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Headlines:

USCIS Recalls 800 Incorrectly Printed Employment Authorization Documents – USCIS said the cards contain a production error that transposed the first and last names of the individuals receiving the EADs.

ICE/SEVP Warns Students About Volunteer Positions – SEVP warned that reporting non-qualifying volunteer opportunities as OPT employment will be deemed a violation of reporting requirements and subject the student to removal from the United States.

USCIS Releases Data on DACA Requestors With 'Criminal Arrest Record' – USCIS said the report includes those whose applications were approved and denied, criminal and immigration-related civil offenses, and arrests and "apprehensions." The report notes that the data include those who have not been convicted of any crimes.

USCIS Completes Lottery for Temporary Increase in FY 2018 H-2B Cap – USCIS has completed a lottery for H-2B temporary nonagricultural petitions under a temporary final rule that increased the numerical limit, or cap, on H-2B nonimmigrant visas by up to 15,000 additional visas through the end of FY 2018.

ICE Arrests 146 on Immigration Violations at Ohio Meat-Processing Company – ICE said the enforcement action is part of a year-long, ongoing investigation based on evidence that Fresh Mark may have knowingly hired undocumented workers at its meat processing and packaging facility, and that many of these workers are using fraudulent identification belonging to U.S. citizens.

Labor Dept. Adds Time Received to Receipt Date for Review of H-2B Temporary Labor Certification Applications; Related News – OFLC released information on how H-2B applications for temporary employment certification filed by employers on or after July 3, 2018, will be assigned to staff for review.

USCIS Sends Letter on B-1/B-2 Upcoming Proposed Regulation – Proposed regulatory revisions will clarify the criteria for according B-1 or B-2 nonimmigrant classification to applicants for admission to the United States.

Expect Retrogression of Mexico E-4 and SR Final Action Dates in July, State Dept. Says – There continues to be high demand in the Mexico E-4 and SR categories, which is expected to result in the Mexico E-4 per-country limit being reached during June.

132 Members of Congress Urge DHS to Continue Allowing H-4 Spouses of H-1B Nonimmigrants to Work – The letter notes that providing work authorization for accompanying spouses helps U.S. employers recruit and retain highly qualified employees.

USCIS Announces Launch of Online FOIA Request Processing System – USCIS is commencing digital delivery of this service in phases. Initially, requestors who have an immigration court date pending and file a request for documents can create an account within myUSCIS to receive documents digitally.

SAVE Goes Paperless – Benefit-granting agencies using USCIS' Systematic Alien Verification for Entitlements program, used to verify a benefit applicant's immigration status, can no longer submit paper

versions of verification requests.

ABIL Global: Australia – Australia has implemented the Temporary Skills Shortage visa and employer nomination sponsored visas.

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USCIS Recalls 800 Incorrectly Printed Employment Authorization Documents

On June 21, 2018, U.S. Citizenship and Immigration Services (USCIS) began recalling approximately 800 employment authorization documents (EADs) that were issued in conjunction with Form I-589, Application for Asylum and for Withholding of Removal, which were granted by USCIS asylum officers. USCIS said the cards contain a production error that transposed the first and last names of the individuals receiving the EADs. USCIS mailed these cards to recipients in April and May 2018.

USCIS said it is sending notices to individuals who received the incorrect EADs, as well as to their attorneys or accredited representatives, if a G-28 was submitted with the corresponding Form I-589. The agency said the affected individuals should return their incorrect EADs to USCIS in the provided pre-paid envelope within 20 days of receiving the notice. Recipients may also return their EADs to a USCIS field office. Replacement EADs will be sent within 15 days of receiving the incorrect card, USCIS said.

USCIS noted that the recall does not affect these individuals' employment authorization because they are authorized for employment without needing an EAD. Affected recipients' Forms I-94 showing that they were granted asylum is also evidence that they are authorized to be employed. USCIS said that any affected individuals who need proof of their employment authorization can notify the USCIS Contact Center.

The USCIS notice is at <https://www.uscis.gov/news/alerts/uscis-recall-800-incorrectly-printed-employment-authorization-documents>. More information about the USCIS Contact Center, including the telephone numbers to call, is at <https://www.uscis.gov/contactcenter>.

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ICE/SEVP Warns Students About Volunteer Positions

U.S. Immigration and Customs Enforcement's Student and Exchange Visitor Program office broadcast the following on May 18, 2018, to students on optional practical training (OPT):

Volunteer positions that are not directly related to your course of study do not qualify as [OPT] and must not be listed as OPT employment. Reporting non-qualifying volunteer opportunities as OPT employment will be deemed a violation of your reporting requirements and subject you to removal from the United States.

In addition, non-qualifying volunteer positions do not stop the accrual of unemployment which is limited to a total of 90 days during OPT. Accordingly, if you have been unemployed for more than 90 days, you must leave the United States or be subject to removal even if you have volunteered while unemployed.

Note: A volunteer position does not meet the conditions of a science, technology, engineering and mathematics OPT extension.

The alert is at <https://www.ice.gov/sites/default/files/documents/Document/2018/bcm-1805-01.pdf>.

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USCIS Releases Data on DACA Requestors With 'Criminal Arrest Record'

U.S. Citizenship and Immigration Services (USCIS) recently released data on Deferred Action for Childhood Arrivals (DACA) requestors who have a "criminal arrest record." USCIS said the report includes those whose DACA applications were approved and denied, criminal and immigration-related civil offenses, and arrests and "apprehensions." The report notes that the data include those who have not been convicted of any crimes.

The report notes that since 2012, about 1% of approved DACA requestors have an arrest in any given year. "An arrest indicates the individual was arrested or apprehended only and does not mean the individual was convicted of a crime. Further, individuals may not have been charged with a crime resulting from the arrest, may have had their charges reduced or dismissed entirely, or may have been acquitted of any charges. Errors may result from the mining of complex text files."

A breakdown on approved DACA requestors with a prior arrest, by type of offense, shows that the vast majority were for driving-related offenses (20,926), which include driving without a valid license, moving and non-moving violations, and speeding, but exclude driving under the influence. The next-largest category of offense was immigration-related, including visa overstays, immigration holds, and removal and deportation proceedings.

The report is at <https://bit.ly/2K5OO47>.

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USCIS Completes Lottery for Temporary Increase in FY 2018 H-2B Cap

U.S. Citizenship and Immigration Services (USCIS) has completed a lottery for H-2B temporary nonagricultural petitions it began receiving on May 31, 2018, under a temporary final rule that increased the numerical limit, or cap, on H-2B nonimmigrant visas by up to 15,000 additional visas through the end of fiscal year (FY) 2018. In the first five business days of filing, USCIS received petitions for more beneficiaries than the number of H-2B visas available under the FY 2018 supplemental cap. USCIS used a computer-generated selection process to randomly select enough petitions to meet, but not exceed, the increased H-2B cap for FY 2018. USCIS ran this lottery on June 7, 2018, and on June 11, 2018, began issuing notifications to the selected petitioners.

USCIS said it is rejecting and returning unselected petitions with their filing fees, as well as any cap-subject petitions received after June 6, 2018. Petitions accepted for processing will have a receipt date of June 11, 2018. Premium processing service for these petitions begins on that receipt date. Only employers whose petitions were accepted will receive receipt notices.

USCIS noted that a petition may be denied if USCIS discovers, after a petition has been filed, that an original approved temporary labor certification (TLC) was not submitted with the petition in accordance with the Form I-129 instructions, or if a petitioner requests more workers than were certified on the TLC. USCIS will not refund fees for a petition that has been denied.

USCIS continues to accept H-2B petitions that are exempt from, or not counted toward, the cap. These include petitions for:

- Current H-2B workers in the United States seeking to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians, or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of the Northern Mariana Islands and/or Guam, until December 31, 2019.

USCIS noted that Congress set the H-2B cap at 66,000 per fiscal year, with 33,000 for workers who begin employment in the first half of the fiscal year (October 1 through March 31) and 33,000 for workers who begin employment in the second half of the fiscal year (April 1 through September 30). The 15,000 additional visas for FY 2018 are available only to U.S. businesses which, among other requirements, attest that they will likely suffer irreparable harm without the ability to employ all the H-2B workers requested in their petitions.

The USCIS notice is at <https://www.uscis.gov/news/alerts/uscis-completes-lottery-temporary-increase-fy-2018-h-2b-cap>. Information on premium processing is at <https://www.uscis.gov/forms/how-do-i-use-premium-processing-service>. More information on the cap count for H-2B nonimmigrants is at <https://www.uscis.gov/working-united-states/temporary-workers/h-2b-non-agricultural-workers/cap-count-h-2b-nonimmigrants>.

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ICE Arrests 146 on Immigration Violations at Ohio Meat-Processing Company

U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) unit executed a criminal search warrant at Fresh Mark in Salem, Ohio, on June 19, 2018, and federal document search warrants at three other Fresh Mark locations in northern Ohio. During the search warrant execution, authorities identified 146 Fresh Mark employees working at the Salem meat processor who were subject to arrest for immigration violations.

ICE said the enforcement action is part of a year-long, ongoing HSI investigation based on evidence that Fresh Mark may have knowingly hired undocumented workers at its meat processing and packaging facility, and that many of these workers are using fraudulent identification belonging to U.S. citizens.

The action was coordinated with HIS's federal, state, and local counterparts, including the Northern District of Ohio's U.S. Attorney's Office; U.S. Border Patrol, ICE Enforcement and Removal Operations; U.S. Customs and Border Protection Air and Marine Operations; HSI Detroit and Chicago Special Response Teams; the Salem Police Department; and the Columbiana County Sheriff's Office.

ICE said that in the context of any enforcement action, "ICE utilizes prosecutorial discretion on cases involving humanitarian concerns, such as health or family considerations." Accordingly, during the June 19 action, "several individuals were processed and released from custody the same day as a result of humanitarian considerations," ICE said. Aliens who are being detained will be transported to a nearby processing facility and placed in removal proceedings. Aliens will be detained in facilities in Michigan and Ohio while awaiting removal proceedings.

A 24-hour toll-free detainee locator hotline is available for family members of those arrested in the operation to field questions about detention status and the removal process. The hotline operates in English and Spanish; the phone number is 1-888-351-4024.

The ICE notice is at <https://www.ice.gov/news/releases/ice-executes-federal-criminal-search-warrants-fresh-mark-146-arrested-immigration>.

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Labor Dept. Adds Time Received to Receipt Date for Review of H-2B Temporary Labor Certification Applications; Related News

On June 1, 2018, the Department of Labor's Office of Foreign Labor Certification (OFLC) released information on how H-2B applications for temporary employment certification filed by employers on or after July 3, 2018, will be assigned to staff for review. Applications filed on or after that date will be sequentially assigned to analysts based on both the calendar date and time (eastern time zone) on which the applications are received. The receipt time will be measured to the millisecond.

OFLC explained that it continues to experience significant increases in the number of H-2B applications requesting temporary labor certification. Those submissions are generally received on the earliest day employers seeking to obtain visas for their workers under the semi-annual allotments are permitted by regulation to file (i.e., 75 to 90 days before the start date of work), OFLC noted. For example, in the past several second-half semi-annual filing cycles, the overwhelming majority of H-2B applications were received on January 1, which is the earliest date on which an H-2B application may be filed for a period of need beginning on April 1. Because of the intense competition for H-2B visas in recent years, the semi-annual visa allocation, and the regulatory time frames for filing a request for temporary labor certification, stakeholders have also raised questions regarding the earliest time of day on which an application can be submitted to OFLC. To process the significant surge of applications that OFLC expects to receive in a short period of time during the semi-annual visa allotment periods in a more equitable manner and to clarify the time at which an application is received, OFLC will be implementing the new procedures.

The announcement, which includes examples, is at <https://www.foreignlaborcert.doleta.gov/> (scroll to June 1, 2018).

In other news, the Labor Condition Application for Nonimmigrant Workers (Form ETA-9035/9035E) has been extended through June 30, 2018. OFLC said its request for a three-year extension is under review with the Office of Management and Budget (OMB), and that OFLC will continue to extend the form in one-month increments until approved by OMB.

Also, OFLC has published an attestation form (ETA Form 9142-B-CAA-2) and accompanying instructions in support of the temporary rule issued jointly on May 31, 2018, by the Departments of Homeland Security and Labor, "Exercise of Time-Limited Authority to Increase the Fiscal Year 2018 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program." That rule increased the H-2B cap for FY 2018 by up to 15,000 additional visas for U.S. businesses that are likely to suffer irreparable harm (i.e., permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their petitions before the end of FY 2018. Affected employers must submit the new attestation to USCIS along with Form I-129 in support of an H-2B application subject to the H-2B cap before the end of FY 2018.

The attestation form is at https://www.foreignlaborcert.doleta.gov/pdf/Form_ETA-9142-B-CAA-2_05.25.18.pdf. The announcement is at <https://www.foreignlaborcert.doleta.gov/> (scroll to May 31, 2018).

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USCIS Sends Letter on B-1/B-2 Upcoming Proposed Regulation

On May 30, 2018, L. Francis Cissna, Director of U.S. Citizenship and Immigration Services (USCIS), sent a letter to Rep. Paul Mitchell (R-Mich.), who had hosted a May 16, 2018, roundtable on B-1 visa issues. The letter notes that USCIS is reviewing existing regulations, policies, and programs and developing a combination of rulemaking, policy memoranda, and operational changes to implement President Trump's "Buy American and Hire American" executive order. Among other things, the letter states:

One area of focus is the B visa program. As noted in the Spring 2018 Unified Agenda, the Department of Homeland Security (DHS) is working on a proposed regulation pertaining to nonimmigrants admitted to the United States as temporary visitors for business (B-1) or pleasure (B-2). The proposed regulatory revisions will clarify the criteria for according B-1 or B-2 nonimmigrant classification to applicants for admission to the United States. As stated in the Unified Agenda, "Such clarification is necessary to ensure fair and consistent adjudication and enforcement, as well as to make the criteria more transparent."

The letter states that this rulemaking is a "priority" and that USCIS is "taking a lead role in drafting the proposed regulation," which will include an opportunity for public comment.

The letter also references discussion of "B-1 in lieu of H" issues during the roundtable:

As explained, USCIS adjudicates applications from individuals who are already here and wish to extend a stay in B status or change to another nonimmigrant status (that is, change either to or from B status). USCIS also adjudicates employer petitions in H nonimmigrant visa classifications. As part of the above-described regulatory process, we are, in coordination with the Department of State and other immigration components within DHS, reviewing existing policy with respect to "B-1 in lieu of H-1," as well as "B-1 in lieu of H-3."

Director Cissna's letter, copied to six Republicans and two Democrats, refers to a meeting "in the near future" with Rep. Mitchell to "discuss our efforts to improve the B visa program, as well as our other regulatory initiatives and statutory suggestions."

The letter is at https://www.uscis.gov/sites/default/files/files/nativedocuments/B-1_Visa_abuse_-_Representative_Mitchell.pdf.

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Expect Retrogression of Mexico E-4 and SR Final Action Dates in July, State Dept. Says

The Department of State's Visa Bulletin for the month of June 2018 notes that there continues to be high demand in the Mexico employment-based fourth preference (E-4) and special religious (SR) categories, which is expected to result in the Mexico E-4 per-country limit being reached during June. This means that retrogression of the July E-4 and SR Final Action Dates for Mexico is expected, the bulletin states. "This action will allow the Department to hold worldwide number use within the maximum allowed under the FY-2018 annual limits," the bulletin notes.

The Visa Bulletin for June 2018 is at https://travel.state.gov/content/dam/visas/Bulletins/visabulletin_June2018.pdf.

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132 Members of Congress Urge DHS to Continue Allowing H-4 Spouses of H-1B Nonimmigrants to Work

One hundred and thirty-two members of Congress sent a letter on May 16, 2018, to Kirstjen Nielsen, Secretary of Homeland Security, urging maintenance of the current regulation granting work authorization to certain H-4 dependent spouses of H-1B nonimmigrant workers. The letter states that the opportunity for H-4 visa holders to work "has made our economy stronger, while providing relief and economic support to thousands of spouses—mostly women—who have resided in the United States for years." The letter notes that many are on the path to permanent residence and would already be permanent residents if not for decades-long employment

backlogs. "Rescinding the rule will hurt the competitiveness of U.S. employers and the U.S. economy, as well as H-4 accompanying spouses and their families," the letter states.

The letter notes that providing work authorization for accompanying spouses helps U.S. employers recruit and retain highly qualified employees, "putting U.S. policy on par with other countries—such as Canada and Australia—competing to attract foreign nationals." The letter notes additional reasons for allowing H-4 spouses to continue to work in the United States.

U.S. Citizenship and Immigration Services Director L. Francis Cissna responded on May 24, 2018, on Secretary Nielsen's behalf. He stated that the Department of Homeland Security is committed to growing the U.S. economy and creating jobs for U.S. workers, and that the public will be given the opportunity to provide feedback during a notice-and-comment period "on any revisions to regulations that DHS determines appropriate, including revisions relating to the rule providing employment authorization to certain H-4 nonimmigrants."

The letter and Director Cissna's response are at https://www.uscis.gov/sites/default/files/files/nativedocuments/H-4_dependents_of_H-1B_Visa_holders_-_Representative_Jayapal.pdf.

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USCIS Announces Launch of Online FOIA Request Processing System

U.S. Citizenship and Immigration Services (USCIS) recently announced the launch of its "Freedom of Information Act (FOIA) Immigration Records System (FIRST)," which the agency said "will eventually allow users to submit, manage, and receive FOIA requests entirely online." Before this change, USCIS only accepted FOIA requests by mail, fax, and email, and requestors typically received their documents on a CD by mail.

USCIS is rolling out FIRST's digital delivery of services in phases. Initially, requestors who have an immigration court date pending and file a request for documents can create an account within myUSCIS to receive documents digitally. Through their accounts, requestors can track the status of their FOIA cases and will receive an email notification when USCIS has uploaded their records. In the coming months, USCIS said, this digital delivery option will be expanded to all FOIA and Privacy Act (PA) requestors. When FIRST is fully operational, requestors will be able to use a completely digital FOIA/PA system, from online submission to retrieving and downloading responsive documents. USCIS will notify the public as additional services become available.

USCIS said that FIRST is part of the agency's "ongoing effort to move the nation's legal immigration system away from paper-based services to digital transactions."

The announcement is at <https://www.uscis.gov/news/uscis-implement-online-processing-foia-requests>.

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SAVE Goes Paperless

As of June 1, 2018, benefit-granting agencies using U.S. Citizenship and Immigration Services' (USCIS) Systematic Alien Verification for Entitlements (SAVE) program, used to verify a benefit applicant's immigration status, can no longer submit paper versions of Form G-845, Verification Request. Previously, agencies submitted paper forms to request immigration status verification and for additional verification requests. Now all agencies must submit their requests and institute additional verification electronically, which USCIS said would "drastically" reduce case processing time.

"Without the use of paper during the verification process, SAVE will improve its efficiencies by

reducing mailroom workloads and the time spent receiving and reviewing paper documents," said Tammy Meckley, associate director of the Immigration Records and Identity Services Directorate (IRIS) at USCIS. "As a result, we will see a faster resolution of cases for both the requesting agency and the intended benefit recipient."

The SAVE paperless initiative is part of a larger effort by USCIS to eliminate paper-based forms, as the agency transitions to online submission of benefit requests. The agency said the SAVE Paperless Initiative "will eliminate 170,000 paper form submissions and returned responses annually, reducing resource costs and postal fees. Additionally, the transition to a paperless environment will reduce case completion time from 20 days to less than five days."

The USCIS announcement is at <https://www.uscis.gov/news/save-goes-completely-paperless>.

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ABIL Global: Australia

Australia has implemented the Temporary Skills Shortage visa and employer nomination sponsored visas.

While certain transitional arrangements remain, the old Subclass 457 Visa in Australia has now been replaced by the Temporary Skills Shortage (TSS) Visa (Subclass 482).

As with the previous 457 process, the TSS visa process consists of three separate applications: the application by the employer to be approved as a sponsor, the nomination, and the visa application. To sponsor an employee, the employer must be approved as a Standard Business Sponsor. Sponsorship approvals may be valid for five years. In certain circumstances, a sponsor may seek accreditation, which may enable future nominations and may expedite visas for that accredited sponsor.

Central to the nomination application has been the establishment of two separate lists of approved occupations: the Short-Term Skills Occupation List (STSOL) and the Medium and Long-Term Strategic Skills List (MLTSSL). Visas granted relating to nominations of occupations on the STSOL will only be granted for a two-year period. After the two years, a further and final period of two years may be sought. Where International Trade Obligations apply, a four-year visa may be granted. Visa applications granted relating to nominations for occupations on the MLTSSL may be approved for a four-year period.

Only the holders of TSS visas relating to MLTSSL occupations are entitled to be nominated for an Employer Nomination Subclass 186 Permanent Visa. This provision has caused substantial angst. After criticism, certain revisions of the lists have already taken place and occupations previously on the STSOL have been removed and inserted on the MLTSSL.

Nomination

For a nomination to be approved, the following criteria must be met:

- It must be made by an approved sponsor;
- It must relate to an occupation appearing on one of the two lists;
- There must be no adverse information relating to the business of the sponsor;
- The position must be genuine and full-time;
- The sponsor must establish that the salary is a market rate salary; and
- There must be evidence of labor market testing.

As mentioned above, labor market testing is now required for all 482 visas subject to certain exemptions relating to international trade obligations. At present, under the regulations, the relevant position must have been advertised twice within the last six months for at least 21 days

on two separate occasions. Amendments to this provision specifying a one-month period of advertising within the last four months have been passed by the Upper House but not yet implemented.

A further change, not yet effective, that has passed the Senate is the introduction of the Skilling Australians Fund. Under the previous 457 Program, an employer had to demonstrate that it met certain training benchmarks by providing evidence that it had spent the equivalent of 1% of its payroll in training Australian employees. Alternatively, if the employer was unable to establish the 1% requirement, it could pay an amount equivalent to 2% of its payroll to a registered training body to meet this benchmark.

The Skilling Australians Fund legislation will replace the training benchmark provisions with the requirement that, at time of nomination, an employer having a turnover of greater than \$10 million pay to Fund the sum of \$1,800 for each year of the TSS visa. For sponsors having a turnover of less than \$10 million, the amount is \$1,200. The approved amendments also provide for a cap on the contributions payable by a sponsor.

The current training benchmarks remain in force until the new amendments come into effect.

Visa Application

The following are now the requirements for a TSS visa:

- The visa applicant must be the subject of an approved nomination;
- In certain circumstances, the visa applicant must have completed a skills assessment;
- The visa applicant must meet the English language requirement, unless exempted; and
- The visa applicant must meet health and character requirements.

English language requirement. Applicants who are not subject to an exemption must meet the English language requirement. Note that the English language scores required for those visa applicants applying for occupations appearing on the MLTSSL are higher than those appearing on the STSOL.

Health criteria. The TSS regulations now require medical examinations for all TSS visa applicants.

Character requirements. The TSS regulations now require all TSS visa applicants to provide police clearances. However, visa applicants sponsored by an accredited sponsor are not required to obtain these certificates.

Prior work experience. Both the STSOL and MLTSSL require evidence that the visa applicant has worked in the nominated occupation or a related field for at least two years before filing the application. This provision effectively excludes recent graduates from being sponsored for a TSS visa.

The visa applicant who applies for a STSOL occupation must demonstrate that the application is genuine.

EMPLOYER NOMINATION—SUBCLASS 186 VISA

Below is a brief summary of the requirements for the Subclass 186, Employer Nomination Visa. Certain transitional provisions apply to holders of either a TSS or 457 Visa granted prior to April 2017.

The structure of the Subclass 186 visa is unaffected and still consists of three streams: the Temporary Residence Transition (TRT) Stream; the Direct Entry (DE) Stream, and the Labour Agreements Stream. This brief overview does not discuss the latter.

TRT Stream

The following are the current requirements:

- The applicant must hold a TSS as a nominee for an occupation appearing on the MLTSSL. Transitional arrangements continue to apply to those visa applicants who were granted visas prior to April 2017.
- The applicant must have worked for the employer for at least three of the previous four years in the same position for which he or she has been nominated.

Eligibility for All Streams

The applicant must:

- Have been nominated by an Australian employer within the six months prior to application;
- Be under 45 years at the date of application;
- Have the required skills and qualifications at the time of application;
- Have at the time of application the required English language skills;
- Meet health and character requirements; and
- Generally be less than 45 years old at the time of application. However, certain exemptions apply for those applicants applying for an ENS through the Temporary Residence Transition Stream who have been working for the nominating employer as the holder of a TSS or 457 visa for at least three years and who, in each of those years, have received a salary over \$142,000.

English language requirements. Applicants, unless exempted, must prove that they have “competent English”. This means that IELTS Level 6 is required in all 4 categories. Other English language tests have been approved.

Skills requirements. All applicants must demonstrate at least three years of relevant work experience and, in the case of the Direct Entry Stream, a valid Skills Assessment in the nominated position.

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New Publications and Items of Interest

[PERM appeals presentation](#). "PERM Appeals: Submission and Practice Tips," a webinar presentation hosted on June 13, 2018, is posted in PDF format under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web page at https://www.foreignlaborcert.doleta.gov/pdf/PERM_Webinar_Presentation-06.13.18.pdf.

[150-year wait for Indian immigrants with advanced degrees](#). A new blog entry by the Cato Institute notes that as of April 20, 2018, U.S. Citizenship and Immigration Services (USCIS) reported that there were 632,219 Indian immigrants and their spouses and minor children waiting for green cards (U.S. permanent residence). The shortest wait is for the highest skilled category for EB-1 immigrants with "extraordinary ability." The blog states that extraordinary immigrants from India will have to wait "only" six years. EB-3 immigrants—those with bachelor's degrees—will have to wait about 17 years. The biggest backlog, the blog notes, is for EB-2 workers who have advanced degrees. At current rates of visa issuances, the blog estimates that

they will have to wait 151 years for a green card. "Obviously, unless the law changes, they will have died or left by that point," the blog notes. It is available at <https://www.cato.org/blog/150-year-wait-indian-immigrants-advanced-degrees>. The USCIS report referred to in the blog is at <https://bit.ly/2LEALzt>.

Webinars for employers and employees. The Immigrant & Employee Rights Section of the Department of Justice's Civil Rights Division will present a series of webinars for employers and employees. For more information, see <https://www.justice.gov/crt/webinars#ier> webinars.

Alliance of Business Immigration Lawyers press releases. The latest published releases include:

- ABIL Urges Administration to Change "Buy American and Hire American" Executive Order: <http://www.prweb.com/releases/2018/05/prweb15485457.htm>
- ABIL Member Kuck Baxter Immigration Commercial Nominated for an Emmy: <http://www.prweb.com/releases/2018/05/prweb15485460.htm>
- ABIL Members Note Immigration Threats for Employers in 2018: <http://www.prweb.com/releases/2018/03/prweb15261255.htm>

Nation of immigrants. Podcasts on U.S. immigration history and what it means to be an immigrant in America:

- Statutes of Liberty: <http://bit.ly/2thMM9O>
- Code Switch Podcast: What Does It Mean To Be A 'Nation of Immigrants?': <http://n.pr/2FeWWg4>
- Hidden Brain: The Huddled Masses and the Myth of America: <http://n.pr/2Fbo9kC>
- American Pendulum I: <http://bit.ly/2FbYKY3>

E-Verify free webinar listings are at <https://www.uscis.gov/e-verify/e-verify-webinars/take-free-webinar>.

Advisories and tips:

- Community Advisory: Social Media, Criminalization, and Immigration has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.
- How to safeguard your data from searches at the border is the topic of several recent articles and blogs. See, for example, <https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and <https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.
- Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

LexisNexis has released the latest edition of the *Global Business Immigration Practice Guide*. Dozens of members of the Alliance of Business Immigration Lawyers (ABIL) co-authored and edited the guide, which is a one-stop resource for dealing with questions related to business immigration issues in 30 immigration hotspots around the world.

The latest edition adds chapters on Malta and Romania. Other chapters cover Australia, Belgium, Brazil, Canada, China, Costa Rica, the European Union, France, Germany, Ghana, Hong Kong, India, Ireland, Israel, Italy, Japan, Mexico, the Netherlands, Nigeria, Peru, Russia, Singapore, South Africa, Spain, Switzerland, Turkey, the United Kingdom, and the United States.

Latchi Delchev, a global mobility and immigration specialist for Boeing, called the guide "first-rate" and said the key strong point of the book is its "outstanding usability." She said she highly recommends the book and notes that it "is helpful even to seasoned professionals, as it provides a level of detail which is not easily gained from daily case management."

Mireya Serra-Janer, head of European immigration for a multinational IT company, says she particularly likes "the fact that the [guide] focuses not just on each country's immigration law itself but also addresses related matters such as tax and social security issues." She noted that the India chapter "is particularly good. The immigration regulations in India have always been hard to understand. Having a clear explanation of the rules there helps us sort out many mobility challenges."

Charles Gould, Director-General of the International Co-operative Alliance, said the guide is "an invaluable resource for both legal practitioners and business professionals. The country-specific chapters are comprehensive and answer the vast majority of questions that arise in immigration practice. Its clear and easy-to-follow structure and format make it the one volume to keep close at hand."

This comprehensive guide is for:

- Human resources professionals and in-house attorneys who need to instruct, understand, and liaise with immigration lawyers licensed in other countries;
- Business immigration attorneys who regularly work with multinational corporations and their employees and HR professionals; and
- Attorneys interested in expanding their practice to include global business immigration services.

This publication provides:

- An overview of the immigration law requirements and procedures for over 20 countries;
- Practical information and tips for obtaining visas, work permits, resident status, naturalization, and other nonimmigrant and immigrant pathways to conducting business, investing, and working in those countries;
- A general overview of the appropriate options for a particular employee; and
- Information on how an employee can obtain and maintain authorization to work in a target country.

Each chapter follows a similar format, making it easy to compare practices and procedures from country to country. Useful links to additional resources and forms are included. Collected in this Practice Guide, the expertise of ABIL's attorney members across the globe will serve as an ideal starting point in your research into global business immigration issues.

An excerpt of the book is on the ABIL website at http://www.abil.com/global_practice_guide.cfm.

Contact your Lexis/Nexis sales representative; call 1-800-833-9844 (United States), 1-518-487-3385 (international); fax 1-518-487-3584.

ABIL on Twitter. The Alliance of Business Immigration Lawyers is on Twitter: @ABILImmigration. Recent ABIL member blogs are at <http://www.abilblog.com/>.

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Dagmar Butte (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) received the 2018 Susan D. Quarles Service Excellence Award from the American Immigration Lawyers Association (AILA) for her outstanding service in advancing the mission, development, and values of AILA. She received the award during AILA's Annual Conference in San Francisco. For more information, see <https://bit.ly/2JONOOg>.

B.J. Caruso (bio: <http://www.abil.com/lawyers/lawyers-caruso.cfm?c=CA>) was quoted in *The Star*, at:

- <https://www.thestar.com/vancouver/2018/06/07/immigrants-and-visitors-to-canada-working-for-free-a-common-occurrence-lawyers-say.html>
- <https://www.thestar.com/news/canada/2018/05/06/canada-clamps-down-on-flagpoling-with-immigration-restrictions-at-some-border-crossings.html>

Klasko Immigration Law Partners, LLP, will present a webinar, "A Prescription for Success: EB-1 for Doctors," for physicians on the latest immigration news, visa options, and tips on what makes a successful EB-1 petition. The webinar will be held on Wednesday, July 11, 2018, from 12:30 to 1:30 p.m. For more information or to register, see <https://register.gotowebinar.com/register/2032029821121183489>.

Robert Loughran (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>) was a contributing writer to "Viewpoint: New Immigration Policy Likely to Hurt Foreign Students and Their Would-Be Employers," published by *Bizjournals.com* at <https://www.bizjournals.com/austin/news/2018/06/07/viewpoint-new-immigration-policy-likely-to-hurt.html>.

Mr. Loughran was interviewed by National Public Radio on its Austin, Texas, edition of "All Things Considered" regarding the recent proposal to change the interpretation of the "unlawful presence" policy language as it relates to foreign nationals in the United States as F-1 and M-1 students, as well as J-1 exchange visitors. The interview also covered how these policy changes could affect the U.S. doctor shortage and potentially restrict academic talent in the United States.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) co-authored a new blog entry with **Sophia Genovese**. "How Trump Administration Officials Can Be Found Criminally Culpable for Separating Children From Parents" is at <https://bit.ly/2KeDXle>. He also authored a new blog entry. "Can the Beneficiary Pay the Fee in Federal Court Litigation Challenging an H-1B Visa or Labor Certification Denial?" is at <https://bit.ly/2JU8Mi6>.

Mr. Mehta received the 2018 Edith Lowenstein Memorial Award from the American Immigration Lawyers Association (AILA) for excellence in advancing the practice of immigration law. He received the award during AILA's Annual Conference in San Francisco, California. For more information, see <https://bit.ly/2HRrFgH>.

Mr. Mehta was quoted in "USCIS Change Could Bar Many International Students," published by *Forbes*. "There has always been a strict distinction between violating status and being unlawfully present in the United States. One can be in violation of status without being unlawfully present. Even if an F, J and M student dropped out of school or engaged in unauthorized work, he or she would be considered to have been in violation of status but not accruing unlawful presence. This is because an F, M and J nonimmigrant is usually admitted for a Duration of Status (D/S) rather than up to a certain date." The article is at <https://bit.ly/2LAI9vR>.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) will talk about "Our Broken Immigration System and How to Fix It" at Dartmouth's Osher Lifelong Learning Institute in Hanover, New Hampshire on August 2, 2018, as part of a series, "Our Divided Country: How to Find Common Ground." For more information or to register, see http://osher.dartmouth.edu/summer_series/.

Mr. Yale-Loehr was quoted by *Raw Story* in two recent articles:

- "Separating 3-year-olds from their parents at the border is not the way to stop the MS-13 gang. The real problem is these countries in Central America are suffering such horrendous violence that people are forced to flee." <https://www.rawstory.com/2018/06/watch-kristjen-nielsen-gets-chased-mexican-restaurant-dsa-activists/>
- "I think the administration is trying to scare families from coming to the United States by claiming they'll be separated from their children if they try. But there has not been any evidence deterrence is successful, in some ways because it's too early to tell since it takes a month or more to travel from central America. Also, the administration may be underestimating the fear of gangs in their home countries. If someone is really desperate, they're not going to pick up a US newspaper and worry about what might happen at the border. For many people it truly is a life or death situation to need to flee the gangs in those countries. Separating kids from their families after they've made the long, dangerous trek to the border is "cruel and inhumane." <https://www.rawstory.com/2018/06/ice-director-refuses-say-whether-not-trumps-camps-border-inhumane-law/>

Mr. Yale-Loehr was quoted in the following articles:

- "Trump's Immigration Executive Order Puts Flores in Spotlight," Law360. Mr. Yale-Loehr said it is unlikely the court will grant President Trump's request to amend the *Flores* settlement. He pointed out that the Obama administration had unsuccessfully tried to amend the settlement when over 120,000 migrants were apprehended at the U.S.-Mexico border in 2014, requesting almost identical modifications. Available by subscription.
- "What Trump's Family Separations Executive Order Does," CNN. "This [executive order] is narrower than I anticipated. Politically, this allows the administration to assert that it wants to detain families indefinitely—but a court won't let them do it." <https://www.cnn.com/2018/06/20/politics/trump-family-separation-executive-order/index.html>
- "Trump Administration Asks Court to Lengthen Detention Time Allowed for Immigrant Kids," San Francisco Chronicle. "This is an updated rehash of the arguments the government unsuccessfully made in 2015." <https://www.sfgate.com/nation/article/Trump-administration-asks-court-to-lengthen-13015581.php>
- "Trump's Plan for Immigrant Families Likely Doomed in Court," Bloomberg News. "Assuming Judge Gee bars the Trump administration from modifying the Flores settlement, the administration can either cave, and blame the judge for illegal immigration, or defy the court, which will lead to more litigation." <https://www.bloomberg.com/news/articles/2018-06-21/trump-s-family-border-fix-likely-doomed-in-court-experts-say>
- "Analysis—Despite Trump Order, Border Child Separations Could Go On: Legal Experts," Reuters. "I predict a lot more litigation on this issue because the executive order does not settle anything once and for all." <http://news.trust.org/item/20180621205656-gpma0/>

- "There Are Effective Alternatives to Family Detention. The Trump Administration Already Ended One," Time. <http://time.com/5319135/family-separation-policy-detention-alternatives/>
- "SU Law Professor Says the Future for Immigrant Families Remains Uncertain," WAER. <http://waer.org/post/su-law-professor-says-future-immigrant-families-remains-uncertain>

Mr. Yale-Loehr recently co-presented a live-streamed program from Cornell Law School, "Immigration Law and Policy: What's Changed, What Hasn't and What Might in the Trump Administration." A video recording of the presentation is at <https://cornell.hosted.panopto.com/Panopto/Pages/Viewer.aspx?id=fe558488-8361-4d39-b22a-a8e800c1648d>.

Mr. Yale-Loehr was quoted by USA Today in "House GOP Releases Compromise Immigration Legislation That Would Protect DREAMers, Fund Wall." Mr. Yale-Loehr noted, "Trump should be pretty happy with this bill because it's pretty close to what he put forth in his four pillars. It's really not a compromise. There's not a lot here that will help immigrants, other than putting DACA recipients on a slow path to a green card." The article is at <https://www.usatoday.com/story/news/politics/2018/06/14/gop-immigration-text-released/703064002/>.

Mr. Yale-Loehr was quoted by the Real Deal in "South Florida is Coming Off Its EB-5 Addiction: Developers Now Less Reliant on Cash-for-Visa Program to Fill Capital Stack." Mr. Yale-Loehr noted, "In 2008 or 2009, developers could not find other access to capital." He also said that interest from Chinese investors in the program is waning due to a growing backlog of visa seekers, which is adding significantly to the waiting period for a green card. "They don't want to wait over a decade to get an EB-5 green card." He added that all EB-5 investors "need to be careful about what project they are investing in and the negative publicity makes it more difficult to find EB-5 investors." The article is at <https://therealdeal.com/miami/2018/06/04/south-florida-is-coming-off-its-eb-5-addiction/>.

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS Service Center processing times online:
<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of State Visa Bulletin: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Visa application wait times for any post: <https://travel.state.gov/content/visas/en/general/wait-times.html/>

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 400 member lawyers and their 1,000 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and

sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.

Disclaimer/Reminder

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

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