



EMAIL BULLETIN

THE NEW E-3 VISA

10 November 2005

Requirements and Procedures for Application

As reported in previous Tindall & Foster Email Bulletins, on May 11, 2005, President Bush signed into law The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, which created the new E-3 nonimmigrant visa category available to qualified Australian citizens.

Because the Act created an entirely new nonimmigrant visa category, availability of the new E-3 visa was delayed until the U.S. Department of State published implementing regulations on September 2, 2005. These new regulations offer greater clarity of requirements and procedures for E-3 visa applications.

The E-3 category is limited to Australian professionals working in a “specialty occupation.” “Specialty occupation” is defined in the same manner as under the H-1B program. While E-3 visa applications do not require the filing of a petition with U.S. Citizenship & Immigration Services, a Labor Condition Application is required. E-3 employers must attest that the E-3 employee will be paid in accordance with prevailing wage requirements.

Spouses and children of E-3 nonimmigrants may apply for E-3 visas as dependents of the principal E-3 visa holder. Spouses are also authorized to apply for U.S. employment authorization based on their E-3 dependent status. For further information on assessing qualifications for potential E-3 visa classification, and for case initiation, please contact your Tindall & Foster immigration attorney.