

# **United States Citizenship and Immigration Services Implements Significant, Yet Temporary, Change in Approval Notice Delivery Procedures**

**October 24, 2011**

Beginning September 12, 2011, the U.S. Citizenship and Immigration Services (USCIS), without any notice to stakeholders or opportunity for public input, began sending original Form I-797A, petition approval notices, directly to employers or foreign nationals rather than to attorneys of record, as it had done previously. Following this change, only courtesy copies are sent to attorneys of record, creating undue risks of mishandled or lost immigration documentation, as well as additional costs to employers and employees alike.

On October 20, 2011, reacting to the overwhelming negative response to this innovation by stakeholders, USCIS announced that it will return to its previous practice of sending the original notices to the attorney or accredited representative's address listed on a Form G-28, Notice of Entrance of Appearance as Attorney or Accredited Representative. However, given system reprogramming requirements, implementation of the change to prior mailing procedures will take approximately six weeks from the October 20, 2011 announcement date, according to the USCIS.

A Form I-797A, Notice of Approval, typically contains as an attachment an original Form I-94, Arrival/Departure Record. Foreign nationals in the United States, including those in such common employment-based categories as H, L, E or O, and their dependents, must have this Form I-94 to evidence not only lawful immigration status but also employment authorization where applicable. As mentioned above, prior to this USCIS change of procedure, the original approval notices were sent to attorneys of record who were able to securely forward them to either the foreign national or his/her employer directly with updated and detailed instructions for properly handling the Forms I-94, maintaining nonimmigrant status and employment authorization, and obtaining appropriate visas at U.S. Consulates abroad when necessary.

Therefore, while this change is now confirmed as only temporary, it is nevertheless imperative that employers and foreign nationals make every effort to educate themselves on the recognition of important USCIS mailings and documentation, and immediately notify their immigration counsel of the receipt of same. Given the increased risk of misrouted, delayed or lost USCIS correspondence during this transitional period of USCIS Form I-797A mailing procedures, particularly in large corporations with multiple locations and mail room facilities, diligent tracking and monitoring of pending immigration filings is of significant importance.

Additionally, the USCIS notes that petitions filed with a request for premium processing status, and the additional \$1,250.00 filing fee, may include a self-addressed mailing envelope that will direct the approval notice to an address of the petitioner's choice, including the attorney of record directly. While this option should be utilized whenever possible, it is certainly not a guarantee that the Form I-797A will in fact be delivered to the attorney's office, and careful attention should still be paid to any correspondence received for all cases alike.

Read a [copy of the USCIS notification to its stakeholders of the initial mailing change](#) and the most recent announcement of the change back to prior mailing procedures.

Please feel free to contact any member of Proskauer's Immigration Group with questions or concerns about the new USCIS procedures for approval notice delivery.