

Newsletter

Immigration Monthly - November 2013

11/15/2013

Welcome to the November issue of our monthly newsletter. This is a complimentary service to clients and friends of the Firm to keep you informed of immigration law developments that may affect you or your organization. Please contact Munsch Hardt's Immigration Team with your comments and questions.

HOLIDAY REMINDER: With the holiday season upon us, please make your immigration and travel plans in advance and remind your employees to do the same. Importantly, while many foreign nationals plan on visiting their home countries during extended holiday vacations, some of them will have to obtain new visas before returning to the U.S. Failure to timely schedule one's consular visa appointment or to submit all of the documentation for visa issuance, may lead to significant travel delays.

DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

While the federal government shutdown is now over and government agencies are back at work, the aftermath of the recent 2 week long "stop work" for certain immigration proceedings and, particularly, those with processing involving Department of Labor adjudication, is ongoing. USCIS has recently confirmed that H-1B, H-2A, and H-2B petitions filed past the filing deadline, but with credible evidence establishing the primary reason for a belated filing was due to the government shutdown, would receive special consideration to excuse the late filing. Discuss this development with your immigration legal counsel to assure that your or your employees' proceedings are treated properly if delayed by the shutdown.

By the beginning of this month, U.S. Citizenship and Immigration Services (USCIS) has accepted nearly 8,500 H-2B petitions towards the semi-annual cap of 32,000. This includes 7,258 approved and 1,205 pending proceedings. Importantly, with the government-mandated H-2B filing preparation and cap limitations, it is important to plan H-2B filings as far in advance as possible.

DHS has recently announced an extension of the Temporary Protected Status (TPS) for nationals of Somalia. The extension covers an 18 month period from March 18, 2014 to September 17, 2015. Current TPS beneficiaries from Somalia must re-register with the USCIS during a 60 day period between November 1, 2013 to December 31, 2013. This TPS extension allows beneficiaries to apply for a new Employment Authorization Document (EAD) to secure work authorization in the U.S. through September 2015.

DEPARTMENT OF LABOR (DOL) INFORMATION:

The DOL's Office of Foreign Labor Certification (OFLC) has issued a Stakeholder Notice regarding the Handling of Applications and Responses affected by the government shutdown. The Notice addresses the stakeholders' concern regarding the effects of the recent federal government shutdown on time-sensitive applications that involve DOL processing. The OFLC's Notice advises that PERM and H-2B applications mailed, hand-delivered, or e-mailed and received between October 1st and October 18th will be considered filed on October 18th. Even if an October 18th receipt date would render recruitment or a prevailing wage determination expired, these applications still would be viewed as timely filed.

If the employer did not submit its PERM or H-2B applications between October 1st and October 18th, OFLC continued to accept eligible applications via mail, hand-delivery, e-mail, or the iCERT portal through November 14, 2013, and considered them timely filed.

Department of state (DOS) news:

The DOS Visa Bulletin for December 2013 reflects several significant developments. Most notably, Employment-Based 2nd (EB-2) category for Indian nationals, retrogressed 4 years and 4 months with permanent

immigration proceedings with the priority date of November 15, 2004 being processed in December. Employment-Based 3rd (EB-3) category for India retrogressed by 3 weeks, to September 1, 2003. EB-3 for nationals of Mexico, however, made considerable progress by jumping 1 year to October 1, 2011. EB-3 under the “Other Workers” category has advanced 1 year, to October 1, 2011. All family-based preference categories experienced slight advancement ranging from 1 week to 1 ½ months. With the considerable processing timeline changes above, discuss your or your employees’ eligibility for an adjustment of status filing with your immigration counsel, to take advantage of the newly available immigrant visas.

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