

Newsletter

Immigration Monthly - September 2013

9/15/2013

DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

The DHS's United States Citizenship and Immigration Services (USCIS) has just started using Customer Identity Verification (CIV) system at its field offices. USCIS office attendees have to undergo fingerprinting and photos when appearing for interviews or to apply for or inquire about various immigration benefits. CIV scans two fingerprints, takes a picture, and verifies a customer's identity within a few minutes and prior to an interview or visit with an immigration agent. Importantly, individuals who come to the USCIS offices for InfoPass appointments or to accompany another person, do not undergo this process.

Caution – Telephone Scam! USCIS has issued a word of caution regarding “caller ID spoofing” that has been linked to calls from the USCIS offices. Scammers, posing as USCIS officers and providing misleading phone number information to caller IDs, seek to obtain personal information from USCIS customers-to-be, including Social Security data, immigration file numbers, and passport information, and ask for payment to correct the call recipient's immigration records. Do not engage in discussions with these scammers and do not provide any personal information and/or payment!

DEPARTMENT OF JUSTICE (DOJ) NEWS:

Two recent decisions from the Department of Justice's Office of the Chief Administrative Hearing Officer (“OCAHO”) appear to recognize that the level of fines levied by Immigration and Customs Enforcement (“ICE”) against employers for I-9 violations may be too aggressive if ICE fails to consider the totality of circumstances. In *U.S. v. Natural Environment*, the company's attempts to comply with ICE's I-9 request for review were hampered due to their misinterpretation of ICE's instructions when trying to correct the deficient I-9. ICE concluded that the corrections constituted willful violations and raised the fines accordingly. OCAHO reviewed the case and concluded that the penalties assessed by ICE were excessive, and ordered them reduced. In *U.S. v. Red Coach*, OCAHO reduced the fines levied by ICE against the employer by more than 50% as the initial fines assessment did not take the employer's prior untarnished immigration record into consideration. Contact your immigration counsel to discuss your I-9 compliance program and to proactively develop a plan of action for an audit.

DEPARTMENT OF STATE (DOS) NEWS:

The DOS Visa Bulletin for October 2013 indicates some progress with regard to the priority dates for Employment-Based 2nd (EB-2) and “Other Workers” preferences for nationals of China. The EB-2 priority date jumped 37 days to September 15, 2008 and the Other Worker preference category advanced a little over 3 months to September 22, 2004. Please also note that the severely retrogressed priority date for the Employment-Based (EB-3) preference for nationals of the Philippines modestly advanced 15 days to December 15, 2006. Although there was little movement in this month's bulletin, it is important to discuss your or your employees' potential eligibility for an Adjustment of Status filing with your immigration counsel, to take advantage of any available immigrant visa numbers.

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