



Immigration Update

In the August 2011 Issue

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USICS and DHS Join Forces to Encourage Foreign Investors to Stimulate the U.S. Economy

USCIS and DHS announced a plan to attract more foreign entrepreneurs to invest capital, create new jobs, and support the growth of America's economy. The plan includes updates to the adjudication and requirements for applications for H-1B (Workers and Specialty Occupation), EB-2 (National Interest Waiver - NIW) and EB-5 (Investor Green Card) visas. The updates are intended to make it easier for foreign national entrepreneurs to obtain these visas. For example, under the current guidance job creation and economic growth, either direct or indirect, could be considered to be in the U.S. national interest and allow foreign entrepreneurs to self-sponsor to apply to obtain permanent residency under the EB-2 NIW category. Prior to this guidance, the EB-2 NIW category was primarily used by professionals with advanced degrees and individuals with exceptional abilities in the areas of arts, sciences, or business whose work benefited the U.S. To read the Q&A document [click here](#)



CIS Ombudsman Makes Welcomed Recommendations to EAD Processing

Delays in Employment Authorization Document (EAD) issuance can significantly impact foreign nationals and their employers. The Ombudsman has reviewed the causes for these delays and issued recommendations to USCIS to improve the process including:

- Establish methods at local offices to facilitate immediate resolution;
- Establish a uniform processing time goal of 45 days for adjudication and 60 days for issuance of an EAD;
- Improve monitoring and ensure real-time visibility through an automated system for tracking processing times;
- Follow established internal procedures for issuing interim EADs in cases where background checks are pending; and
- Issue replacement EADs with validity dates beginning on the date the old EAD expires.

We are hopeful that USCIS will consider and implement these suggestions. For additional information, [click here](#)

Prevailing Wage Determinations are Temporarily Suspended

Many foreign employees and employers are at a stand still due to the federally mandated recalculation of approximately 4,000 H-2B visas prevailing wages. The DOL has indicated that it will not be able to issue prevailing wage determinations for



PERM filings until on or about October 1, 2011. This could present maintenance of status problems for

H-1B workers that are approaching the end of their 5th year in H-1B status and are dependant on their PERM approval to extend their status in the U.S. We are following this development and will provide updates. For more details, [click here](#)

Maryland School to Pay Millions in Back Wages for H-1B Violations

The Prince George County Public School system has agreed to pay \$4.2 million dollars in back wages to its foreign workers. The H1-B visa program requires employers to pay certain fees when utilizing the program. Instead, the school system required the foreign workers to pay the fees out of their salary, which resulted in reduced earnings below the prevailing wage legally required to be paid. For more information, [click here](#)

ICE Audits Three New England Companies Employing Illegal Workers

In a continuing effort to protect employment opportunities for American workers, ICE recently fined three New England companies a little over \$240,000 for supporting illegal workplaces. U.S. Immigration and Customs Enforcement agency continues to investigate companies to ensure they are not hiring ineligible workers. Employers are required to complete and retain a form I-9 for each person employed in the United States since 1996. For more information on ICE, [click here](#)

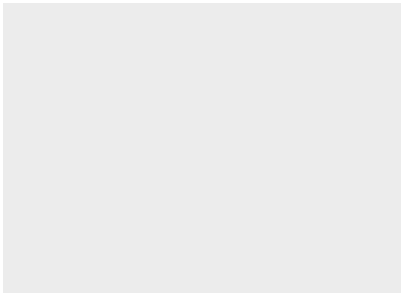


Mississippi Partners with E-Verify to Combat Fraud

Mississippi launched Records and Information from DMV's for E-Verify (RIDE) in June. Mississippi is the first state to partner with RIDE to protect employee's data and confirm eligibility to work in the U.S. Most employees use their drives licenses to verify their identity when completing the Form 1-9 at their workplace. RIDE has shown accurate to combat fraudulent documents. RIDE is expected to expand to other states soon. For more information, [click here](#)

DOJ Sues Employer Over I-9 Document Abuse

The DOJ sued a Georgia employer because the employer demanded different work eligibility documents from its foreign citizens than from its U.S. citizen employees. The Immigration and Nationality Act (INA) prohibits employers from placing different or



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additional burden on work-authorized employees based on their citizenship or national origin. An investigation into this employer showed a pattern of discriminatory conduct during the hiring and I-9 process. For additional info, [click here](#)

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