

Newsletter

Immigration Monthly - April 2013

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DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE

- **H-1B Cap Reached.** The H-1B petition filing season was very short. For the first time since 2008, the U.S. Citizenship and Immigration Services (USCIS) has received sufficient number of H-1B petitions to exhaust the statutory annual cap of 65,000, within the first five (5) days of the filing period (i.e., from April 1 to April 5). Moreover, the government has also received more than 20,000 H-1B petitions for foreign workers with U.S. graduate degrees. Approximately 124,000 H-1B petitions were received during the first week of filing, and the USCIS has used a computer-based lottery to select the statutorily limited number of H-1B proceedings under both the regular and the advanced degree cap. While the results of the lottery selection should become known within the following couple of weeks, the USCIS no longer accepts any petitions subject to the H-1B cap. If you did not file H-1B proceedings by early April or your H-1B proceedings are not among the "lottery winners," discuss H-1B alternatives with your immigration legal counsel.
- **Reminder:** as of May 7, 2013, employers must start using the newly updated Form I-9 for employment eligibility verification. The latest Form I-9 edition is dated March 8, 2013 and reflects changes to the I-9 documentary and completion requirements.
- On May 6, 2013, the USCIS will begin using the Customer Identity Verification (CIV) system at its field offices. Applicants for immigration benefits will be required to undergo biometric identification via fingerprints and photographs when reporting to USCIS offices for interviews or to receive evidence of immigration benefits conferred.

CUSTOMS AND BORDER PROTECTION (CBP) NEWS

- CBP has recently published an interim final rule pertaining to Form I-94, Arrival/Departure Record, automation for all foreign nationals entering the U.S. by air and sea. Short of an unanticipated delay, the new rule should become effective on April 26 and, as of that date, CBP will no longer issue the paper Form I-94 at its sea and air arrival points, but will continue to issue admission stamps in the arrivals' passports. CBP officers will also make handwritten notations indicating the entry applicant's immigration status and authorized period of stay in the U.S. Additionally, CBP will create electronic records for arriving nonimmigrants, and these records would be available for viewing at the CBP's upcoming portal: www.cbp.gov/I94, beginning May 2013. Arriving foreigners would be able to verify their class of entry and term of admission electronically, and print an admission record receipt. In order to access the electronic record and print the admission data, one will be required to enter his or her name, passport number, date of admission, and port of admission.

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