



EMAIL BULLETIN

**DEPARTMENT OF LABOR (DOL) BACKLOG ELIMINATION CENTERS PROVIDE FIFO PROCEDURAL CLARIFICATION**

*10 November 2005*

As reported in recent Tindall & Foster Email Bulletins, the Department of Labor (DOL) Backlog Elimination Centers (BEC) (aka Backlog Reduction Centers) have received approximately 400,000 Labor Certification Applications which were previously pending with State Workforce Agencies and various DOL Regional Offices. While all backlogged cases have now reportedly been transferred, not all applicants have received a “Continuation Option Letter” or “45-day Letter.” According to recent reports, approximately 100,000 cases await logging and data-entry at the DOL BEC.

Once cases are at the DOL BEC, the DOL pledges to adjudicate them, insofar as it is possible, according to a First-In-First-Out (FIFO) procedure. However, the DOL advises that there are various factors that can affect or alter the actual timing of adjudication in relation to other applications such that some applications will be adjudicated out of a strictly FIFO order.

First, the DOL advises that cases with an earlier filing date may be adjudicated later based on the method of filing. As previously reported, Reduction-in-Recruitment Applications, those for which recruitment was conducted prior to filing the Application with the State Workforce Agency (SWA), will ordinarily be adjudicated more quickly, as fewer resources are required to complete adjudication of these applications than to conduct supervised recruitment for the traditionally filed applications.

Other factors affecting the timing of adjudication include:

1. The stage to which adjudication had progressed at the SWA or DOL Regional Office prior to transfer to the BEC;
2. The overall completeness of the applications (applications filed by less sophisticated consumers are typically less complete and require clarification prior to continued adjudication);
3. Response time of the employer to BEC requests for additional information; and,

4. Time involved in verifying a company's existence (which can sometimes take longer for smaller companies).

Until the BEC efforts at backlog elimination have been completed, Tindall & Foster, P.C. will continue to monitor the progress of the BEC and will make future updates available via Email Bulletins or on the Tindall & Foster web site at [www.tindallfoster.com](http://www.tindallfoster.com).

Additionally, as BEC efforts progress, should individual applications appear to be falling outside of what may be expected given the broad guidelines provided by the DOL, Tindall & Foster attorneys will be following up with the DOL to address case-specific problems. For other cases, the DOL advises that there presently exists no mechanism for following up on specific cases. The DOL advises that an online case status system is under consideration but could take many months to develop and implement. Should such a system become available, Tindall & Foster will provide the web site link via an Email Bulletin and on the Tindall & Foster web site at: <http://www.tindallfoster.com>.