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E-3 VISA

Pursuant to the bilateral free trade agreement with the Australian government, the U.S. Congress has reserved 10,500 work visas for Australian nationals possessing a bachelor's degree or a diploma equivalent to a bachelor's degree. This new visa category, called E-3 Visa, has many similarities to the H-1B Visa category. E-3 visa holder can renew his or her E-3 status indefinitely. Spouses of E-3 Visa holders will be able to obtain employment authorization and accept employment in the United States.

TWO STEPS REQUIRED

Step 1: Filing of a Labor Condition Application (LCA) with the Department of Labor (DOL) attesting that the Australian worker will be treated equally to U.S. workers, and paid in accordance with the prevailing wage determined by the Department of Labor.

Step 2: Application for the visa itself either through consular processing abroad or through a change of status application with the U.S. Citizenship and Immigration Services (USCIS) within the United States.

THE EMPLOYER'S RESPONSIBILITIES

Like any H-1B employer, the employer of an Australian citizen's most important responsibility is to agree that he or she will be paid the prevailing wage in the geographic area where he or she will be working. Generally speaking, the employer cannot offer the Australian citizen less favorable working conditions than any of his or her U.S. citizen employees. Another responsibility is to agree to pay the Australian citizen's return ticket to his or her home country in the case that he or she gets dismissed.

GOVERNMENT FEES

According to information available from the U.S. Consulate in Sydney, there will be only a \$100.00 or AUD\$130.00 application fee and no visa issuance fee.

There will also be a possibility to change one's visa status to E-3 within the U.S. This possibility will however only be open to Australians who are in the U.S. on a valid nonimmigrant visa other than the visa waiver program visa, such as visitors on B visa, students on F visa or workers on H or L visa. The fee for such an application will be \$190.00.

TIME FRAME

The time frame for the application will depend on where the application will be filed. Australian citizens may submit the E-3 visa application directly at any U.S. Consulate or Embassy; however, applicants should first consult with the U.S. Embassy or Consulate for their policies of accepting foreign ("third country") nationals and different waiting times. The U.S. Consulate in Toronto, Canada will accept E-3 applications; some posts in Mexico will accept them, but have quite long waiting times. A change of status application may be submitted in the United States but the applicant will not be able to commence employment immediately with the company until the visa application is approved by the USCIS. The current processing time for E-3 visa application is about 3-4 months. Premium processing is not an option at this point.