployerRegistration/StartPage.aspx?JS=YES>.

E-Verify is the latest program being promoted by the DHS to assist employers in verifying the identity and work authorization of their workforces. The E-Verify system is a free internet-based system that allows enrolled employers to confirm the legal status of new hires within seconds. E-Verify checks data provided by employees during the Form I-9 process to establish work authorization and identity against Social Security Administration and DHS databases to see if there are any discrepancies.

H-1B Cap Lottery Has Been Completed; Some Student Employees Working on OPT May Be Eligible for OPT Extensions

By early June, the U.S. Citizenship and Immigration Services (USCIS) issued all receipts for the H-1B cases that were selected via H-1B cap lottery. (Some cases may still be waitlisted.) It is important to remember that according to a rule released earlier by the DHS, some students with Employment Authorization Documents (EADs) issued pursuant to Optional Practical Training (OPT) are eligible to receive OPT extensions to either cover the time until their H-1B status goes into effect on October 1, 2008 ("bridge the cap gap") or, for some qualified graduates, to extend their OPT for an additional 17 months on top of the initial 12 month OPT.

For the students whose H-1B petitions were selected for adjudication and who requested a change of status, their F-1 status and EADs were automatically extended. (Students are responsible, however, for making sure their school records reflect the extension.) The

extensions are valid until H-1B status becomes effective on October 1, 2008. If the selected H-1B petition was ultimately denied, the extension ends when the denial decision is rendered.

In addition, a 17-month extension of OPT will be available to qualified F-1 students with a degree in science, technology, engineering, or mathematics ("STEM degree") who are employed by businesses enrolled in the E-Verify program. Such students must apply for an EAD extension with the USCIS.

Companies enrolling in E-Verify undertake a number of obligations; therefore we recommend that employers who currently do not participate in the E-Verify program consult with employment and/or immigration counsel to understand the scope of requirements before signing up for the use of E-Verify.

USCIS Announced Two-Year Employment Authorization Documents

On June 9, 2008, DHS Secretary Michael Chertoff and Department of Commerce's Secretary Carlos Gutierrez gave an address on the "State of Immigration." Among other announcements, the speakers noted that the USCIS will begin issuing 2-year EADs to individuals with a pending adjustment of status application. Currently, EADs are documents granted with only a one year maximum validity. Beginning later this month, the USCIS will start issuing EADs with two-year validity periods for those adjustment applicants whose applications are expected to be pending for more than a year.

USCIS Confirms Premium Processing To Be Resumed for Qualified I-140 Immigrant Petitions

USCIS Service Center Operations' representative confirmed that on June 16, 2008, USCIS will resume premium processing for certain qualified I-140 Immigrant Petitions. Premium processing should be available for those beneficiaries whose H status will expire within 60 days of filing the request, and who need the I-140 approval to become eligible for the additional H time under the special provisions of the American Competitiveness in the Twenty-First Century Act of 2000 ("AC-21").

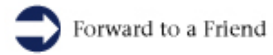
Visa Bulletin for July 2008

The Immigration and Nationality Act sets an annual minimum for both family-based and employment-based immigrant visas ("green cards"), prescribed by categories and per-country limits. A prospective immigrant can apply to become a permanent resident only when a visa number is available in his/her respective category. The monthly Visa Bulletin, published by the U.S. Department of State, provides a monthly update on the availability of visa numbers, listing the cut-off priority. Only applicants who have a priority date earlier than the cut-off date may be allotted a number.

The complete Visa Bulletin is available at the Department of State's website at http://travel.state.gov/visa/frvi/bulletin/bulletin_4252.html. Below is an excerpt from the July 2008 Visa Bulletin pertaining to the employment-based categories.

	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
Employment-Based					
1st	C	C	C	C	C
2nd	C	01APR04	01APR04	C	C
3rd	U	U	U	U	U
Other Workers	01JAN03	01JAN03	01JAN03	01JAN03	01JAN03
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C
"C" - current "U" - unavailable					

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