

The Law Firm of  
**Tidwell, Swaim & Associates, PC**  
*U.S. Immigration and Nationality Law*  
*"A Tradition of Success and Innovation Since 1978"*

**March 28, 2008**

**Issue: 14**

**H-1B Nonimmigrant Visa Petitions for FY 2009  
(October 1, 2008 through September 30, 2009)  
may be filed starting April 1, 2008.**

**Master's Cap**

Regarding applicants who are wanting to file H-1B Master's cap cases but have not had their degrees conferred yet, USCIS has been and is expected to continue considering as satisfactory evidence a letter from an official at the educational institution qualified to provide that information. In the past, satisfactory evidence often was in the form of a letter from an official such as Dean, Registrar, or department head stating that all requirements have been satisfied and that the alien is simply waiting for the ceremonial conferral of the degree. Be wary of letters prepared by unauthorized employees at the school stating that the student has completed all requirements toward a master's degree, when in fact there are still examinations or papers to complete. USCIS is likely to question a letter that comes from a lower-level employee of the university.

**Multiple Identical Petitions for the Same Alien**

Recently the interim final rule regarding filing multiple identical petitions has been published in the Federal Register which became effective upon publication. USCIS states that it will now either deny or revoke multiple petitions filed by an employer for the same H-1B worker and will not refund filing fees for duplicative or multiple H-1B petitions. The rule does not prevent related employers (such as parent company and its subsidiary) from filing petitions on behalf of the same alien for different positions, based on legitimate business need.

**In This Issue**

**H-1B  
Nonimmigrant  
Visa Petitions for  
FY 2009 (October  
1, 2008 through  
September 30,  
2009) may be filed  
starting April 1,  
2008**

**PIMS Processing  
Update**

**Updates on  
Naturalization**



## Send Documents by Verifiable Means

It is always advisable to send documents to the government by some means that provides verification of exact delivery date, such as U.S. Postal Service (USPS) (Express Mail or Certified Mail) or private courier (DHL, FedEx, UPS, etc.). For security reasons, the California Service Center will only accept packages delivered by bonded couriers. The most recent list of bonded couriers are available at <http://www.aila.org/Content/default.aspx?docid=17804>.

Currently, the USCIS permits inclusion of "prepaid mailers" in submissions to speed return of decisions. You can use U.S. postal Service Express or Priority mail, or DHL, Fed Ex, Or UPS. The mailer must have appropriate postage or fees, with a prepaid shipping label on the package, already paid by person who sends it, e.g., Fed Ex "Expanded Billable Stamp," or DHL "Easy Return Label," among others.

## One Check or Multiple Checks

Although Form I-129 Instructions allow combining the employer's fee (\$1,500 or \$750) and the petition fee in one check, a separate check for each applicable filing fee (I-129, Premium Processing, Fraud Fee, and/or ACWIA fee) is preferred. Employers who must pay the \$500 Fraud Prevention and Detection Fee must pay with a check or money order that is separate from the additional fee and the petition fee.

## Licensing Requirements for Some H-1Bs

USCIS has issued a memorandum March 21, 2008 regarding licensing requirements for some H-1Bs. The memo instructs the adjudicators to approve an H-1B petition for one-year validity period if a State or local license to engage in the profession is required and the appropriate licensing authority will not grant such license to an alien absent evidence that the alien has been granted H-1B status. As a condition to approving such a petition, the alien must demonstrate that he or she has filed an application for such license in accordance with State or local rules and procedures. Further, prior to approving an H-1B petition under such circumstances, adjudicators should verify that the alien beneficiary is fully qualified to receive the State or local license, meaning that all educational, training, experience, and other substantive requirements must be met at the time of filing the petition (where appropriate, the adjudicator may issue

J. David Swaim, Jr.\*

\_\_\_\_\_  
Attorney at Law

Jessica L. Mullins-Ta

\_\_\_\_\_  
Attorney at Law

Lauren J. Kwon

\_\_\_\_\_  
Attorney at Law

\_\_\_\_\_  
Samuel M. Tidwell

\_\_\_\_\_  
Founder

1943-1992

\*Board Certified in  
Immigration and  
Nationality Law by the  
Texas Board of Legal  
Specialization

Languages:

Spanish  
French  
Russian

a request for evidence). The memo states that the approval of any such H-1B petition shall not constitute approval by USCIS for the alien beneficiary to engage in any activity requiring possession of such State or local license. Any petition that requests an extension of stay on behalf of an alien who has been granted H-1B status under this provisional measure must show that the alien has obtained the requisite license. If the alien has not obtained the requisite license at the time the petition and extension are filed, such petition will be denied.

Mandarin  
Cantonese  
Korean  
Fukkienses  
Hakkense

### **PIMS Processing Update**

USCIS has issued a memorandum March 21, 2008 regarding licensing requirements for some H-1Bs. The memo instructs the adjudicators to approve an H-1B petition for one-year validity period if a State or local license to engage in the profession is required and the appropriate licensing authority will not grant such license to an alien absent evidence that the alien has been granted H-1B status. As a condition to approving such a petition, the alien must demonstrate that he or she has filed an application for such license in accordance with State or local rules and procedures. Further, prior to approving an H-1B petition under such circumstances, adjudicators should verify that the alien beneficiary is fully qualified to receive the State or local license, meaning that all educational, training, experience, and other substantive requirements must be met at the time of filing the petition (where appropriate, the adjudicator may issue a request for evidence). The memo states that the approval of any such H-1B petition shall not constitute approval by USCIS for the alien beneficiary to engage in any activity requiring possession of such State or local license. Any petition that requests an extension of stay on behalf of an alien who has been granted H-1B status under this provisional measure must show that the alien has obtained the requisite license. If the alien has not obtained the requisite license at the time the petition and extension are filed, such petition will be denied.

### **Updates on Naturalization**

USCIS posted a notice to its website advising that naturalization interviews are being scheduled for weekends and after hours to address the increase in naturalization applications received in FY 07.

To schedule a consultation, please call our office at 972/385-7900 or email our receptionist at [cng@tsalaw.com](mailto:cng@tsalaw.com).

(Please feel free to forward our information to any of your family and friends!)

#### **Forward email**

**SafeUnsubscribe®**

This email was sent to [cng@tsalaw.com](mailto:cng@tsalaw.com), by [tidwellswaim@tsalaw.com](mailto:tidwellswaim@tsalaw.com)  
[Update Profile/Email Address](#) | [Instant removal with SafeUnsubscribe™](#) | [Privacy Policy](#).

Email Marketing by

