

Newsletter

Immigration Monthly - January 2013

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DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

- New Year, New H-1B's...The new H-1B filing season will begin on April 1, and it is now time to consider your professional worker visa needs for the government's fiscal year starting October 1, 2013, plan H-1B proceedings, and gather the necessary documentation. In the meantime, options remain if you are looking to bring in new hires for an immediate employment start date. Certain H-1B Petitions are not subject to the government's fiscal year numerical cap, and a few additional visa categories including TN (for Canadian and Mexican nationals), E-3 (for Australian citizens), and, in some cases, E, L, J-1, or H-3 visa categories may offer a solution. Employers should discuss petition preparation and filing timelines with their immigration legal counsel.
- The U.S. Citizenship and Immigration Services (USCIS) has announced extension of Temporary Protected Status (TPS) designation of South Sudan and Sudan through November 2, 2014. In October 2012, TPS designation of Haiti was extended as well, and while the initial re-registration period has expired, DHS has extended the re-registration period for Haitians through January 29, 2013, because of Hurricane Sandy. Current and prospective TPS beneficiaries must comply with certain time-sensitive documentation and application requirements and may be able to obtain work authorization. Employers may encounter a TPS situation in the context of I-9 verification or re-verification and your immigration attorney can assist with proper compliance.

DEPARTMENT OF STATE (DOS) UPDATE:

- The U.S. Mission to the United Arab Emirates has announced a new appointment service for individuals applying for a non-immigrant visa to the U.S. Applicants are now able, via an online system, to schedule their visa interview, pay the visa application fee, and arrange for documents and passport delivery. The new service also provides applicants with more flexibility with regard to visa interview date and allows scheduling of up to six months in advance of U.S. travel plans. As consular visa application procedures and timelines vary from location to location and are subject to change on little or no notice, visa applicants are encouraged to confirm most updated application guidance before travel plans are made.
- The recent signing of the U.S.-Canada Visa and Immigration Information-Sharing Agreement will enable the two countries to share information about third-country nationals (i.e., national of a country other than the U.S. or Canada) who apply for a visa or other permission to travel to either country. Such information is to be used to confirm applicants' identities and certain risk factors in granting visas and other immigration documents, and may include whether the individual has previously been refused a visa or been removed from the country.

IMMIGRATION ENFORCEMENT NEWS:

- The Justice Department continues its focus on immigration-related investigations of employers in a wide range of industries and geographic locales, and has announced recent settlement agreements related to immigration-based discrimination claims and unfair employment practices, including:
- Centerplate Inc., based in South Carolina and one of the world's largest hospitality companies, was investigated for allegedly treating work-eligible non-U.S. citizens differently from U.S. workers in both the I-9 and E-Verify contexts. As part of the settlement agreement, Centerplate will pay \$250,000 in civil penalties; compensate employees for lost wages related to its unlawful immigration-related practices; submit to training by the Justice Department on the anti-discrimination provisions of the Immigration and Nationality Act; and be subject to a 3-year government reporting and compliance period.
- The Justice Department alleged that R-Tronics LLC, a New York-based manufacturing company, unlawfully restricted employment to U.S. citizens, when no law, regulation, executive order, or government contract required such limitation. The company has agreed to cease using the citizenship requirement for employment; revise its employment eligibility verification policies and procedures; provide I-9 training to its human resources department; and be subject to a 3-year government reporting and compliance period.

- Holliswood Hospital in Queens, New York was investigated for alleged claims that it required U.S. lawful permanent residents to present more or different documents during the I-9 employment eligibility verification process, beyond what is allowed under the I-9 rules. As part of the settlement agreement, Holliswood will pay more than \$6,000 in back pay and civil penalties; provide I-9 training to its human resources department; and be subject to an 18-month government reporting and compliance period.

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Related Practices

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