



December/January Immigration Updates Employers Need to Know

Travel Ban Extension

Presidential Proclamations 10014 and 10052, which suspended admission of certain immigrant visa applicants and temporary workers to the U.S., were set to expire at the end of 2020. On the last day of the year, the President extended these proclamations to March 31, 2021. Please note that despite the restrictions, the proclamations do contain exceptions for certain categories of immigrants and nonimmigrants.

I-9 Requirement Flexibility Extension

As reported previously, employers with no employees at a worksite will not be required to review the employee's identity and employment authorization documents in the employee's physical presence. Instead, employers may inspect the Section 2 documents remotely (e.g., over video link, fax, email, etc.). I-9 compliance flexibility has been extended until January 31, 2021.

The employer must still obtain, inspect, and retain copies of the documents, within three business days for purposes of completing Section 2. Employers using remote verification must retain written documentation of their remote onboarding and telework policy for each employee.

Once an employer resumes normal operations, all employees who were onboarded using remote verification, must report within **three business days** for in-person verification of identity and employment eligibility documentation. Once the documents have been physically inspected, the employer should add "documents physically examined" and "COVID-19" with the date of inspection to the Section 2 additional information field on the Form I-9, or to section 3 as appropriate.

DACA & I-9s

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On December 7, 2020, USCIS announced it would comply with a U.S. District Court's order by accepting first time and renewal requests for Deferred Action for Childhood Arrivals (DACA), accepting applications for advance parole for DACA recipients, and extending for two years grants of deferred action and related employment authorization documents (EAD).

Employees may choose to present their unexpired EAD with Category code C33 and an I-797 Extension Notice issued by USCIS that shows a one-year extension of their deferred action and work authorization to complete a new or re-verify an existing Form I-9. For new employment, the employee should enter the end validity date from the extension notice in the "Authorized to Work Until" field in Section 1. If an employee presents this document combination, an employer must enter the end validity date from the extension notice in the Expiration Date field in Section 2 and enter "DACA Ext." in the Additional Information field. To complete an I-9 re-verification, on or before the existing expiration date listed on the I-9, the employer should enter the end validity date from the extension notice as the Expiration Date in Section 3 and enter "DACA Ext." in the Additional Information field in Section 2 if an employee presents this document combination.

DOS Update Regarding Visa Services

On December 30, 2020, the Department of State (DOS) provided an [update](#) which notes that U.S. Embassies and Consulates continue to phase in the resumption of routine visa services. Due to the suspension of routine visa services, the DOS has extended the validity of the Machine Readable Visa (MRV) fee, which is typically valid within one year of payment, until September 30, 2022. As [previously reported](#), DOS will not provide a specific date when each mission will resume specific visa services or return to processing pre-pandemic workload levels.

Biometric Delays

USCIS recently announced that due to COVID-19, it has experienced delays in scheduling and rescheduling biometrics appointment at

application support centers (ASC). Biometrics are required for filings such as naturalization, applications to adjust status, etc. According to USCIS, approximately 1.3 million applications are waiting for biometrics appointments. To address this backlog, USCIS is determining when it can reuse previously taken biometrics. If USCIS determines it can reuse biometrics it will mail a Form I-797 notice to the applicant about the reuse and notify the person that they are not required to appear at an ASC. In addition, due to constraints on ASC facilities, walk-ins are not allowed except for military applicants and their family members when the principal applicant is scheduled for an appointment.

USCIS Extends Flexibility for Responses

On December 18, 2020, USCIS [announced](#) it was extending the response due date for notices/ requests/ decisions if the issuance date is between March 1, 2020 and January 31, 2021, inclusive. USCIS will consider a response to the following if received within 60 calendar days after the due date set in the request, notice, or decision:

- Requests for Evidence
- Continuations to Request Evidence (N-14)
- Notices of Intent to Deny
- Notices of Intent to Revoke
- Notices of Intent to Rescind
- Notices of Intent to Terminate regional centers
- Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant
- Filing date requirements for Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA)
- Filing date requirements for Form I-290B, Notice of Appeal or Motion.

In addition, USCIS will consider a Form N-336 Request for a Hearing on a Decision in Naturalization Proceedings or Form I-290B Notice of Appeal or Motion received up to 60 calendar days from the date

of the decision.

If you have questions relating to these topics, please contact [Peggy Shukairy](#) in Frost Brown Todd's [Labor and Employment Practice Group](#).

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