

BUSINESS IMMIGRATION UPDATE

Immigrant Visa Lottery (DV-2004)

The Diversity Immigrant Visa Lottery is a program that makes available 50,000 permanent resident visas (“green cards”) to persons from countries with low rates of immigration to the United States. The Diversity Immigrant Visa Lottery for 2004 will accept entries **October 7, 2002 through November 6, 2002**. Entries must be mailed to and received in the Kentucky Consular Center between these dates. Although there is no specific form for application to the lottery, all of the requirements must be strictly met, including the need for original signature, photograph and qualifications. **Please note that there is no application fee required to apply for the lottery. Use of an attorney or intermediary will not provide any guarantee of winning the lottery.** Natives of the following countries are not eligible to apply this year: Canada, China (mainland), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, the Philippines, South Korea, United Kingdom (except for Northern Ireland) and Vietnam. Please feel free to contact us for an information packet containing instructions for the 2004 Diversity Immigrant Visa Lottery, or go to <http://travel.state.gov/DV2004.html> for the regulations.

Delay in Processing Nonimmigrant Visas

The U.S. Department of State recently reported that visa applications made at U.S. embassies and consulates abroad may take from six to eight weeks to be approved. The State Department cited the reasons for these potential delays as including a greater degree of scrutiny than in the past and the additional documentation being required of many visa applicants (Form DS-157). The adjudication time will be difficult to predict, according to the Department of State, as new procedures implemented after September 11, 2002 are refined. Visa applicants affected by these procedures may expect *substantial delays of six to eight weeks or more* before a visa can be issued. Please make employment and travel arrangements with this in mind.

New Visa Requirements in Japan

Effective September 1, 2002, the U.S. Embassy and Consulates in Japan no longer accept visa applications from persons who are in the United States at the time of their visa applications. In order to apply for a visa in Japan, the applicant must be physically present in Japan. This is a major change in the application process in this country. Until September 11, 2002, we were able to forward passports to Japan and obtain visas while the employee was working in the U.S. Now if the employee desires to

obtain a visa in Japan, he or she must wait in Japan for the visa to be issued. Of course, we can still apply for visa reissuance through the Visa Office of the State Department while the employee is in the United States. However, it may take anywhere from six to twelve weeks for the Visa Office to return the passport with a new visa. Employers are recommended to keep this in mind and ensure that visa reissuance applications are prepared in a timely manner.

Special Registration of Foreign Nationals

Effective September 11, 2002, foreign nationals from Iran, Iraq, Libya, Syria and Sudan are required to register with the Immigration and Naturalization Service (“INS”) prior to admission to the United States. This includes fingerprinting and photographing, which will take place at INS inspection locations throughout the United States. Federal officials have confirmed that this plan will soon be expanded to include nationals from ten or more additional Arab countries. The expansion is to begin October 1, 2002 with foreign nationals from countries including Pakistan, Saudi Arabia, Yemen, and Lebanon. The names of other countries to be added are not yet available. Visitors from these countries will also be fingerprinted and screened against terrorism and criminal databases.

Social Security Issues

As we reported in our last bulletin, the Social Security Administration (“SSA”) has stopped issuing social security numbers (“SSN”) for dependents of foreign workers. This has affected family members’ ability to obtain driver’s licenses in some states. Now, effective September 2002, SSA is reporting that all aliens who apply for an SSN must undergo document verification and background checks through the INS’ Systemic Alien Verification for Entitlements (“SAVE”). Due to the nationwide volume of verifications through SAVE, SSA expects that SSN applications may take up to four months to process. This will be a serious inconvenience to all employment-based beneficiaries and employment authorization applicants, who require SSNs. Employers may wish to consider filing an application for an Individual Taxpayer Identification Number (“ITIN”) prior to the employee’s transfer to the U.S., as an ITIN application may be filed from outside of the United States. However, even ITINs are taking approximately four months to obtain.

Monitoring Foreign Students through SEVIS

As a result of the attention focused on the 9/11 hijackers and their status as students, Congress has sought to tighten the laws concerning foreign students. Additional reporting responsibilities will be placed on schools that accept foreign national students through the Student and Exchange Visitor Information System (“SEVIS”). SEVIS is an Internet-based computer system that will enable schools and program sponsors to transmit electronic information and event notifications to INS and the Department of State throughout a foreign student’s or exchange visitor’s stay in the United States. Beginning January 30, 2003, SEVIS will become mandatory for all schools wishing to enroll foreign students. Until that time, a new interim rule has recently been issued that governs the new mandatory certification process for all schools participating in SEVIS. The Interim Student and Exchange Authentication System (“ISEAS”) provides consular officers with instructions and procedures for

electronically verifying with sponsoring educational institutions aliens' authorized stays in F, M, or J visa status in the U.S. Though ISEAS is designed to quickly verify this information, delays for visa issuance can still be considerable, which may likely disrupt foreign students' study in the United States.

New Border Crossing Card Required

Effective October 1, 2002, Mexican border crossers will be required to present the new biometric Border Crossing Card ("BCC") at all ports of entry along the U.S.-Mexico border. The new biometric BCC contains a photo and a magnetic strip with information that is checked against criminal databases. The Department of State has been accepting applications for the new document since April 1, 1998, and after October 1, 2002 the old, nonbiometric BCC will not be a valid document for entry. BCC applications are being accepted at consular posts in Mexico City, Ciudad Juarez, Guadalajara, Hermosillo, Merida, Matamoros, Monterrey, Nogales, Nuevo Laredo and Tijuana, as well as at the Tijuana and the Mexicali Temporary Processing Facilities. However, the INS is not yet capable of accessing information contained within the magnetic strip, including fingerprints. After successful testing with card-reading machines at certain locations (including San Ysidro, the Los Angeles airport, the San Antonio airport, Nogales, Ariz., and Atlanta), the INS will install the machines at all ports of entry along the U.S.-Mexico border sometime after the end of October.

GAO Study Regarding Deemed Exports

The U.S. government's General Accounting Office ("GAO") recently conducted a study that concluded the Secretary of Commerce needs to better coordinate immigration data and to work with the departments of Defense, State and Energy with regard to "deemed exports." The GAO recommends that the Secretary take additional steps to reduce the possibility of U.S. civilian technology falling into the hands of countries that pose national security concerns. Such transfers of technology to foreign nationals are considered deemed exports. The study recommends that U.S. firms obtain an export license before certain technology is transferred to foreign national employees. The Department of Commerce is to ensure that firms apply for these licenses when required to do so and that they comply with the security conditions in the licenses. This latest national security measure regarding deemed exports has the potential to greatly restrict nonimmigrant employment-based petitions in technology sectors.

Reminder: Change of Address Forms

All aliens, both immigrant and nonimmigrant, remaining in the United States for more than 30 days must notify the INS of each change of address. Form AR-11 must be prepared for each family member and mailed to the INS within ten days of the address change in order to comply with the registration requirements. Forms must be sent via regular U.S. mail. A copy of Form AR-11 is attached to this Bulletin for your convenience.

Zero Tolerance Reminder

Remember that, due to the tremendous pressure being brought to bear on the INS, adjudicators will no longer be exercising discretion in granting benefits to aliens who are out of status. This change in policy may prevent Service Centers from approving extension petitions on a *nunc pro tunc* basis after the I-94 card has expired. Therefore, it is imperative to ensure that both employers and employees are in full compliance with United States immigration laws.

For further information, contact:

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Alien's Change of Address Card

NAME (Last in CAPS)	(First)	(Middle)	I AM IN THE UNITED STATES AS:
			<input type="checkbox"/> Visitor <input type="checkbox"/> Permanent Resident
			<input type="checkbox"/> Student <input type="checkbox"/> Other (Specify)

COUNTRY OF CITIZENSHIP	DATE OF BIRTH	COPY NUMBER FROM ALIEN CARD
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A

PRESENT ADDRESS	(Street or Rural Route)	(City or Post Office)	(State)	(ZIP Code)
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(IF ABOVE ADDRESS IS TEMPORARY) I expect to remain there _____ years _____ months

LAST ADDRESS	(Street or Rural Route)	(City or Post Office)	(State)	(ZIP Code)
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I WORK FOR OR ATTEND SCHOOL AT: (Employer's Name or Name of School)

(Street Address or Rural Route)	(City or Post Office)	(State)	(ZIP Code)
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PORT OF ENTRY INTO U.S.	DATE OF ENTRY INTO U.S.	IF NOT A PERMANENT RESIDENT, MY STAY IN THE U.S. EXPIRES ON: (Date)
SIGNATURE	DATE	

AR-11 (Rev. 02/19/02)Y

ALIEN'S CHANGE OF ADDRESS CARD

This card is to be used by all aliens to report change of address within 10 days of such change.

The collection of this information is required by Section 265 of the I&N Act (8 U.S.C. 1305). The data used by the Immigration and Naturalization Service for statistical and record purposes and may be furnished to federal, state, local and foreign law enforcement officials. Failure to report is punishable by fine or imprisonment and/or deportation.

This card is not evidence of identity, age, or status claimed.

Public Reporting Burden. Under the Paperwork Reduction Act, an agency may not conduct or sponsor an information collection and a person is not required to respond to an information collection unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. This collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including for reducing this burden to: Immigration and Naturalization Service, 425 I Street, N.W., Room 4034, Washington, DC 20536; OMB No. 1115-0003. **Do not mail your completed form to this address. MAIL YOUR FORM TO THE ADDRESS SHOWN BELOW:**

U.S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
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