

### Labor Condition Applications Must Be Filed Using iCERT Beginning June 30, 2009

June 25, 2009

Beginning June 30, 2009, all labor condition applications (LCAs) must be filed through the new Department of Labor (DOL) portal, commonly known as iCERT. An LCA is required for all H-1B, H-1B1, and E-3 petitions. The electronic LCA, Form ETA-9035E, has also been revised. It is important to note that, unlike the current online process, **the iCERT portal does not provide instant certification of the LCA. Based on current processing times, certification may take more than seven days.**

Although DOL launched the iCERT portal on April 15, 2009, DOL has continued to accept LCA filings through the legacy LCA system and will continue to accept them until June 29. Attorneys and employers using the system have reported extensive problems and lengthy processing times. DOL has already delayed the start date once as a result. The iCERT online portal can be found at <http://icert.doleta.gov/>.

#### How This Affects You

Employers should be prepared for a potential delay in filing petitions that require a certified LCA. Any delays would likely have the greatest impact on "transfer" H-1B petitions based on AC-21 portability. In the past, the United States Citizenship and Immigration Service (USCIS) has allowed such petitions to be filed with proof of submission of the LCA to DOL. To date, we have not received any information as to whether or not USCIS will allow this again.

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:

#### San Francisco

Lance Nagel	415.442.1345	<a href="mailto:lnagel@morganlewis.com">lnagel@morganlewis.com</a>
A. James Vázquez-Azpiri	415.442.1343	<a href="mailto:ajvazquez@morganlewis.com">ajvazquez@morganlewis.com</a>

#### Washington, D.C.

Eleanor Pelta	202.739.5050	<a href="mailto:epelta@morganlewis.com">epelta@morganlewis.com</a>
Eric Bord	202.739.6040	<a href="mailto:ebord@morganlewis.com">ebord@morganlewis.com</a>

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

Written by Eleanor Pelta and A. James Vázquez-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](http://www.ailapubs.org/ac21.html) or call 1.800.982.2939 to order a copy.

#### About Morgan, Lewis & Bockius LLP

Morgan Lewis is an international law firm with more than 1,400 lawyers in 22 offices located in Beijing, Boston, Brussels, Chicago, Dallas, Frankfurt, Harrisburg, Houston, Irvine, London, Los Angeles, Miami, Minneapolis, New York, Palo Alto, Paris, Philadelphia, Pittsburgh, Princeton, San Francisco, Tokyo, and Washington, D.C. For more information about Morgan Lewis or its practices, please visit us online at [www.morganlewis.com](http://www.morganlewis.com).

This Alert is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this message create an attorney-client relationship. These materials may be considered Attorney Advertising in some states.  
Please note that the prior results discussed in the material do not guarantee similar outcomes.

© 2009 Morgan, Lewis & Bockius LLP. All Rights Reserved.