

# IMMIGRATION NEWS

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## GREEN CARDS

### ADJUSTMENT

**To move or not to move? Unless you are in the Adjustment stage of your green card processing, whether you change your address does not matter to INS. However, if you are not represented by an attorney or you are in the Adjustment stage then it is critical that your mail from INS reaches you. Even if you have an attorney representative, INS will send your EAD card, Travel Permit and Interview appointment to you directly, therefore, the address on your Petition must be current. If you change your address after filing your Petition, be sure to complete a MAIL FORWARDING postcard with your old Post Office and send INS your change of address with your name and receipt number in the letter and a copy of your receipt. Call INS for the address change form. Attach a copy of your Petition receipts to the form. Ask the Post Office how long the mail forward will be in effect and renew it if necessary. Mail forward postcards may be obtained from your local post office.**

### RENEWAL OF YOUR WORK PERMIT & TRAVEL PERMIT

Work Permits and Travel Permits must be renewed once a year. It is suggested that you file your renewal at least 3 months prior to expiration. To renew you will need the following: one green card picture for each petition, copy of your current work permit, travel permit & I-797 approval, Filing Fee for each petition, copy of your most current I-94, date you last entered the US. You may file the renewal yourself or have your attorney file it for you. If you file it yourself, you should go in person to your local INS office and file it there.

## H-1B UPDATE

*How it affects you*

INS stopped processing H-1Bs from October to January in order to count all the Hs. They are now catching up. INS is processing for the following:

Vermont Service Center	December 17
Nebraska Service Center	December 4
Texas Service Center	December 2
California Service Center	December 17

## LABOR CERTIFICATION PROCESSING TIMES

REGION 1 BOSTON	12-18 months
RIR	5-6 months
REGION 2 NEW YORK	36-48 months
RIR	8-12 months
REGION 3 PHILADELPHIA	current
RIR	current
REGION 4 ATLANTA	15-27 months
REGION 5 CHICAGO	22-30 months
REGION 6 DALLAS	14-28 months
REGION 7 KANSAS CITY	12-20 months
REGION 8 DENVER	33-36 months
REGION 9 SAN FRANCISCO	40-50 months
REGION 10 SEATTLE	not available

**NOTE: This newsletter is meant for your information. The contents may not be used as legal advice or relied upon as legal advice. The INS and DOL have complex and confusing rules. It is advisable to consult with an Immigration specialist to determine how the rules apply to your particular case.**

## **Labor Condition Applications (LCA)**

An LCA is required for each H-1B Petition. (Do not confuse with a Labor Certification (which is a green card process). The LCA must be obtained by the employer from the Department of Labor before filing the H petition. The employer must give the work site (city and state) where the H employee will work. If the work site (city and state) changes after receiving the H approval, it is the employer's responsibility to obtain a new LCA for that employee and file a new H petition to reflect the new work site. The Department of Labor requires a new LCA for H employees whose work site has changed and where they will be assigned at least 90 days because that is a material change in the employee's place of employment (work site).

After the Texas debacle, employees know that they, too may be penalized for an improper LCA so it is wise to be certain that your LCA is appropriate for your approved H petition.

## **Types of Visas**

A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S.

## **Green Card Holders**

The law requires Green card holders to maintain their United States residence. If you have a green card and plan to live outside the US, then you must come back to the US every six months in order to maintain your green card status. If you do not return to the USA every six months, then INS determines that your green card status is abandoned.

## **EMPLOYER'S CORNER**

### **Small Business Employers**

I often receive questions from small business employers asking whether they are allowed to sponsor for an H-1B or a "green card". The answer is that INS will review your responses on Page 2 of the H Petition where you have told INS your GROSS & NET PROFIT for the past year. INS wants to be sure that the employer is able to pay the employee the wage stated on the Petition. If your gross & net profit allows you to comfortably pay the salary offered, then you do not have a problem. If you are a business owner in the first year of your business, then you may be required to show assets, bank account statement, contracts to support your estimated income, and your business lease. You will have to provide an estimated gross & net profit expected in the coming year.

### **I-9s**

Remember that INS will always check your I-9s. Be sure to have them properly completed and up to date. If you need assistance with the I-9 procedure, call my office at (202)338-5559.

### **LCAs**

Be sure to post your LCA at the work site and keep a copy of the posting in a separate file with a copy of the approved LCA and a list of the employees who work under that LCA.

### **Income Tax**

Employers are expected to withhold income tax for all employees, American, green card holders, and visa holders, including F-1 students. If the individual employee believes that he doesn't owe any income tax, then he is advised to file for a refund in April.

For an accurate Education Credentials Evaluation, email [eve@calderonlaw.com](mailto:eve@calderonlaw.com)