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LEGAL NOTES

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New documentation for US visas needed

The US Embassy in Manila has lately been very strict in the processing of immigrant visa applications. Documents which had not been previously required of the applicants and are not routinely requested are now requested during interviews. To avoid long delays, the applicants should assemble these documents before leaving for the Manila interview.

Where the applicant has not worked yet for his employer, and particularly when a lesser-skilled position is sought, the applicant may be asked to provide further documentation in relation to the petitioning employer's present capacity to pay the certified wage as indicated in the approved labor certification.

Under such conditions, the applicant may have to be armed beforehand with his employer's financial statements, such as tax returns, payroll records, copies of W-2 forms and current business license. If other aliens have been previously sponsored by the employer, it must show W-2 forms for those aliens previously sponsored to show the veracity of their employment and their length of employment.

In employment-based cases, evidence of the applicant's employment experience from previous employers may be requested in the form of income tax returns and former employer's letter.

For immigrant visa applicants who have stayed or are currently in the United States, documentation of their immigration history may be required. Copies of I-94, extension of stay or change of status, and approved visa petitions should be at hand.

An immigrant visa application may also be asked to prove that he did not "smuggle" his relatives into the US. In such a case—when the applicant had brought a spouse or children to the US, and extended or changed their status—documentation of their legal entry and continuous lawful stay in the US should be brought to the interview to avoid the charge of alien smuggling.

The petitioner of an immigrant visa beneficiary may be called for questioning at the interview. To avoid having to get to this point, beneficiaries should arm themselves with the *bona fides* of petitioner's permanent residence for presentation at the interview should it be requested. This happens when the petitioner of a

family petition obtained permanent residence through of a family petition obtained permanent residence through amnesty, or where petitioner is a permanent resident parent who lived for several months outside of the the US during the year.

Complicated scenarios—such as when petitioning spouse divorced once and then remarries the beneficiary only after the petitioner received his permanent resident status as an unmarried son—are sure to raise the suspicion of consular officers. In such case, documentation such as apartment leases, mortgage documents, insurance policies and other evidence corroborating the facts that petitioner and beneficiary lived apart while divorced and that the marriage had in fact been dissolved must be brought along by the applicant.

Also, when a beneficiary enters into marriage with an American citizen and either one has a history of divorce, the applicant should prepare proper documentation to prove that the marriage was not a sham.