



## Immigration Update January, 2014

**2013**  
IN A FLASH 

As we prepare for another exciting year of immigration news, we are looking back at the top stories of 2013 and providing a preview of what to expect this year.

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### H-1B Visa Cap Reached in Five Days!

In 2013, the H-1B cap was reached in the first five days of filing and USCIS conducted a visa lottery to select the lucky petitions. The high demand for H-1B visas is expected



to continue in 2014. We are encouraging those interested in new H-1B visas to begin the process in February. USCIS will start accepting petitions for new H-1B visas on April 1, 2014.

### Comprehensive Immigration Reform

The promise of the passage of a comprehensive bill looked hopeful last June when the U.S. Senate passed bill S. 744 which included a path for legalization for unauthorized immigrants, an expansion of E-Verify, an increase in the number of temporary work visas and a plan to clear the immigrant visa backlogs. The bill would have been the first overhaul of our immigration system since 1986. However, a bipartisan vote was not reached as the House did not support the comprehensive plan .



### About the Author



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Ms. Carson focuses her practice in U.S. and Global Immigration

### A New Form I-9

After working on a suitable form for almost a year and

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without much warning, the USCIS released the 7<sup>th</sup> edition of Form I-9 in March, 2013. The reformatted form is two pages and has expanded fields. Our audits of clients' I-9 have shown that employers are forgetting to insert the name of the employee at the top of page 2. Please carefully review your new Form I-9s and make this correction, if needed.

# I-9

### PERM Application Audits Up and Processing Delayed

The DOL continued to scrutinize, audit and deny a significant number of applications for permanent labor certification (PERM). Approximately 30% of cases were audited, of those 50 percent were denied. Processing times have increased significantly.



It is taking about a year for a PERM audited case to be adjudicated and five to six months for a case not audited. With these lengthy processing times, it is critical the employers and employees start planning early for the "green card" process.

### The Government Shutdown

Last year's 16-day federal government shutdown led to significant delays and interruption in immigration services. Specifically, internet-based E-Verify, filing labor conditions applications and permanent labor certifications. As a result, delays in adjudications are still being experienced.



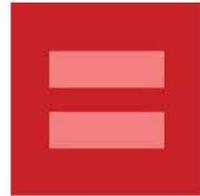
### The End of the Paper Form I-94

In April, CBP implemented an electronic Form I-94 processing for foreign nationals arriving in the U.S. via air and sea. Only foreign nationals arriving at a land border are now issued paper I-94's. Foreign nationals affected by this change are receiving a passport entry stamp instead of the paper I-94 and are expected to retrieve their electronic I-94 record of admission at [www.cbp.gov/I94](http://www.cbp.gov/I94).



### DHS Recognizes Same Sex Marriage

After many years of resistance, DHS quickly moved to adjudicate same-sex marriage petitions after the U.S. Supreme Court decision in *U.S. v. Windsor* (2013) to strike the Defense of Marriage Act (DOMA).



What will 2014 bring?

**In 2014, we anticipate to see some of the same and also some promising news!**

There are ongoing efforts to reform our immigration laws through a series of incremental bills at the federal and state levels. Republican House Speaker Boehner is supportive of House bills dealing with specific issues such as the Dream Act, visas for high-skilled workers and potentially legalization but not naturalization for undocumented immigrants.

The president of the U.S. Chamber of Commerce in his annual "State of American Business" indicated that the Chamber - through grassroots lobbying, communications, politics and partnerships with unions, faith organizations, law enforcement and others will work to get immigration reform passed.

At the state level, there are emerging immigrant-friendly bills in states like California, Oregon and Illinois. These bills authorize undocumented persons to apply for driver's licenses, limit who state and local police can hold for deportation at the request of ICE and allow certain undocumented immigrants to pay college in-state tuition.

The Visa Bulletin for February 2014 shows priority dates for EB-2 India at November 15, 2004 and China at January 08, 2009. It is expected that EB-2 India will not change much until around June. Other cut-off dates are expected to continue to move slightly forward every month.

We also expect ongoing delays in adjudication by DOL and USCIS and emphasis on employers' compliance with the employment verification process and expansion of E-Verify.

I am extremely proud to be able to work with our distinguished clients and readers to continue to promote competitiveness and diversity in the U.S. and assist foreign nationals to achieve their aspirations to live and work in the U.S.

I look forward to another fascinating year of immigration news and to continue to bring you important updates.

Cheerfully,

A handwritten signature in blue ink that reads "Giselle Carson".

Giselle Carson

Marks Gray, P.A.