



Business Immigration

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An Update

“The New and Improved Bureau of Citizenship and Immigration Services”- An Anomaly of Sorts

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As of March 1, 2003, the Immigration and Naturalization Service (INS) ceased to exist and became part of the greater Department of Homeland Security. Further, the entity has been renamed the “*Bureau of Citizenship and Immigration Services (BCIS)*.” The effort is to improve the agency and provide the Government with the ability to track the flow of immigrants into the United States more effectively. So, what has changed? In my opinion, “nothing.” For instance, the Bureau will continue to accept checks that are made out to the ‘INS’ and INS agents will continue to perform their work as if nothing has happened. Moreover and more importantly, the mindset of the INS officers has in no way been acclimatized to the new Bureau’s main objective - to effectively administer the immigration laws of the country in the true spirit in which they were originally written.

Increasingly, one sees a sense of vigilantism in the way Immigration laws are applied to foreign nationals. The INS is growing increasing paranoid about simple things. Things that

have worked well in the past. Incidentally, a few weeks ago, an INS adjudications officer told a gathering of immigration attorneys in Connecticut that in documenting proof of filing of an Application for Labor Certification [for AC21 related H-1B extensions beyond the sixth year], USPS return receipts were no longer acceptable. He indicated that they would now require a letter from the Department of Labor documenting filing. Now, practitioners know how difficult that is. If anything, the new Bureau is going to take a tougher stand on discretion, making it more difficult to obtain legitimate benefits.

In any event, a new brochure from the Bureau, highlights the changes that have occurred within the Service. Reproduced below are some of the FAQs addressed in this brochure:

Q. Where should I apply for immigration benefits after March 1, 2003?

A. Continue to follow the instructions on our application forms. Applications mailed to INS will continue to be received and processed in the same way as before March 1. Checks made payable to INS or BCIS will

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be accepted.

Q. My application is pending with INS. On March 1st, will I have to reapply to BCIS?

A.No. Your pending application(s) will be reviewed by BCIS. We will continue to notify you about key steps as we process your application.

Q. Can I still file forms with the INS seal on them?

A.Yes. All official INS forms are still valid.

Q. My INS documents (green card, naturalization certificate, etc.) have an INS seal on them. Are they still valid, or will I have to replace them?

A.Your INS issued documents remain valid and will still be accepted as evidence of your status.

Q. How can I get information about the new Bureau of Citizenship and Immigration Services? Can I still download forms and use the INS Case Status Online Service?

A.You can still get information, download forms and check on the status of applications filed at our service centers by visiting our website. You can continue to call our National Customer Service Center for information and help.

Q. Where will the new offices for the Bureau of Citizenship and Immigration Services be located? What about Application Support Centers and other INS offices?

A.On March 1, BCIS will use the same locations and offices that were part of INS.

Q. What will this change mean to me?

A.As a customer of the BCIS, you will continue to access immigration services in the same fashion that you did prior to March 1.

Q. How do I keep track of any future BCIS initiatives?

A. As we introduce improvements, the easiest way to get information will be through our website or by calling our National Customer Service Centers.

The phone number for the National Customer Service Center is 1 800 375-5283.



Foreign Nurses - A Demand and Supply Problem

-Immigration Options and Opinion

The *New York Times* ran an article on February 10, 2003 about how Indian Nurses were being sought to staff U.S. Hospitals. Apparently, 30,000 nurses graduate each year in India and the demand for qualified nurses is ever increasing in the United States. What a perfect match?! Not really. As of now, there is no real immigration strategy available to bring all these nurses to the United States. The limited H-1C option that is scheduled to sunset this year, has a cap of 500 nurses for the entire country. Moreover and more importantly, Congress specifically intended the H-1C program to benefit hospitals in designated Health Professional Shortage Areas [HPSA]. In other words, not all hospitals qualify for this benefit.

Since nurses have traditionally not required a bachelor's degree, the INS has consistently turned down H-1B Petitions for this position. However, a recent memo from the INS seemed to suggest that the Service would accept H-1B Petitions on behalf of head nurses and those serving critical care patients in ER type situations. This resulted in a flood of applications being filed with the Service. Regular nursing positions were described as complicated clinical positions requiring the services of an individual with the minimum of a bachelor's degree. A recent status check reveals that far from a change in policy, the INS is continuing to turn down such petitions .

A strong lobby is currently pushing for fresh legislation to benefit hospitals desirous of bring nurses into the country. Hopefully, the initiative will gather momentum as we head into an election year. Until such time, the best and only option available to nurses is the immigrant visa option.



DOL Backlogs Slowly Easing...

Department of Labor backlogs that plagued all of last year finally seem to be easing. Most Departments are currently processing the final few days of April 2001 and several have moved on to May. For a quick update on processing check out <http://www.kidambi.com/www/visas/dolprocess.htm>



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