

Business Immigration Weekly for Week of February 24, 2014

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Practices: Immigration

H-1B QUOTA OPENS ON APRIL 1 – ARE YOUR COMPANY'S H-1B QUOTA PETITIONS READY TO BE FILED?

The H-1B quota for fiscal year 2015 (October 1, 2014 through September 30, 2015) will open on April 1, 2014. Similar to the last H-1B quota, our firm is anticipating that the H-1B quota for fiscal year 2015 will be met during the initial filing period of April 1, 2014 through April 7, 2014. When the H-1B quota is met, employers will not be able to file additional H-1B quota subject petitions until the next H-1B quota becomes available on April 1, 2015 (for H-1B employment beginning on or after October 1, 2015).

The number of H-1B quota visas remains the same as in previous years, 65,000 for the regular H-1B quota with an extra 20,000 numbers available for individuals who have earned U.S. Master's or higher degrees. During the last H-1B quota period, the U.S. Citizenship and Immigration Services (USCIS) received more than 124,000 petitions. It is assumed that the number of petitions received by the USCIS in this upcoming H-1B quota will be significantly higher. In fiscal year 2009, the USCIS received more than 165,000 petitions filed against the H-1B quota. It is assumed that the USCIS may receive a comparable number of petitions in the upcoming H-1B quota as it received in fiscal year 2009. If the USCIS receives more petitions than H-1B quota numbers available, the USCIS will conduct a random selection process of the petitions received. The first random selection process will be conducted for the petitions received claiming the exemption under the U.S. Master's or higher degree. The petitions not selected in this random selection process will then be added to the regular H-1B quota petitions and the USCIS will then conduct another random selection process. If the petition is selected in either of the random selection processes, the USCIS will then adjudicate those petitions. If the petition is not selected in either of the random selection processes, the petition will be returned to the employer (or its representative) without adjudication. No special preferences are given in the random selection process for types of positions, countries of birth, educational background, etc. If a petition is received after the H-1B quota is met, the petition will also be returned to the employer without being adjudicated. Therefore, employers should currently be preparing their H-1B quota petitions so that they can be filed during the upcoming H-1B quota initial filing period. Please note that as part of the H-1B process, the employer (or its representative) must first obtain a certified Labor Condition Application (LCA) from the U.S. Department of Labor (DOL). The DOL may take 7+ plus days to adjudicate the LCA, assuming that the DOL's iCERT system continues to function properly.

Additional information about the fiscal year 2015 H-1B quota will be contained in our firm's future Immigration Updates when they become available.

USCIS RELEASES E-VERIFY STATISTICS

The USCIS recently released statistics about the E-verify case processing results from fiscal year 2013 (October 1, 2012 through September 30, 2013). The USCIS stated that it processed approximately 23.9 million E-verify cases in fiscal year 2013. 98.81% of those requests automatically confirmed authorization to work either instantly or within 24 hours, requiring no employee or employer action. 1.19% of the employees received Tentative Non-Confirmation (TNC). Of the 1.19% of the employees that received TNCs, .98% were found not to be employment authorized. Of the .98% of the employees found not to be employment authorized, .78% of the employees did not contest the TNC. Only .01% of the employees who received a TNC and contested the TNC were found not to be employment authorized. Additionally, the USCIS announced that it enrolled its 500,000th employer in the E-Verify system before the end of fiscal year 2013. The USCIS stated that its annual enrollment had increased tenfold since the program's inception in 1996.

DHS ANNOUNCES THE EXPANSION OF THE VISA WAIVER PROGRAM TO CHILE

The U.S. Department of Homeland Security (DHS) recently announced that Chile will be added to the Visa Waiver Program (VWP). DHS stated that starting May 1, 2014, eligible Chilean passport holders with both an approved Electronic System for Travel Authorization (ESTA) (www.cbp.gov/ESTA) and an E-passport will be able to visit the United States without nonimmigrant visa visitors. Chile will become the 38th country to participate in the VWP. The VWP permits visa free travel to the United States for eligible travelers visiting for 90 days or less for business or tourism. DHS stated that in fiscal year 2013, the VWP accounted for about 19.6 million visits to the United States, or approximately 60% of tourist and business travelers entering the United States by air.

MFEM NEWS

Mr. Bob White to Speak at Two Different Conferences on Various Employment-Based Immigration Topics

Mr. Bob White of the Masuda, Funai Immigration Practice Group has been invited to speak at two different conferences in March 2014 on various employment-based immigration topics. Mr. White will first give an immigration workshop and then an immigration session at the International Educators of Illinois (IEI) (www.eiellinois.org) conference in Chicago on March 6, 2014. During both the session and the workshop, Mr. White will be discussing employment options for international students, H-1B quota issues and other immigration issues which international educators should be aware of when assisting international students and faculty.

In the second presentation, Mr. White will be leading a panel at the American Immigration Lawyers Association's (AILA) Midwest Regional Conference (MRC) in Chicago on March 14, 2014. The panel on which Mr. White will be the discussion leader will be educating and informing immigration attorneys and their staff about current immigration issues affecting colleges and universities and their international student and faculty populations. This is the first year that this type of panel has been held at the MRC.

For more information about this or any other immigration law topic, please contact Bob White, at 847.734.8811 or via email at rwhite@masudafunai.com.