



**TEXAS DRIVER'S LICENSE DELAYS FOR SOME
FOREIGN NATIONALS DUE TO NEW POLICY**

Texas Department of Public Safety (DPS) has implemented a new, statewide procedure for the verification of non-U.S. citizens' immigration status and period of lawful stay. The new policy has had an immediate impact on applicants seeking renewed Texas driver's licenses. Non-citizens should anticipate delays in the issuance of renewed driver's licenses and plan accordingly. Despite what is stated in the requirements listed in the DPS's Temporary Visitor Issuance Guide revised 10-2012, this unannounced policy negatively impacts those with pending extensions and applicants with pending I-485 applications to adjust to permanent resident.

Under the new, multi-tiered verification procedures, DPS will first seek to verify the driver's license applicant's lawful immigration status through the federal "Systematic Alien Verification for Entitlements" ("SAVE") system, a program with access to Department of Homeland Security records. If the applicant's immigration status and period of lawful stay cannot be immediately verified within the SAVE system, DPS personnel will initiate a second-level verification request through the SAVE system, and will instruct applicants to return to the DPS office once the verification process is complete. According to information published by Department of Homeland Security, DPS should receive verification electronically within three to five (3-5) business days following the additional check of DHS' records. Once verification is complete, DPS should send a letter to the applicant to return to the DPS office to complete the driver's license application process. In instances where an applicant's immigration status cannot be verified following the second-level check, DPS has been instructed to mail the applicant's immigration documents to Department of Homeland Security for verification through a manual review process. This third-level check may take up to 20 federal working days, according to information published by USCIS.

The practical impact of the new DPS verification procedures has been a delay in issuance of renewed driver's licenses. This is particularly prevalent when applicants have pending petitions for an extension of temporary nonimmigrant visa status but their previous temporary status has already expired. While previously such applicants were able to secure a renewed driver's license by presenting evidence of a pending extension petition (e.g. Form I-797 receipt notice), FosterQuan has received reports of such applicants being turned away pending additional, required checks to verify the applicant's lawful status. The new policy has also impacted some applicants with pending Permanent Residency applications, as the period of the applicant's lawful U.S. status cannot be immediately verified in the SAVE system.

Backlogs and delays in the adjudication of H-1B, TN, and L-1 nonimmigrant Extension Petitions by U.S. Citizenship & Immigration Services' have contributed to the delays in driver's license issuance and to DPS' inability to immediately verify the period of lawful U.S.

immigration status for non-U.S. citizen applicants. Premium processing of pending visa petitions may be required to avoid a delay in obtaining a driver's license; however, the cost is substantial. The government filing fee for the USCIS premium processing request is \$1,225. Non-U.S. citizen applicants are advised to apply as early as possible for renewed driver's licenses and prior to the expiration date of their current driver's licenses in order to minimize the potential interruption in driving ability. Applicants are also encouraged to take evidence of their current, lawful U.S. immigration status to assist DPS personnel with the verification process. A link to DPS' most recently-released document guidelines for non-U.S. citizen driver's license applicants can be found at: <http://www.txdps.state.tx.us/DriverLicense/documents/ImmigrationStatusChart.pdf>.

FosterQuan, LLP is monitoring this situation closely and is lobbying for a change in DPS' new, unannounced policy. Additional information will be made available via our firm's website and in future Immigration Updates©.