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This Immigration Update<sup>©</sup> from Foster Quan, LLP contains important information regarding the following:

1. [U.S. Senate and House of Representatives Pass Continuing Resolution Extending the E-Verify Program through October 31, 2009](#)
2. [U.S. CIS Director Alejandro Mayorkas Raises the Specter of CIS Fee Increases](#)
3. [New Fiscal Year 2010 Brings Fresh Supply of Immigrant Visas; Backlogs Continue](#)
4. [U.S. CIS H-1B "Site Visits" Continue, Increase](#)
5. [Additional Airports Added to the Global Entry Traveler Program; U.S. Citizens & Lawful Permanent Residents Are Eligible to Apply](#)
6. [The 2011 Diversity Visa Lottery Program Opens for Electronic Registration October 2, 2009](#)
7. [Nine Foster Quan Attorneys Are Named Texas Super Lawyers](#)
8. [Reminder: Register Now for One of the Upcoming Foster Quan Immigration Update<sup>©</sup> Seminars in Houston and San Antonio](#)

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## **1. U.S. Senate and House of Representatives Pass Continuing Resolution Extending the E-Verify Program through October 31, 2009;**

Bill Sent to President Obama on September 30, 2009

On September 30, 2009, the U.S. Senate passed a continuing resolution, attached to the Fiscal Year 2010 Legislative Branch Appropriations Bill (H.R. 2918), extending the E-Verify Program through October 31, 2009. The House had passed the resolution previously, on September 25, 2009.

The resolution was taken as a stop-gap measure pending the anticipated passage of a lengthier, five-year program extension. The bill was sent to President Obama for signature on September 30, 2009, and he is expected to sign the bill authorizing the extension.

Important E-Verify Reminder for Federal Contractors

The Department of Homeland Security rule implementing the E-Verify program requirement for certain Federal contracts has been in effect since September 8, 2009; however, employers are reminded not to verify existing employees through the E-Verify system until an E-Verify contract has been awarded and the employer's status has been updated in the E-Verify system. Premature verification of existing personnel would violate the terms of previous Memoranda of Understanding entered into before the September 8, 2009 regulation went into effect.

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## **2. U.S. CIS Director Alejandro Mayorkas Raises the Specter of CIS Fee Increases**

In a recent press conference in Albuquerque, New Mexico, U.S. Citizenship & Immigration Services (CIS) Director Alejandro Mayorkas raised the possibility of an increase in CIS government filing fees for applications and petitions filed in pursuit of immigration benefits.

Despite a significant filing fee increase in 2007, which doubled and tripled the filing fees for certain types of applications, the CIS has identified a revenue shortfall of \$118 million. The CIS blames the shortfall on a decline in petition and application filings due to current economic conditions. Further details regarding an upcoming fee increase were not provided during the press conference, and the CIS has not yet distributed information regarding proposed fee increases. Fee increases must be published in the Federal Register before they can be implemented.

As always, Foster Quan, LLP will continue to monitor developments impacting fees and other obligations in connection with the filing of petitions and applications for immigration benefits. Future updates will be made available on the Foster Quan website at [www.fosterquan.com](http://www.fosterquan.com) and visa future Immigration Updates© as appropriate.

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## **3. New Fiscal Year 2010 Brings Fresh Supply of Immigrant Visas; Backlogs Continue**

October 1, 2009 began the Fiscal Year 2010, ushering in a fresh supply of immigrant visas after a period of complete unavailability in September.

The U.S. Department of State Monthly Visa Bulletin for the month of October 1, 2009, reports the following "cut-off" dates for immigrant visa availability under the employment-based immigrant visa categories:

	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
Employment-Based					
1st	C	C	C	C	C
2nd	C	22MAR05	22JAN05	C	C
3rd	01JUN02	22FEB02	15APR01	01MAY02	01JUN02
Other Workers	01JUN01	01JUN01	15APR01	01JUN01	01JUN01
4th	C	C	C	C	C
Certain Religious Workers	U	U	U	U	U
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C

In order to file an Application for Adjustment of Status, or have a pending application approved, the applicant's priority date must precede the "cut-off" date listed for his or her country of birth and employment-based immigrant preference category.

The employment-based, second preference category remains significantly backlogged for persons born in India and China, while the third preference category continues its historical backlogs across the board. Applicants who are awaiting eligibility to file an Application to Adjust Status and are approaching the end of their nonimmigrant visa eligibility may have options for extending their nonimmigrant status beyond the normal limit. For more information on additional extensions of nonimmigrant status or potential qualification under higher level employment-based categories that are not presently backlogged, contact your Foster Quan immigration attorney. Your Foster Quan attorney can assist you in developing an appropriate strategy for your company and your employees.

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#### 4. U.S. CIS H-1B "Site Visits" Continue, Increase

On September 29, 2009, Senator Charles E. Grassley (R-IA) published his letter to CIS Director Alejandro Mayorkas, calling for additional H-1B enforcement and additional Requests for Evidence seeking to hold employers "accountable so that foreign workers are not flooding the market, depressing wages, and taking jobs from qualified Americans."

Senator Grassley would be pleased to know that, even as he penned his letter, U.S. Citizenship & Immigration Services (CIS) was pursuing additional H-1B site visits. Record numbers of employers are reporting recent visits by contract investigators on behalf of the CIS.

Investigators have been instructed to visit H-1B employers and request information and documentation to support compliance with the employer's H-1B obligations. Visits typically include meetings with employer representatives and/or the H-1B employee(s). The investigators are reportedly polite but firm in following a script of questions designed to obtain information on the employer's compliance with H-1B regulatory requirements, including payment of the required wage rate, and maintenance of the required Public Access File.

For more information on H-1B site visits, the types of questions asked, and how your company can prepare for a less stressful site visit, contact your Foster Quan immigration attorney, or register today for one of the upcoming Foster Quan Immigration Update© Seminars in Houston and San Antonio. Registration details are provided below, and are also available on the Foster Quan website at [www.fosterquan.com](http://www.fosterquan.com).

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## **5. Additional Airports Added to the Global Entry Traveler Program;**

### **U.S. Citizens & Lawful Permanent Residents Are Eligible to Apply**

U.S. Customs & Border Protection (CBP) recently announced the addition of Detroit Wayne County Metropolitan Airport to the agency's Global Entry program, one of several CBP "trusted traveler" programs which facilitate the screening of qualified applicants during inspection process for international arrivals.

Global Entry is currently available at twenty U.S. airports. U.S. citizens, U.S. Lawful Permanent Residents, and citizens of the Netherlands are currently eligible to apply for Global Entry participation. U.S. CBP has published a [Fact Sheet](#) to provide additional information on Global Entry and the requirements for participation. Generally, applicants must have a machine-readable passport, or U.S. Permanent Resident Alien card, and pass a background check. Participants in this voluntary program are eligible to use an expedited CBP inspection line and Global Entry kiosk to avoid long lines and clear the inspection process more rapidly. Applications may be submitted online via the CBP [Global Online Enrollment System \(GOES\)](#).

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## **6. The 2011 Diversity Visa Lottery Program Opens for Electronic Registration October 2, 2009**

The U.S. Department of State (DOS) will begin accepting electronic applications under the Fiscal Year 2011 Diversity Visa "Lottery" Program on October 2, 2009. The Diversity Program is open to applicants from countries with low rates of immigration to the United States. Each Fiscal Year, a maximum of 55,000 Diversity Visas are made available. Applications under the

Diversity Visa Program are accepted via the U.S. DOS Diversity Visa web site at [www.dvlottery.state.gov](http://www.dvlottery.state.gov).

Applicants from countries sending more than 50,000 immigrants to the United States during the previous five-year period are not eligible. Historically, and continuing to date, persons born in India or China have not been eligible to apply under the Diversity Visa Program. The following table lists those countries whose natives are *not* eligible to apply under the FY 2011 Diversity Visa program:

Brazil	Canada
China	Colombia
Dominican Republic	Ecuador
El Salvador	Guatemala
Haiti	India
Jamaica	Mexico
Pakistan	Peru
Philippines	Poland
South Korea	United Kingdom (except Northern Ireland)
Vietnam	

Applicants born in Hong Kong SAR, Macau SAR, and Taiwan are eligible, as are persons born in other countries not listed above. If your company would be interested in initiating a Diversity Visa “Lottery” case for one or more employees, or would like to provide more information to the company’s workforce on the availability and application procedures of the Diversity Visa “Lottery” Program, your Foster Quan immigration attorney will be happy to assist in the preparation of an appropriate communication for dissemination to your foreign national workforce. For more information, contact your Foster Quan immigration attorney today.

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## 7. Nine Foster Quan Attorneys Are Named Texas Super Lawyers

Foster Quan, LLP is pleased to congratulate nine Foster Quan attorneys who were recently named Texas Super Lawyers by *Texas Monthly* magazine. The nine honorees are Rebecca Burdette, Magali S. Candler, Kelly D. Cobb, Karen Katz Feldman, Charles C. Foster, Judy J. Lee, John W. Meyer, Jose R. Perez, Jr., and Gordon J. Quan.

When congratulated on her recent honor, Partner Karen Katz Feldman said, “I feel so honored to again be named a *Texas Super Lawyer*, and to work with such a fine group of colleagues, both in our firm and in the immigration bar, who share this designation.”

Foster Quan LLP has more *Texas Super Lawyers* and more attorneys who are certified in Immigration & Nationality Law by the Texas Board of Legal Specialization than any other immigration firm. We are proud of our attorneys and their record of achievements in the bar and on behalf of our clients. For more information on our firm and our attorneys, please visit our firm’s web site at [www.fosterquan.com](http://www.fosterquan.com).

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## 8. Reminder: Register Now for One of the Upcoming Foster Quan Immigration Update© Seminars in Houston and San Antonio

Foster Quan, LLP will present the Fall 2009 Immigration Update© Seminar, *Breaking News: Enforcement, Enforcement, Enforcement – Immigration Changes Coming Your Way*, in Houston, Texas on Tuesday, October 6, 2009, and in San Antonio, Texas on Wednesday, October 14, 2009. Register now for this half-day seminar tailored to provide timely immigration updates on a variety of immigration matters related to compliance management during a recessionary economy.

Please join us for in-depth coverage of the following topics:

### Seminar Highlights

Legislative Updates: Obama - Napolitano's Agenda

E-Verify, Data Mining and Worksite Enforcement

H-1B LCA and Public Disclosure Requirements: Preparing for Future Audits

Labor Certification Updates: Tackling Recruitment and Audits in a Down Economy

Visa Retrogression: "Will I Ever Get My Greencard?"

### HOUSTON

**Tuesday, October 6, 2009**

[Houston Marriott Westchase](#)

2900 Briarpark Drive  
Houston, Texas 77042

8:15 am - Noon, Presentation

7:30 am, Registration and Continental Breakfast

Complimentary Self-Parking

### SAN ANTONIO

**Wednesday, October 14, 2009**

[Doubletree Hotel Airport](#)

37 NE Loop 410 (at McCullough)  
San Antonio, Texas 78216

8:15 am - Noon, Presentation

7:30 am, Registration and  
Continental Breakfast

Complimentary Self-Parking

Seminar registration, continental breakfast, self-parking, as well as all conference materials are complimentary.

For more information, please contact Steve Stasny at [sstasny@fosterquan.com](mailto:sstasny@fosterquan.com) or 713.335.3961.