

U.S. Immigration News for Japanese Companies - May 2013

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Practices: Immigration

AUTOMATION OF FORM I-94 ARRIVAL/DEPARTURE RECORD

Beginning on April 30, 2013, U.S. Customs and Border Protection ("CBP") will begin eliminating the processing of the paper Form I-94, Arrival/Departure Record, completed by foreign travelers to the United States at air and sea ports of entry and will begin implementing an automated process.

Prior to the change, foreign travelers entering the United States are given a white Form I-94 to complete while on board the airplane or ship. The foreign travelers then present the completed Form I-94 with their passports containing their U.S. visa to the CBP officer at the U.S. port of entry. After the CBP officer's inspection, the officer stamps part of the Form I-94, provides the visa class of admission, date of entry and expiration date and places the Form I-94 in the person's passport. The officer then sends the corresponding part of the Form I-94 for data entry into the CBP computer database.

After the Automated Process is implemented, CBP will no longer require foreign nationals traveling by air or sea to complete the paper Form I-94 upon arrival to the United States. Instead, those foreign nationals traveling to the United States by air or sea will have their information electronically transmitted to the CBP using the carrier's passenger manifest information (i.e. the Advanced Passenger Information System or "APIS"). Foreign travelers will still present their passports containing their U.S. visas to the CBP officer at the air and sea ports of entry. The CBP officer, after the inspection, will stamp the travelers' passports. The admission stamps will show the date of admission, visa class of admission and the expiration date of their valid period of stay.

Foreign travelers will be able to obtain a paper Form I-94 by going to the website: www.cbp.gov/I94. At the website, by entering biographic information (as indicated on their visa), date of admission and visa class of admission the individual will be able to print a paper copy of the Form I-94, which will include an 11 digit I-94 number. An instructional video is provided by CBP at: <https://i94.cbp.dhs.gov/I94/jsp/CaptivateVideo.jsp>.

The individual can present the paper Form I-94 to the Social Security Administration when applying for a Social Security Number, and to the State Department of Motor Vehicles (DMVs) when applying for driver's licenses. These agencies will use the paper Form I-94 to access a database to confirm the validity of the Form I-94 and status eligibility of the individual. If the individual is authorized to work in the United States, the individual

should present the paper Form I-94 along with their passport to the U.S. employer when completing the Employment Eligibility Verification Form (Form I-9).

When departing the U.S. by air or sea, foreign travelers' departure will be electronically processed through the carriers' departure manifest information provided to CBP. When departing the U.S. at a land border and not intending to return within 30 days, the foreign traveler should submit a paper Form I-94 to Canadian immigration officials when traveling to Canada and to U.S. CBP officers when departing through Mexico so that their departures from the U.S. are properly entered into the database. If planning to return to the United States after visiting Canada or Mexico, the foreign traveler may want to take the paper Form I-94 with them so that a new Form I-94 will not have to be prepared.

CBP plans on implementing the automation of Form I-94 in four phases as follows:

Week of April 30, 2013: Charlotte Douglas International Airport, Orlando International Airport, Las Vegas International Airport, Chicago O'Hare International Airport, Miami International Airport and Houston Bush Intercontinental Airport

Week of May 7, 2013: Major air and sea ports within field offices in New York, Boston, Buffalo, Baltimore, Detroit, Atlanta, Tampa, Puerto Rico, Miami, Chicago, New Orleans and Houston

Week of May 14, 2013: Major air and sea ports within field offices in San Francisco (including Hawaii and Guam), Tucson, El Paso, Seattle, Portland (including Alaska), Los Angeles, San Diego and Laredo and Pre-Clearance sites

Week of May 21, 2013: All other airports and sea ports

NEW EMPLOYMENT ELIGIBILITY VERIFICATION FORM I-9 RELEASED

USCIS has released a new version of the Employment Eligibility Verification Form I-9. Prior versions of the Form I-9 are not valid for use after May 7, 2013.

Newly hired employees must complete and sign Section 1 of Form I-9 no later than the first day of employment. Employers must complete Section 2 by examining evidence of identity and employment authorization within 3 business days of the employee's first day of employment.

The new version of the Form I-9 is a two-page electronically fillable document with a revised format designed to provide additional guidance in completing the Form. The new version of the Form I-9 does not have to be completed for current employees, but must be used for new employees hired after May 7, 2013. In addition, employers who wish to rehire or reverify an employee's employment authorization after May 7, 2013, should not use the prior version of the Form but instead should complete a new Form I-9 using the newly revised version. In addition to changes on the Form itself, there are more detailed instructions. USCIS has also revised the M-274 Handbook for Employers and Guidance for Completing Form I-9 which we encourage all employers to read. Both the revised Form I-9 and the M-274 are available at the USCIS website at: www.uscis.gov/forms.