



ATTORNEYS AT LAW

Stephen C. Trow (DC)
Linda A. Rahal (DC/MD)
Cynthia B. Hemphill (DC/NY)
Norma Briscoe Hoffpauir (DC/MD/PA)

Immigration Update – August 16, 2004

Trow & Rahal, P.C. is pleased to provide this Immigration Update as a service to our clients and friends.

Second Chance for “Gap in the Cap” Cases

U.S. Citizenship and Immigration Services (CIS) has announced that it is willing to reopen and approve applications by students for change of status from F-1 or J-1 to H-1B that were denied due to the expiration of their status prior to October 1, 2004, when new H-B visa numbers will be available under the H-1B visa cap. Previously, all such “gap in the cap” applications were denied. To reopen a denial, a Motion to Reopen must be filed by August 23, 2004.

Longer Duration for Employment Authorization Documents

CIS has announced that it will now grant initial or renewal EADs with validity periods longer or shorter than one year, based on the applicant's immigration status, processing times for the underlying application or petition, required background checks, response times for background checks, and other factors. With processing times for employment-based adjustment of status applications now over two years, we hope that CIS will begin granting two-year EADs for these cases.

Passport Style Photos Required as of September 1, 2004

CIS has started accepting full-frontal passport style photographs for all applications, instead of $\frac{3}{4}$ frontal (right ear showing) green card style photographs. CIS will continue to accept green card style photographs until September 1, 2004, when passport style photographs will be mandatory for all applications. In either case, photographs should not be more than 30 days old, and if an applicant must submit more than one photograph, all photographs must be identical. Instructions for taking passport style photographs are available at <http://travel.state.gov/passport/pptphotos/index.html>

August 16, 2004

Page 2

2005 DV Lottery Results

The Department of State has sent letters to all applicants who were selected in the 2005 Diversity Visa Lottery. Winners need to act quickly to complete their applications for permanent resident status by September 30, 2005. Spouses and children who are accompanying or following to join the principal applicant must also complete their applications by September 30, 2005. Not everyone who is selected will be able to obtain permanent resident status. DOS notifies approximately twice as many applicants as it can accept, expecting that many applicants will not go forward or will be found ineligible.

USVISIT "Check Out" Sites Expanded

The USVISIT program requires many foreign nationals to be photographed and fingerprinted upon arrival in the United States. Travelers who are subject to USVISIT upon arrival must "check out" upon departure if they leave through an airport or seaport that has "check out" facilities. Initially only at the Baltimore-Washington International airport in Maryland and the Miami, Florida seaport had such facilities. Check out facilities have now been installed at the following locations:

Airports:

Agana, Guam (Agana International Airport)
Atlanta, Georgia (William B. Hartsfield International Airport)
Baltimore, Maryland (Baltimore/Washington International Airport)
Chicago, Illinois (O'Hare International Airport)
Dallas/Fort Worth, Texas (Dallas/Fort Worth International Airport)
Denver, Colorado (Denver International Airport)
Detroit, Michigan (Detroit Metropolitan Wayne County Airport)
Las Vegas, Nevada (McCarran International Airport)
Newark, New Jersey (Newark International Airport)
Philadelphia, Pennsylvania (Philadelphia International Airport)
Phoenix, Arizona (Phoenix Sky Harbor International Airport)
San Francisco, California (San Francisco International Airport)
San Juan, Puerto Rico (Luis Munoz Marin International Airport)

Seaports:

Miami, Florida
Los Angeles, California (including San Pedro and Long Beach)

DEPARTURE REQUIREMENTS: When departing the U.S. at designated airports and seaports, nonimmigrant visa holders can be required to provide fingerprints, photographs, or other specified

August 16, 2004

Page 3

biographic data. At many locations this will be handled by automated kiosks, similar to bank ATM machines. Travelers who enter the U.S. through a participating port and depart through a non-participating port should keep boarding passes or other documents to show the date and place of their departure. They may need these documents on future visits to the U.S. to demonstrate that they did not fail to comply with departure requirements at a designated departure port.

EXEMPTIONS: The following persons continue to be exempt from US-VISIT requirements: (1) U.S. citizens and permanent residents (green card holders); (2) tourists and business visitors who enter the U.S. without a visa under the Visa Waiver Program; (3) Canadian citizens who enter without a visa; (4) those under the age of 14, or over the age of 79; (5) those holding the following types of visas: A-1, A-2, C-3 (except attendants, servants or personal employees of accredited officials), G-1, G-2, G-3, G-4, or NATO-1 through NATO-6; and (6) those otherwise exempted by the government.

* * *

If you have questions about any of the issues outlined above, or any other immigration matter, please contact one of the Trow & Rahal attorneys listed below.

- Steve Trow strow@TrowLaw.com
- Linda Rahal lrahal@TrowLaw.com
- Cynthia Hemphill chemphill@TrowLaw.com
- Norma Hoffpauir nhoffpauir@TrowLaw.com

Subscribe

If you would like to subscribe to Immigration Updates from Trow & Rahal, please send an email to info@TrowLaw.com with SUBSCRIBE in the subject line. There is no charge to subscribe, and we will not release your email address to others.