

I-140 Premium Processing to Resume on June 29, 2009

June 22, 2009

U.S. Citizenship and Immigration Services (USCIS) announced that on June 29, 2009, it will resume premium processing for Form I-140, Immigrant Petition for Alien Worker.

Form I-140 is filed by an employer on behalf of a foreign national to petition USCIS for an immigrant visa based on employment. This step allows USCIS to verify both the qualifications of the foreign national and the ability of the U.S. employer to pay the foreign national. It is at this point that the foreign national is officially classified in one of the employment-based (EB) preference categories. For more detailed information regarding the EB preference categories and Form I-140, please see "Pursuing Lawful Permanent Residence Through the First Three Employment-Based Preference Categories: An Overview" on our Morgan Lewis website at <http://www.morganlewis.com/documents/Employment-BasedCategoriesOverview.pdf>.

Under Premium Processing, USCIS guarantees that, for a \$1,000 fee, it will issue either an approval notice, or where appropriate, a denial, notice of intent to deny, or request for evidence within 15 calendar days of receipt of a petition. If the petition is not processed within 15 calendar days, USCIS will refund the \$1,000 fee and continue to process the request expeditiously. In addition to faster processing, petitioners who participate in the Premium Processing program may use a dedicated phone number and e-mail address to check on the status of their petitions or ask any other questions they may have concerning their petition. The Premium Processing fee may be paid by an employee with the employer's consent. Current Form I-140 processing times range from 4 to 10 months.

USCIS will accept Premium Processing requests for I-140 petitions involving EB-1 Aliens of Extraordinary Ability; EB-1 Outstanding Professors and Researchers; EB-2 Members of Professions with Advanced Degrees, or Exceptional Ability not seeking a National Interest Waiver; EB-3 Professionals; EB-3 Skilled Workers; and EB-3 Workers Other than Skilled Workers and Professionals.

Premium Processing is still not available for I-140 petitions involving EB-1 Multinational Executives and Managers, EB-2 Members of Professions with Advanced Degrees, or Exceptional Ability seeking a National Interest Waiver.

How This Affects You

The resumption of I-140 Premium Processing will be particularly valuable to H-1B nonimmigrants who are affected by immigrant visa backlogs. Such persons may extend their H-1B periods of stay beyond six years in three-year increments provided that their I-140 petitions are approved.

We will continue to monitor the situation and will update you with any new information. If you have any questions about any of the issues raised in this Morgan Lewis Immigration Alert, please contact:

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Now Available: *AILA's Focus on Immigration Practice Under AC21*

Written by Eleanor Pelta and A. James Vazquez-Azpiri, *AILA's Focus on Immigration Practice Under AC21* provides invaluable insight on the effect AC21 has had on the H-1B visa category. For more information, please visit www.ailapubs.org/ac21.html or call 1.800.982.2939 to order a copy.

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