

## WOLFSDORF IMMIGRATION NEWSLETTER APRIL 2008

### 1. USCIS Runs Random Selection Process for H-1B Petitions

The U.S. Citizenship and Immigration Services (USCIS) conducted the computer-generated random selection processes on H-1B petitions, to select which H-1B petitions for fiscal year 2009 (FY 2009) would continue to full adjudication. If approved these H-1B petitions will be eligible to receive an H-1B visa number.

USCIS conducted two random selections, first on petitions qualifying for the 20,000 "master's or higher degree" (advanced degree) exemption, and second on the remaining advance degree petitions together with the general H-1B pool of petitions, for the 65,000 cap. The approximately 163,000 petitions received on the first five days of the eligible filing period for FY 2009 (April 1 through April 7, 2008) were labeled with unique numerical identifiers. USCIS has notified the appropriate service centers which numerical identifiers have been randomly selected, so each center may continue with final processing of the petitions associated with those numerical identifiers.

Petitioners whose properly filed petitions have been selected for full adjudication should receive a receipt notice dated no later than June 2, 2008. USCIS will return unselected petitions with the fee(s) to petitioners or their authorized representatives. As previously announced, duplicate filings will be returned without the fee. The total adjudication process is expected to take approximately eight to ten weeks.

For cases selected through the random selection process and initially filed for premium processing, the 15-day premium processing period began on April 14, the day of the random selection process. USCIS has "wait-listed" some H-1B petitions, meaning they may possibly replace petitions chosen to receive an FY-2009 cap number, but that subsequently are denied, withdrawn, or otherwise found ineligible. USCIS will retain these petitions until a decision is made whether they will replace a previously selected petition.

USCIS will send a letter to the wait list petitioners to inform them of their status USCIS expects that for each of these wait-listed petitions, it will either issue a receipt notice or return the petition with fees within six to eight weeks.

In other H-1B news, the March 2008 edition of *Business Week* noted that two outsourcing companies based in Bangalore, India, top the list of approved H-1B visa petitions in 2007: Infosys Technologies (4,559 visas) and Wipro (2,567 visas). Six of the top 10 H-1B visa recipients are based in India, and Indian outsourcers received nearly 80 percent of the visas approved for the top 10 participants in the H-1B program. Infosys has 88,000 workers worldwide, with 9,000 of those in the U.S., including 7,500 H-1Bs.

Bill Gates testified on March 12, 2008, before the House of Representatives' Committee on Science and Technology about the "gathering threat to U.S. preeminence in science and technology innovation." He proposed a four-part plan, including revamping immigration rules for highly skilled workers so that U.S. companies can attract and retain the world's best scientific talent. As a result of an artificially low H-1B cap and "counterproductive immigration policies," he said, many U.S. firms, including Microsoft, have been forced to locate staff in countries that welcome skilled foreign workers to do work that otherwise could have been done in the U.S. Mr. Gates said that an increase in the number of H-1B visas likely would increase employment of U.S. nationals as well, citing a study of technology companies in the S&P 500 that found that for every H-1B visa requested, leading U.S. technology companies increased their overall employment by five workers.

Mr. Gates's testimony before the House committee is available at: [http://democrats.science.house.gov/Media/File/Commdocs/hearings/2008/FuII/12mar/gates\\_testimony\\_12mar08.pdf](http://democrats.science.house.gov/Media/File/Commdocs/hearings/2008/FuII/12mar/gates_testimony_12mar08.pdf).

A policy brief on H-1B visas and job creation by the National Foundation for American Policy (NFAP), which notes that hiring H-1B visa holders is associated with increases in employment at U.S. technology companies, is available at: <http://www.nfap.com/pdf/080311h1b.pdf>. An NFAP policy brief on job openings and the need for skilled labor in the U.S. economy is at: <http://www.nfap.com/pdf/080311talentsrc.pdf>.

## 2. Changes to the F-1 OPT Program

On April 4, 2008, USCIS released an interim rule allowing the extension of Optional Practical Training (OPT) for qualified students. The interim rule includes some of the following changes:

A. 17-Month Extension of OPT for Certain Students: F-1 students with a degree in science, technology, engineering or mathematics who are employed by businesses enrolled in the E-Verify program may extend OPT by 17 months. To be eligible for an OPT extension, an F-1 student must:

- o Currently be participating in a 12 month period of approved post-completion OPT;
- o Have successfully completed a degree (bachelor's, master's or doctorate) in science, engineering, technology or mathematics (STEM) included in the DHS STEM Designated Degree Program List is available at [www.ice.gov/sevis](http://www.ice.gov/sevis).
- o Be working for a U.S. employer in a job directly related to the F-1 student's major area of study
- o Be working for, or accepted employment with, an employer registered and in good standing with USCIS' E-Verify program. E-Verify is a free, internet-based system operated in partnership with the Social Security Administration. E-Verify electronically compares information contained on the Employment Eligibility Verification Form I-9 with records contained in SSA and DHS databases to assist employers verify identity and employment eligibility of newly-hired employees; and;
- o Properly maintain F-1 status

In addition, there are two reporting requirements. First, employers of F-1 students who qualify for this 17 month extension of post-completion OPT must report to the student's school within 48 hours if the student's employment ends prior to the end of the student's authorized OPT employment period. The student must also report to the school every six months from the date the OPT extension starts.

The F-1 student must apply for the extension of OPT by filing Form I-765 with USCIS. An F-1 student who has properly filed Form I-765 prior to the end date of post-completion OPT is allowed to maintain continuous employment for up to 180 days while USCIS adjudicates the request for the extension.

B. H-1B "Cap-gap" relief – USCIS is authorized to extend the status of F-1 students caught in a "cap gap" between the end of the student's OPT and

the start date of an approved H-1B petition. The interim rule automatically extends the status and employment authorization of an F-1 student who is the beneficiary of a timely-filed H-1B petition that has been granted by, or remains pending with USCIS. This means that if the H-1B petition filed on behalf of the student is selected as a "cap case," the F-1 student may remain in the United States and continue working until the October 1 start date indicated on the H-1B petition.

If USCIS denies a pending H-1B petition, the F-1 student has the standard 60-day grace period (from notification of the denial or rejection of the petition) before they have to leave the United States.

Unlike the extension of post-completion OPT, which is limited to F-1 students who have obtained STEM degrees, the extension of status for F-1 students in a cap-gap applies to all F-1 students with pending H-1B petitions.

C. Extended Application Period for OPT: F-1 students may now apply for OPT within 60 days of graduation. Previously, F-1 students had to apply for OPT prior to graduation. This extends the period during which F-1 students may apply for OPT.

D. Periods of Unemployment During OPT: an F-1 student who drops out of school or does not pursue a full time course of study loses status; an F-1 student with OPT who is unemployed for a significant period similarly puts his status in jeopardy. The interim rule permits an aggregate maximum allowed period of unemployment of 90 days for students on 12-month OPT. This maximum period increases by 30 days for F-1 students who have an approved 17-month OPT period. This period allows students time for job searches or a break when switching employers.

### 3. DHS Issues No-Match Supplemental Proposed Rule; Public Comments Accepted Until April 25

On March 26, 2008, the Department of Homeland Security (DHS) issued a supplemental proposed rule on procedures for employers who receive a "no-match letter" from the Social Security Administration (SSA) or a "notice of suspect document" from the Department of Homeland Security (DHS) casting doubt on the employment eligibility of the employer's workers.

The DHS's supplemental proposed rule addresses three findings of the district court, which questioned whether the DHS had: (1) supplied a reasoned analysis to justify what the court viewed as a change in the DHS's position: that a no-match letter may be sufficient, by itself, to put an employer on notice, and thus impart constructive knowledge,

that employees referenced in the letter may not be work-authorized; (2) exceeded its authority (and encroached on the authority of the Department of Justice [DOJ]) by interpreting the antidiscrimination provisions of the Immigration Reform and Control Act of 1986; and (3) violated the Regulatory Flexibility Act by not conducting analysis of the rule's impact on small businesses. The DHS noted that although the mere receipt of an SSA no-match letter may not obligate employers to repeat the full I-9 employment verification process, employers "cannot turn a blind eye to SSA no-match letters and should perform reasonable due diligence." The supplemental proposed rule emphasizes the idea of eliminating ambiguity and confusion regarding an employer's responsibilities upon receipt of a no-match letter, acknowledging that previous guidance was in the form of case-by-case responses to individual queries from employers and others, resulting in a lack of uniformity and multiple interpretations by employers.

The DHS said that SSA no-match letters are sent to employers whose wage reports reveal at least 11 workers with no-matches, and where the total number of no-matches represents more than 0.5 percent of the employer's total Forms W-2 in the report. The agency believes these criteria limit the recipients of employer no-match letters to those who have potentially significant problems with their employees' work authorization. Employers with stray mistakes or minor inaccuracies in their records, the DHS said, do not receive employer no-match letters. As a result, the DHS concluded that employers who receive no-match letters cannot reasonably assume the problems are merely trivial clerical errors, and therefore cannot reasonably simply ignore those letters. The DHS therefore finds that an employer's failure to conduct reasonable due diligence upon receipt of an SSA no-match letter can, in the totality of the circumstances, establish constructive knowledge of an employee's unauthorized status. The DHS noted that the August 2007 final rule specifies actions that can be taken by an employer that the agency will consider to be a reasonable response to receiving an SSA no-match letter or DHS letter, which "will eliminate the possibility that either letter can be used as any part of an allegation that an employer had *constructive knowledge* that it was employing an alien not authorized to work in the United States." In light of the district court's concerns about the DHS's possible encroachment into the authority of DOJ, in the March 2008 supplemental proposed rule the DHS rescinds the statements in the preamble of the August 2007 final rule describing employers' obligations under antidiscrimination law and discussing the potential for antidiscrimination liability faced by employers that follow the "safe-harbor" procedures set forth in the August 2007 rule. For example, the DHS is rescinding conclusive statements from the preamble of the August 2007 final rule such as, "employers who follow the safe harbor procedures...will not be found to

have engaged in unlawful discrimination." The DHS said it also will "revisit" the language in its insert letter after the supplemental proposed rule is finalized. The rescissions do not change existing law or require any change to the rule text, the DHS noted.

Employers seeking information regarding their antidiscrimination obligations in following the safe harbor procedures in the August 2007 final rule, as modified by the March 2008 supplemental rule, should review new guidance from the DOJ's Office of Special Counsel for Immigration-Related Unfair Employment Practices at: <http://www.usdoj.gov/crt/osc/index.html>.

Employers may also seek advice on a case-by-case basis through OSC's toll-free employer hotline at 1-800-255-8155. The DOJ's public guidance on employers' antidiscrimination obligations will be published in a *Federal Register* notice when the DHS promulgates the March 2008 supplemental proposed rule as a final rule.

The DHS is proposing to further clarify two aspects of the August 2007 final rule. First, the rule instructs employers seeking safe harbor that they must "promptly" notify an affected employee after the employer has completed its internal records checks and has been unable to resolve the mismatch. After reviewing the history of the rulemaking, the DHS believes that this obligation for prompt notice ordinarily would be satisfied if the employer contacts the employee within five business days after the employer has completed its internal records review. The DHS emphasized that an employer does not need to wait until after completing this internal review to advise affected employees that the employer has received the no-match letter and request that the employees seek to resolve the mismatch: "Immediately notifying an employee of the mismatch upon receipt of the letter may be the most expeditious means of resolving the mismatch."

Second, plaintiffs in the litigation before the district court raised a question as to whether, under the August 2007 final rule, an employer could be found liable on a constructive knowledge theory for failing to conduct due diligence in response to the appearance of an employee hired before November 6, 1986, in an SSA no-match letter. The DHS noted that when Congress enacted INA section 274A as part of the 1986 Immigration Reform and Control Act, it included a grandfather clause in that legislation exempting workers hired before IRCA's date of enactment from the provisions of section 274A(a)(1) and (a)(2). Because those statutory bars against hiring or continuing to employ individuals without work authorization do not apply to workers within that grandfather clause, the DHS said that the August 2007 final rule, as published and as supplemented, does not apply to any such workers that may be listed in an SSA no-match letter.

The DHS said it has filed an appeal to have the preliminary injunction dissolved. The agency is continuing this simultaneous rulemaking in the meantime, which it said is intended to lead to the rule becoming effective as quickly as possible and "is not a concession of any issue pending in the litigation."

The supplemental proposed rule is available at:

<http://edocket.access.gpo.gov/2008/pdf/E8-6168.pdf>.

A press release is available at:

[http://www.dhs.gov/xnews/releases/pr\\_1206124972832.shtm](http://www.dhs.gov/xnews/releases/pr_1206124972832.shtm).

Employers may also wish to consider using E-Verify, an Internet-based system operated by the DHS in partnership with the SSA that allows participating employers to verify the employment eligibility of their newly hired employees, including the validity of their Social Security Numbers. E-Verify is available at:

[http://www.dhs.gov/ximgtn/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/ximgtn/programs/gc_1185221678150.shtm).

#### 4. USCIS Issues Guidance on H-1B Specialty Occupation Licensure Requirements

U.S. Citizenship and Immigration Services (USCIS) sent guidance to the field on March 21, 2008, updating the *Adjudicator's Field Manual* on accepting and adjudicating H-1B petitions for specialty occupations when a required professional license cannot be obtained because of state licensing requirements mandating possession of a valid immigration document, such as an approved H-1B petition, as evidence of employment authorization before the license can be issued. USCIS stated that in such situations, it will allow the temporary approval of the petition provided all other requirements are met. USCIS instructed adjudicators to approve an H-1B petition for a 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 the license absent evidence that the beneficiary has been granted H-1B status. As a condition to approving such a petition, USCIS stated, the beneficiary must demonstrate that he or she has filed the licensing application in accordance with state or local rules and procedures.

Further, adjudicators should verify that the beneficiary is fully qualified to receive the license, meaning that all educational, training, experience, and other substantive requirements must be met at the time of filing of the petition. Where appropriate, USCIS noted, the adjudicator may issue a request for evidence.

Any petition that requests an extension of stay on behalf of a beneficiary who has been granted H-1B status under this provisional measure, USCIS said, must show that the beneficiary has obtained the requisite license. If he or she has not obtained the license at the time the petition and extension are filed, the petition will be denied.

The memorandum is available at:

[http://www.uscis.gov/files/pressrelease/AFM\\_Update\\_Chap31\\_21Mar08.pdf](http://www.uscis.gov/files/pressrelease/AFM_Update_Chap31_21Mar08.pdf).

#### 5. Biometrics Required for Re-Entry Permits and Refugee Travel Documents

U.S. Citizenship and Immigration Services (USCIS) issued revised instructions, effective March 5, 2008, for the Application for Travel Document (Form I-131). The revised instructions require applicants for re-entry permits and refugee travel documents to provide biometrics (e.g., fingerprints, photographs) at USCIS Application Support Centers (ASCs). USCIS will notify applicants of their appointments at designated ASCs after submission of the I-131 application.

The new instructions for the I-131 require that applicants for re-entry permits and refugee travel documents who are ages 14 through 79 provide biometrics before departing from the U.S. Applicants for re-entry permits and refugee travel documents who are in the U.S. must pay an \$80 biometrics fee or submit a fee waiver request with sufficient documentation. The \$305 I-131 application fee cannot be waived. The I-131 instructions also provide guidance for certain persons applying for refugee travel documents (not re-entry permits) who are abroad at the time of filing, on visiting a U.S. Embassy or consulate for fingerprinting.

The announcement is available at:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=9c7c6a41ccf78110VgnVCM1000004718190aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>.

The I-131 instructions are available at <http://www.uscis.gov/files/form/I-131instr.pdf> and the form is at <http://www.uscis.gov/files/form/I-131.pdf>.

#### 6. PERM Data Released

The Employment and Training Administration's Office of Foreign Labor Certification (OFLC) recently released fiscal year (FY) 2007 data covering cases processed under the Permanent Labor Certification Program.

Selected statistics include:

- More than 85,100 PERM cases were certified during FY 2007.
- Foreign workers representing 176 countries were certified for permanent work in the U.S.
- Nearly 6 out of 10 PERM cases were certified for small employers (defined as fewer than 250 workers).
- Top states: California (20,222), New York (8,843), New Jersey (6,594), Texas (6,534), Florida (5,128).
- Top countries: India (24,573), China (6,846), Mexico (6,442), South Korea (5,159), Canada (4,837).
- Top employers: Microsoft Corporation; Cognizant Technologies; Oracle USA, Incorporated; Intel Corporation; Ernst & Young, LLP; Motorola Incorporated.

The PERM data is available at:

[http://www.foreignlaborcert.doleta.gov/pdf/PERM\\_Data\\_FY07\\_Announcement.pdf](http://www.foreignlaborcert.doleta.gov/pdf/PERM_Data_FY07_Announcement.pdf).

#### 7. WHTI -Compliant Document To Be Required for Land, Sea Travel Into the U.S.

Effective June 1, 2009, travelers will be required to present a passport or other approved secure document denoting citizenship and identity for all land and sea travel into the U.S., the Departments of Homeland Security and State announced. The final rule for the land and sea portion of the Western Hemisphere Travel Initiative (WHTI), announced March 27, 2008, will apply to previously exempt travelers, including citizens of the U.S., Canada and Bermuda.

The DHS said it is releasing the WHTI land and sea final rule more than a year in advance of its implementation to give the public ample notice and time to obtain the WHTI-compliant documents they will need to enter or re-enter the U.S. on or after June 1, 2009. The agency noted that many cross-border travelers already have WHTI-compliant documents, such as a passport or a Trusted Traveler Card (NEXUS, SENTRI, and FAST), or a Washington state enhanced driver's license (EDL). The Department of State is already accepting applications for new passport cards and additional states and Canadian provinces will be issuing EDLs in the next several months, all of which the DHS said are options specifically designed for land and sea border use. Beginning June 1, 2009, DHS will institute special provisions that allow school or other organized groups of children ages 18 and under who are U.S. or Canadian citizens to enter the U.S. with proof of citizenship alone.

Information on specific documentation requirements is available for U.S. citizens at [http://www.cbp.gov/xp/cgov/travel/vacation/ready\\_set\\_go/](http://www.cbp.gov/xp/cgov/travel/vacation/ready_set_go/) and for non-U.S. citizens at [http://www.cbp.gov/xp/cgov/travel/id\\_visa/](http://www.cbp.gov/xp/cgov/travel/id_visa/).

Questions and answers on the WHTI final rule are available at [http://www.dhs.gov/xnews/releases/pr\\_1206635771151.shtm](http://www.dhs.gov/xnews/releases/pr_1206635771151.shtm).

#### 8. Around the States: Rhode Island, Virginia Crackdowns; NYC Losing to Competition

State and local authorities in several locations continued efforts to crack down on undocumented immigration. In Rhode Island, Governor Don Carcieri, under pressure because of a massive budget deficit, signed an executive order directing state police to enter into an agreement with federal immigration authorities to permit access by the police to immigration databases. Such access would give them the ability to check the immigration status of criminals, victims, witnesses, and those supplying the police with confidential tips, according to state police Major Steven O'Donnell. The prison system is expected to negotiate a similar agreement. The executive order also requires businesses and state agencies to verify the status of employees.

As of March 3, 2008, Prince William County in Virginia requires police officers to inquire about immigration status during arrests or traffic stops whenever there is probable cause to suspect that an immigration violation has occurred. The Board of County Supervisors resolution

also requires verification of immigration status by county staff before certain public services can be provided.

A team of sociologists and law enforcement experts from the University of Virginia, James Madison University, and the Police Executive Research Forum is expected to conduct a two-year study to examine the consequences of the Prince William policy. Meanwhile, Latinos reportedly already have been fleeing the county for months because of a combination of factors, including the immigration crackdown, a downturn in the construction industry, and the

mortgage crisis. Latino-run businesses are teetering on the brink of bankruptcy, and churches and soccer leagues are losing members. Entire strip malls have been "transformed into ghost towns," according to the *Washington Post*.

The crackdown is expected to cost the county millions of dollars in enforcement costs and to affect tax revenues. The county has proposed a 28 percent property tax increase to make up for budget shortfalls.

In other news, senior executives of large corporations, small and midsize companies, and investment banks have expressed concerns that harsh immigration policies are threatening New York City's ability to compete with foreign cities because the people chosen to take high-paying jobs cannot gain admission to the U.S. Some officials reportedly said that they have shifted dozens of jobs to other financial capitals because of the difficulty in obtaining visas for foreign workers. Kathryn S. Wylde, president of the Partnership for New York City, said, "New York's ability to compete with London, which has much more open immigration, or with the emerging financial capitals in Asia and the Middle East, depends on mobility of talent, both in terms of new and current employees. What people miss is, New York's standing as an international capital of business and finance depends on the professionals within these companies being able to come to New York to be trained and groomed for leadership positions around the world." She noted that opposing business immigration is "a 20th-century, pre-globalization mentality that thinks somehow American companies and jobs can grow if we cut ourselves off from foreign talent." A senior project manager for British bank Barclays said he took a job in London over one in New York City mainly because of the uncertainty of H-1B renewals and the "whole visa situation," which he termed a "nightmare."

#### 9. NYC Staffing Company Charged With Violating H-1B Program

An investigation by the Department of Labor's Wage and Hour Division found that 156 H-1B workers from the Philippines, brought into the

U.S. by Advanced Professional Marketing Inc. (APMI), a medical staffing company based in New York City, to be employed primarily as physical therapists in hospitals and other medical facilities in the New York metropolitan area, are owed almost \$3 million in back wages. The investigation revealed that APMI willfully failed to pay required wages, filed lawsuits seeking penalties against some H-1B employees for early cessation of employment, failed to make required documents available for examination, failed to maintain required documentation, and used incorrect prevailing wage rates on labor condition applications.

A determination letter outlines the alleged violations and assesses civil money penalties totaling \$512,000 for the violations. It also directs APMI and the company's president, Marissa Beck, to pay back wages in the amount of \$2,920,270 to the 156 H-1B workers. Finally, the letter informs the company and Ms. Beck of their right to request a hearing on this determination before a Labor Department administrative law judge within 15 days.

The Wage and Hour Division maintains a list below of "willful violator employers" under the H-1B program at:

<http://www.dol.gov/esa/whd/immigration/H1BWillfulViolator.htm>, and a fact sheet defining what a willful violator employer is at:

<http://www.dol.gov/esa/regs/compliance/whd/FactSheet62/whdfs62S.pdf>.

#### 10. Company Managers Indicted for Hiring Unauthorized Workers; E-Mails Used as Evidence

Five managers of the pallet management division of IFCO Systems North America were recently indicted on felony charges of conspiracy to harbor, encourage and induce, and transport illegal aliens. The evidence included e-mails between middle managers and their superiors. Seven middle managers had pleaded guilty to charges a year ago and promised to cooperate in the investigation. In 2006, raids were conducted on 52 IFCO workshops, which revealed problems with the Social Security numbers of half of the company's 5,800 employees.

The news release announcing the indictments is available at

<http://www.ice.gov/pi/news/newsreleases/articles/080228albany.htm>.

#### 11. India Second Preference Visa Numbers Become Available in April; Other Employment-Based Cut-off Dates Advance More Rapidly

The Department of State's Visa Office announced in the April 2008 Visa Bulletin that visa numbers have once again become available to the India employment second preference category.

The Department noted that if total demand is insufficient to use all available numbers in a particular employment preference category in a calendar quarter, the unused numbers may be made available without regard to the annual "per-country" limit. Based on the current level of demand, the Department said, there would be otherwise unused numbers in the employment second preference category. The rate of number use in that category will continue to be monitored, and the Department said it may be necessary to make adjustments should the level of demand increase substantially.

This week, the Department of State's Visa Office released the May 2008 Visa Bulletin, which shows that many of the employment cut-off dates have continued to advance more rapidly than might ordinarily be expected. This is a result of consultations with U.S. Citizenship and Immigration Services (USCIS) regarding their pending demand, which is currently using approximately 90% of all Employment numbers. USCIS has indicated that they would prefer to review a substantial number of cases at this time to ensure that number use in the various categories can be maximized. Should USCIS projections of the resulting number use prove to be incorrect it may be necessary to adjust the cut-off dates during the final quarter of FY-2008.

The May 2008 Visa Bulletin can be found at:

[http://travel.state.gov/visa/frvi/bulletin/bulletin\\_4205.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_4205.html)

## 12. DHS Collecting 10 Fingerprints at JFK Airport

The Department of Homeland Security (DHS) announced on March 25, 2008, that it has begun collecting additional fingerprints from international visitors arriving at New York's John F. Kennedy International Airport (JFK). The change is part of the DHS's upgrade from two- to 10-fingerprint collection to enhance security and facilitate legitimate travel. On an average day at JFK, the DHS noted, almost 14,400 international visitors complete biometric procedures. Visitors from Mexico, the United Kingdom, Germany, Italy, France, and Japan comprise the largest numbers of international visitors arriving at JFK. JFK is the tenth port of entry to begin collecting 10 fingerprints from international visitors. Washington Dulles International Airport began 10-fingerprint collection on November 29, 2007. Hartsfield-Jackson Atlanta International Airport, Boston Logan International Airport, Chicago O'Hare International Airport, George Bush Houston Intercontinental Airport, San Francisco International Airport, Miami International Airport, Orlando International Airport, and Detroit Metropolitan Wayne County Airport have also begun 10-fingerprint collection.

Under the US-VISIT program, the agency is evaluating 10-fingerprint collection at these airports. It will use the results to inform the deployment of the technology to the remaining air, sea, and land border ports of entry that will transition to collecting 10 fingerprints by December 2008.

The DHS announcement is available at:

[http://www.dhs.gov/xnews/releases/pr\\_1206470846443.shtm](http://www.dhs.gov/xnews/releases/pr_1206470846443.shtm).

### 13. Hard Times Expected at Toronto Consulate

Jeffrey S. Tunis, the consular chief for the U.S. Consulate in Toronto, issued a memorandum on March 5, 2008, stating that the consulate expects a severe staffing shortage this summer and noting that the facility is "solidly booked" with respect to nonimmigrant visa appointments. The consulate is taking steps to reduce its workload, including not accepting any unsolicited telephone calls.

The consulate's Web site is at

<http://toronto.usconsulate.gov/content/index.asp>.

### 14. Visa Waiver Agreements Signed With Eastern European Countries

Secretary of Homeland Security Michael Chertoff has signed visa waiver agreements with the governments of Slovakia, Hungary, Lithuania, Estonia, and Latvia. The agreements outline security enhancements that put the countries on the path toward visa-free travel to the U.S. and possible designation as Visa Waiver Program (VWP) members later this year. The DHS said it will establish an electronic system of travel authorization for air passengers. VWP travelers will be asked to provide some basic information online in advance of their trip, which will generate an authorization number for travel. The DHS plans to announce details on how the authorization systems will work, and when they will begin, later in 2008.

The announcements are available at:

[http://www.dhs.gov/xnews/releases/pr\\_1205782432579.shtm](http://www.dhs.gov/xnews/releases/pr_1205782432579.shtm) (Slovakia, Hungary, Lithuania) and

[http://www.dhs.gov/xnews/releases/pr\\_1205358177498.shtm](http://www.dhs.gov/xnews/releases/pr_1205358177498.shtm) (Estonia, Latvia).

#### News Publications and Items of Interest:

- Multilingual resources on entry/exit procedures. US-VISIT biometric entry procedures are currently in place at 116 airports, 15 seaports, and the secondary inspection areas of 154 land ports of entry. Multilingual videos and brochures on the US-VISIT Program's entry and exit procedures are available in English, Spanish, Portuguese, Chinese, Korean, Arabic, French, German, Hebrew, Japanese, Polish, Russian, Ukrainian, Vietnamese, and Tagalog.
  - Links to these videos and brochures are available at:  
[http://www.dhs.gov/xtrvlsec/programs/editorial\\_0435.shtm](http://www.dhs.gov/xtrvlsec/programs/editorial_0435.shtm).
  - A list of the current ports of entry under US-VISIT is available at:  
[http://www.dhs.gov/xtrvlsec/programs/editorial\\_0685.shtm](http://www.dhs.gov/xtrvlsec/programs/editorial_0685.shtm).
- Social Security Trustees report. The 2008 report of the Social Security Trustees notes that last year, there was an estimated overall 75-year deficit of 1.95 percent of taxable payroll; this year, the shortfall is
- down to 1.70 percent. This translates into a benefit to the Social Security system of about \$13 billion per year, according to the *Political Animal* blog on the CBS News Web site. The main reason for the adjustment was an improvement in the methodology used to estimate taxes and benefits received from "other immigration," which is undocumented immigration.
  - The report is available at:  
<http://www.ssa.gov/OACT/TR/TR08/trTOC.html>.
  - An appendix showing figures related to estimates of net immigration is at: [http://www.ssa.gov/OACT/TR/TR08/VI\\_LR\\_sensitivity.html#92900](http://www.ssa.gov/OACT/TR/TR08/VI_LR_sensitivity.html#92900).
  - The article on *Political Animal* is available at:  
<http://www.cbsnews.com/stories/2008/03/25/politics/animal/main3968207.shtml>.

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Congratulations to Senior Partner, Bernard P. Wolfsdorf, on being nominated for President-Elect of the 11,000-attorney member group, American Immigration Lawyers Association (AILA).

On April 16, 2008, Attorneys Rita Sostrin and Bernard Wolfsdorf will speak before the San Diego chapter of AILA on the "*Latest Developments in Immigration Law*".

On April 24, 2008, Bernard Wolfsdorf will speak at the Alliance of Business Immigration Lawyers (ABIL) seminar in Sunnyvale, California on "*Legislative Priorities and Predictions*".

On May 2, 2008 Bernard Wolfsdorf will speak at the Upper Midwest Immigration Conference entitled "*Immigration Update 2008: Immigration Law in the New 'ICE' Age of Immigration Enforcement*" in Eagan, Minnesota.

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The Wolfsdorf Immigration Law Group is one of the largest immigration boutique firms in the United States. With offices on both the east and west coasts, the firm serves an extensive and diverse client base, ranging from Fortune 500 corporations to entertainers and leading academic institutions. Our large and dedicated staff of 50 employees ensures prompt and expert attention to your immigration law matters. For more information about any of the above-mentioned issues, or any immigration-related questions or concerns, please contact our team of professionals or your assigned Wolfsdorf professional at (310) 570-4088 or contact us via email at [visalaw@wolfsdorf.com](mailto:visalaw@wolfsdorf.com)

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Disclaimer/Reminder

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.