Department of Homeland Security Unveils Known Employer Pilot Program

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Immigration & Compliance

On March 3, 2016, the **Department of Homeland Security (DHS)** formally announced the *Known Employer* pilot program. In January 2015, DHS advised that it would evaluate the Known Employer pilot as part of the United States-Canada Beyond the Border initiative. The pilot program was also recommended in the multi-agency report to the president, entitled "Modernizing and Streamlining Our Legal Immigration System for the 21st Century."

The program's goals are paperwork reduction, consistency in adjudicating employment-based petitions, efficiency, and supporting partnership between **U.S. Citizenship and Immigration Services (USCIS)**, U.S. Customs and Border Protection (CBP), and the Department of State (DOS). To test the program's ability to meet these goals, the program will allow a select group of companies to submit documentation to obtain a predetermination of certain eligibility requirements for the employer, prior to petitioning for individual employees. DHS acknowledges that this predetermination process, under which USCIS will evaluate the employer's eligibility based upon information relating to corporate structure, operations, and financial health, is intended in part to minimize duplicative Requests for Evidence relating to employer-provided documents common to multiple individual petitions and applications.

The program will permit participating companies to create a profile and upload documents to a digital document library, along with Form I-950, "Application for Predetermination under Known Employer Program." If USCIS approves the documents filed, the employer will be allowed to file petitions and applications for individual employees without resubmitting documents common to multiple individual petitions or applications. USCIS will defer to prior approval absent material error in the initial approval, a substantial change in circumstances, or material information that would adversely affect the validity of the predetermination.

The following employment-based immigrant and nonimmigrant classifications are the only classifications included in the program at the present time:

- EB-1, outstanding professor or researcher;

- EB1, multinational executive or manager;

- H-1B, specialty occupation worker;

- L-1A, intracompany transferee in a position involving specialized knowledge; and

- TN, Canadian and Mexican citizens engaged in business activities under the North American Free Trade Agreement (NAFTA).

DHS and DOS worked together to select nine employers to participate in the program. Documents uploaded by participating companies will be available to CBP and DOS officers.

Detailed information can be found at USCIS' web page dedicated to the Known Employer pilot program. DHS will publicly announce the results of the pilot program, and, if successful, will expand its use to all eligible employers. GT will monitor this program and report on developments as they occur.

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