

(C) monitor the EEVS for multiple uses of Social Security Numbers and any immigration identification numbers for evidence that could indicate identity theft or fraud;

(D) monitor the EEVS to identify discriminatory practices;

(E) monitor the EEVS to identify employers who are not using the system properly, including employers who fail to make appropriate records with respect to their queries and any notices of confirmation, nonconfirmation, or further action;

(F) identify instances where employees allege that an employer violated their privacy rights;

(G) analyze and audit the use of the EEVS and the data obtained through the EEVS to identify fraud trends, including fraud trends across industries, geographical areas, or employer size;

(H) analyze and audit the use of the EEVS and the data obtained through the EEVS to develop compliance tools as necessary to respond to changing patterns of fraud;

(I) provide employers with additional training and other information on the proper use of the EEVS;

(J) perform threshold evaluation of cases for referral to the U.S. Immigration and Customs Enforcement and to liaise with the U.S. Immigration and Customs Enforcement with respect to these referrals;

(K) any other compliance and monitoring activities that, in the Secretary's judgment, are necessary to ensure the functioning of the EEVS;

(L) investigate identity theft and fraud detected through the EEVS and undertake the necessary enforcement actions;

(M) investigate use of fraudulent documents or access to fraudulent documents through local facilitation and undertake the necessary enforcement actions;

(N) provide support to the U.S. Citizenship and Immigration Services with respect to the evaluation of cases for referral to the U.S. Immigration and Customs Enforcement;

(O) perform any other investigations that, in the Secretary's judgment, are necessary to ensure the functioning of the EEVS, and undertake any enforcement actions necessary as a result of these investigations.

(2) The appropriations necessary to acquire, install and maintain technological equipment necessary to support the functioning of the EEVS and the connectivity between U.S. Citizenship and Immigration Services and the U.S. Immigration and Customs Enforcement with respect to the sharing of information to support the EEVS and related immigration enforcement actions.

(b) There are authorized to be appropriated to Commissioner of Social Security such sums as may be necessary to carry out the provisions of this Act, including Section 308 of this Act.

TITLE IV—NEW TEMPORARY WORKER PROGRAM

SUBTITLE A—SEASONAL NON-AGRICULTURAL AND YEARROUND NON-IMMIGRANT TEMPORARY WORKERS

SEC. 401. NONIMMIGRANT TEMPORARY WORKER.

(a) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (H)—

(A) by striking subclause (ii)(b);

(B) by striking 'or (iii)' and inserting "(iii)";

(C) by striking and the alien spouse' and inserting or

(iv) the alien spouse';

(2) by striking 'or' at the end of subparagraph (U);

(3) by striking the period at the end of subparagraph (V) and inserting semi-colon; and

(4) by inserting at the end the following new subparagraphs—

“(W) [Reserved];

“(X) [Reserved]; or

“(Y) subject to section 218A, an alien having a residence in a foreign country which the alien has no intention of abandoning and who is coming temporarily to the United States—

“(i) to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(bl), (i)(c), or (iii) of subparagraph of (H), subparagraph (D), (E), (I), (L), (O), (P), or (R), or section 214(e) (if United States workers who are able, willing, and qualified to perform such labor or services cannot be found in the United States);

(ii) to perform seasonal non-agricultural labor or services; or

“(iii) as the spouse or child of an alien described in clause (i) or (ii) of this subparagraph.”

(b) REFERENCES.—All references in the immigration laws as amended by this Title to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act shall be considered reference to both that section of the Act and to section (a)(15)(Y)(ii) of the Act.

(c) EFFECTIVE DATE.—The effective date of the amendment made by subparagraph (1)(A) of subsection (a) shall be the date on which the Secretary of Homeland Security makes the certification described in section 1(a) of this Act.

SEC. 402. ADMISSION OF NONIMMIGRANT WORKERS.

(a) NEW WORKERS.—Chapter 2 of title II of the Act (8 U.S.C. 1181 et seq.) is amended by striking section 218 and inserting the following:

“SEC. 218A. ADMISSION OF NONIMMIGRANTS.

“(a) APPLICATION PROCEDURES.—

“(1) LABOR CERTIFICATION.—The Secretary of Labor shall prescribe by regulation the procedures for a United States employer to obtain a labor certification of a job opportunity under the terms set forth in section 218B.

“(2) PETITION.—The Secretary of Homeland Security shall prescribe by regulation the procedures for a United States employer to petition to the Secretary of Homeland Security for authorization to employ an alien as a Y nonimmigrant worker and violence for such authorization under the terms set forth in subsection (c).

(3) Y NONIMMIGRANT VISA.—The Secretary of State and the Secretary of Homeland Security, as appropriate, shall prescribe by regulation the procedures for an alien to apply for a Y nonimmigrant visa and the evidence required to demonstrate eligibility for such visa under the terms set forth in subsection (e).

“(4) REGULATIONS.—The regulations referenced in paragraphs (1), (2), and (3) shall describe, at a minimum—

“(A) the procedures for collection and verification of biometric data from an alien seeking a Y nonimmigrant visa or admission in Y nonimmigrant status; and

“(B) the procedure and standards for validating an employment arrangement between a United States employer and an alien seeking a visa or admission described in (A).

“(b) Application for Certification of a Job Opportunity Offered to Y Nonimmigrant Workers.—An employer desiring to employ a Y nonimmigrant worker shall, with respect to a specific opening that the employer seeks to fill with such a Y nonimmigrant, submit an application for labor certification of the job opportunity filed in accordance with the procedures established by section 218B.

“(c) PETITION TO EMPLOY NONIMMIGRANT WORKERS.—

“(1) IN GENERAL.—An employer that seeks authorization to employ a Y nonimmigrant worker must file a petition with the Sec-

retary of Homeland Security. The petition must be accompanied by—

“(A) evidence that the employer has obtained certification under section 218B from the Secretary of Labor for the position sought to be filled by a Y nonimmigrant worker and that such certification remains valid;

“(B) evidence that the job offer was and remains valid;

“(C) the name and other biographical information of the alien beneficiary and any accompanying spouse or child; and

“(D) any biometrics from the beneficiary that the Secretary of Homeland Security may require by regulation.

“(2) TIMING OF FILING.—

“(A) IN GENERAL.—A petition under this subsection must be filed with the Secretary of Homeland Security within 180 days of the date of certification under section 218B by the Secretary of Labor of the job opportunity.

“(B) EXPIRATION OF CERTIFICATION.—If a labor certification is not filed in support of petition under this subsection with the Secretary of Homeland Security within 180 days of the date of certification by the Secretary of Labor, then the certification expires and may not support a Y nonimmigrant petition or be the basis for nonimmigrant visa issuance.

“(3) ABILITY TO REQUEST DOCUMENTATION.—The Secretary of Homeland Security may request information to verify the attestations the employer made during the labor certification process, and any other fact relevant to the adjudication of the petition.

“(4) ADJUDICATION OF PETITION.—

“(A) POST-ADJUDICATION ACTION.—After review of the petition, if the Secretary—

“(i) is satisfied that the petition meets all of the requirements of paragraph (1), and any other requirements the Secretary has prescribed in regulations, he may approve the petition and by fax, cable, electronic, or any other means assuring expedited delivery—

“(I) transmit copy of the notice of action on the petition to the petitioner; and

“(II) in the case of approved petitions, transmit notice of the approval to the Secretary of State;

“(ii) finds that the employer is not eligible or that the petition is otherwise not approvable, the Secretary may—

“(I) deny the petition without seeking additional evidence and inform the petitioner—

“(aa) that the petition was denied and the reason for the denial;

“(bb) of any available process for administrative appeal of the decision; and

“(cc) that the denial is without prejudice to the filing of any subsequent petitions, except as provided in section 218B(e)(4);

“(II) issue a request for documentation of the attestations or any other information or evidence that is material to the petition; or

“(III) audit, investigate or otherwise review the petition in such manner as he may determine and refer evidence of fraud to appropriate law enforcement agencies based on the audit information.

(B) VALIDITY OF APPROVED PETITION.—An approved petition shall have the same period of validity as the certification described in subsection (c)(1)(A) and expire on the same date that the certification expires, except that the Secretary of Homeland Security may terminate in his discretion an approved petition—

“(i) when he determines that any material fact, including, but not limited to the proffered wage rate, the geographic location of employment, or the duties of the position, has changed in way that would invalidate the recruitment actions; or