

Business Immigration Weekly for December 26, 2014

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Practices: Immigration

CALIFORNIA TO BEGIN ISSUING DRIVER'S LICENSES TO UNDOCUMENTED IMMIGRANTS

California joins other states in allowing its undocumented immigrant population to apply for a special driver's license. Applicants must be able to prove their identity and their residency in the state of California. Similarly to other states that issue these driver's licenses, the text "not acceptable for official federal purposes" will appear on the face of the document. California expects approximately 1.5 million immigrants to apply for the new licenses. Currently, the following states permit undocumented immigrants to apply for a driver's license: Washington, Illinois, Vermont, Connecticut, Washington, DC, Maryland, Colorado, New Mexico, Utah, Nevada as well as the commonwealth of Puerto Rico. Nebraska is the only state where youth granted administrative relief through President Obama's executive initiative for Deferred Action for Childhood Arrivals (DACA) are expressly prohibited from obtaining a driver's license. Illinois began issuing driver's licenses to undocumented immigrants in January 2013.

DOL ISSUES NEW PROCEDURES FOR H-2B PROGRAM PREVAILING WAGE REQUESTS

This week, the DOL issued new guidance to certain H-2B employers with pending prevailing wage requests and to those who have already received their determinations as part of a follow up on recent litigation surrounding prevailing wage determinations based on an employer provided wage survey. On December 8, 2014, the Department of Labor (DOL) ceased issuing prevailing wage determinations based on employer provided wage surveys. The DOL issued this announcement as a result of the federal court of appeals decision rendered by the Third Circuit on December 5, 2014, *Comite de Apoyo a los Trabajadores Agrícolas et al. v. Solis*. Employers can modify their currently pending requests to use a Service Contract Act (SCA) or Davis Bacon Act (DBA) wage determination or Collective Bargaining Agreement (CBA) wage data. If an employer does not specify the SCA, DBA or CBA, the DOL will issue the prevailing wage based on the Occupational Employment Statistics (OES) mean. This modification will not be counted as a new request and the request will continue to be processed based on the initial filing date. Employers who have been issued prevailing wage requests but who have not filed their H-2B application with the Chicago National Processing Center are able to obtain a redetermination from the DOL and are not held to the time restrictions specified by the H-2B regulations. Employers with prevailing wage determinations based on an employer provided survey can utilize that wage for purposes of their recruitment. For employers who have already filed their H-2B applications and these applications have been approved, the DOL will issue a supplemental prevailing wage determination

(SPWD) using OES mean data with the certification. In these cases, the SPWD allows an employer to obtain a redetermination, which if granted, the employer is instructed to return the original certification to the Chicago National Processing Center which will issue a new certification.

DHS ISSUES NEW REGULATIONS ON REAL ID-COMPLIANT DOCUMENTS

The Department of Homeland Security issued new regulations relating to REAL ID-compliant state issued driver's licenses and identification cards. The REAL ID Act was enacted in 2005 and required states to modify their issuance procedures for driver's licenses and identification cards. After December 1, 2014, federal agencies will no longer accept non-REAL ID-compliant driver's licenses or identification cards for official purposes if the individual was born after December 1, 1964. Furthermore, federal agencies are prohibited from accepting non-compliant documents after December 1, 2017. Lastly, the regulations modify the final document enrollment dates to October 1, 2020 thereby giving states and their residents additional time in which to fully comply with the REAL ID Act.

Weekly Immigration Updates are provided under the Legal Update link of the Immigration Group Section of our firm's website at www.masudafunai.com.